

2010 No. 385

SOCIAL SECURITY

The Social Security (Credits) (Amendment) Regulations 2010

<i>Made</i>	- - - -	<i>17th February 2010</i>
<i>Laid before Parliament</i>		<i>23rd February 2010</i>
<i>Coming into force</i>	- -	<i>6th April 2010</i>

The Secretary of State for Work and Pensions, in exercise of the powers conferred by sections 22(5), 23A(4), 122(1) and 175(1) and (3) to (5) of the Social Security Contributions and Benefits Act 1992(a), makes the following Regulations.

In accordance with section 173(1)(b) of the Social Security Administration Act 1992(b), the Secretary of State has obtained the agreement of the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it.

Citation and commencement

1. These Regulations may be cited as the Social Security (Credits) (Amendment) Regulations 2010 and shall come into force on 6th April 2010.

Amendment of the Social Security (Credits) Regulations 1975

2.—(1) The Social Security (Credits) Regulations 1975(c) shall be amended as follows.

(2) In regulation 8B(d) (credits for incapacity for work or limited capability for work)—

(a) for paragraph (2)(a), substitute—

“(a) a week in which, in relation to the person concerned, each of the days—

- (i) was a day of incapacity for work under section 30C of the Contributions and Benefits Act (incapacity benefit: days and periods of incapacity for work); or
- (ii) would have been such a day had the person concerned claimed short-term incapacity benefit or maternity allowance within the prescribed time; or
- (iii) was a day of incapacity for work for the purposes of statutory sick pay under section 151 of the Contributions and Benefits Act and fell within a period of entitlement under section 153 of that Act; or

(a) 1992 c. 4. Section 22(5) was amended by paragraph 22 of Schedule 2 to the Jobseekers Act 1995 (c. 18) and paragraph 9(3)(b) of Schedule 3 to the Welfare Reform Act 2007 (c. 53). Section 23A was inserted by section 3(1) of the Pensions Act 2007 (c. 22). Section 122(1) is an interpretation provision and is cited as it defines “prescribe”. Section 175 was amended by paragraph 36 of Schedule 1 to the Social Security (Incapacity for Work) Act 1994 (c. 18) and paragraph 29 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).

(b) 1992 c. 5.

(c) S.I. 1975/556.

(d) Regulation 8B was inserted by S.I. 1996/2367 and amended by S.I. 2000/3120, 2003/521, 2007/1749 and 2008/1544.

- (iv) was a day of limited capability for work for the purposes of Part 1 of the Welfare Reform Act (limited capability for work) or would have been such a day had the person concerned been entitled to an employment and support allowance by virtue of section 1(2)(a) of the Welfare Reform Act; or
 - (v) would have been a day of limited capability for work for the purposes of Part 1 of the Welfare Reform Act (limited capability for work) had that person claimed an employment and support allowance or maternity allowance within the prescribed time;”;
 - (b) omit paragraph (2)(aa); and
 - (c) for paragraph (2)(b)(ii), substitute—
 - “(ii) Article 12 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006(a);”.
- (3) After regulation 9D(b) (credits for certain periods of imprisonment or detention in legal custody), add—

“Credits for certain spouses and civil partners of members of Her Majesty’s forces

9E.—(1) For the purposes of entitlement to any benefit by virtue of a person’s earnings or contributions, that person shall, subject to the following paragraphs, be entitled to be credited with earnings equal to the lower earnings limit then in force, in respect of each week to which paragraph (2) applies.

(2) This paragraph applies to each week for any part of which the person is—

- (a) the spouse or civil partner of a member of Her Majesty’s forces or treated as such by the Secretary of State for the purposes of occupying accommodation, and
- (b) accompanying the member of Her Majesty’s forces on an assignment outside the United Kingdom or treated as such by the Secretary of State.

(3) A person referred to in paragraph (2) shall be entitled to be credited with earnings in respect of a week by virtue of this regulation only if that person has made an application to the Secretary of State for the purpose.

(4) An application under paragraph (3) must—

- (a) be properly completed and on a form approved by the Secretary of State, or in such manner as the Secretary of State accepts as sufficient in the particular circumstances, and
- (b) include—
 - (i) a statement confirming that the conditions referred to in paragraph (2) are met and signed by or on behalf of the Defence Council or a person authorised by them, and
 - (ii) such other information as the Secretary of State may require.

(5) An application under paragraph (3) is to be made—

- (a) once the end date of the assignment referred to in paragraph (2) has been confirmed, or
- (b) at such earlier time as the Secretary of State is prepared to accept in the particular circumstances of the case.

(6) An application made in accordance with paragraph (5)(a) must be made before the end of the tax year immediately following the tax year in which the assignment referred to in paragraph (2) ended, or within such further time as may be reasonable in the circumstances of the case.

(a) S.I. 2006/606; article 12 was amended by S.I. 2007/909.
 (b) Regulation 9D was inserted by S.I. 2001/573.

(7) Where the Secretary of State accepts an application in accordance with paragraph (5)(b), this regulation entitles the person referred to in paragraph (2) to be credited with earnings in respect of any week subsequent to that application only if that person has made a further application to the Secretary of State in accordance with paragraphs (3) to (6).

(8) This regulation shall not apply—

- (a) to a person in respect of any week where the person is entitled to be credited with earnings under regulation 7A, 8A or 8B in respect of the same week;
- (b) to a woman in respect of any week in any part of which she was a married woman in respect of whom an election made by her under regulations made under section 19(4) of the Contributions and Benefits Act had effect; or
- (c) in respect of any week commencing before 6th April 2010.”.

Amendment of the Social Security (Contributions Credits for Parents and Carers) Regulations 2010

3. In the Social Security (Contributions Credits for Parents and Carers) Regulations 2010(a), omit regulation 10(2)(a) (applications: carers for 20 or more hours per week).

Signed by authority of the Secretary of State for Work and Pensions.

Angela Eagle
Minister of State,
Department for Work and Pensions

17th February 2010

(a) S.I. 2010/19.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Credits) Regulations 1975 (S.I. 1975/556) and the Social Security (Contributions Credits for Parents and Carers) Regulations 2010 (S.I. 2010/19).

Regulation 2 amends the Social Security (Credits) Regulations 1975. Paragraph (2) makes minor amendments to regulation 8B. Paragraph (3) inserts a new regulation to provide for a credit of a Class 1 national insurance contribution from 6th April 2010 to the accompanying spouse or civil partner of a member of Her Majesty's forces who is on an assignment outside the United Kingdom.

Regulation 3 amends the Social Security (Contributions Credits for Parents and Carers) Regulations 2010 to remove from those Regulations a category of persons who are not required to apply for the credit of a Class 3 national insurance contribution.

A full impact assessment has not been produced for this instrument as it has no impact on the private or voluntary sector.

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