1987 No. 138

SOCIAL SECURITY

The Social Security (Earnings Factor) (Amendment No. 2) Regulations (Northern Ireland) 1987

Made	*26th March 1987*
Coming into operation . .	*6th April 1987*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by section 13(5) of the Social Security (Northern Ireland) Act 1975(**a**), Article 37(3) of the Social Security Pensions (Northern Ireland) Order 1975(**b**) and Article 84(1) of the Social Security (Northern Ireland) Order 1986(**c**) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (Earnings Factor) (Amendment No. 2) Regulations (Northern Ireland) 1987 and shall come into operation on 6th April 1987.

(2) In these regulations "the principal regulations" means the Social Security (Earnings Factor) Regulations (Northern Ireland) 1979(**d**).

(3) The Interpretation Act 1978(**e**) shall apply to these regulations as it applies to an Act of the United Kingdom Parliament.

Amendment of the principal regulations

2.—(1) The principal regulations shall be amended in accordance with paragraphs (2) to (4) of this regulation.

(2) In regulation 1 (citation, commencement and interpretation)—

(*a*) in paragraph (2) the definition of "contributions" shall be omitted; and

(*b*) after paragraph (2) there shall be added—

"(3) In these regulations references to contributions of any class are to contributions actually of that class notwithstanding that for the purposes of any benefit they may be treated as or be deemed to be contributions of another class.".

(3) In regulation 2 (ascertainment of earnings factors) for "contributions" there shall be substituted "earnings or Class 2 or Class 3 contributions".

(a) 1975 c. 15; section 13(5) was amended by paragraph 4 of Schedule 3 to the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5)) and paragraph 1(4) of Schedule 8 to the Social Security (Northern Ireland) Order 1986

(b) S.I. 1975/1503 (N.I. 15)

(c) S.I. 1986/1888 (N.I. 18)

(d) S.R. 1979 No. 193, amended by S.R. 1985 No. 263 and S.R. 1987 No. 115

(e) 1978 c. 30

(4) In Part I of Schedule 1 (Class 1 contributions)—

(*a*) in paragraph 1(1) heads (*e*) and (*f*) shall be omitted;

(*b*) for paragraph 2 there shall be substituted—

"2.—(1) A person's earnings factor derived in respect of the year commencing on 6th April 1987 or any subsequent year from—

(*a*) those of his earnings in respect of such year upon which Class 1 contributions have been paid or treated as paid, and

(*b*) earnings with which he has been credited in respect of such year,

shall be equal to the amount of those actual and credited earnings.

(2) Any earnings factor ascertained under sub-paragraph (1) above shall be rounded down to the nearest whole pound.";

(*c*) for paragraph 3 there shall be substituted—

"3. Where, in respect of the year commencing on 6th April 1987, or any subsequent year, a person's earnings upon which Class 1 contributions have been paid or treated as paid are, or are to be, recorded as separate sums in the records of the Department of Health and Social Security, the earnings factor derived from those earnings shall be equal to the aggregate of the amounts ascertained by rounding down each sum separately to the nearest whole pound.";

(*d*) paragraphs 4 and 5 shall be omitted;

(*e*) for paragraph 6 there shall be substituted—

"6. Where a person has actual earnings in respect of the year commencing on 6th April 1987, or any subsequent year, upon which Class 1 contributions have been paid or treated as paid and, but for this paragraph, the ascertainment of any earnings factor of his in respect of such year by the application of paragraph 2 or 3 above would have the effect that—

(*a*) his earnings factor derived from those earnings, or

(*b*) the aggregate of his earnings factors derived from those earnings, and any earnings credited in respect of the same year, together with any derived from Class 2 or Class 3 contributions paid or credited in that year,

would fall short of—

(i) the qualifying earnings factor, by an amount not exceeding £50,

(ii) the standard level, by an amount not exceeding £50, or

(iii) one-half of the standard level, by an amount not exceeding £25,

the amount of that earnings factor as so ascertained shall, for the purpose of section 13(2)(*a*) of the Act, be increased by the amount of the shortfall, and the amount resulting shall be rounded up to the next whole pound.";

(*f*) for paragraph 7 there shall be substituted—

"7.—(1) A person's earnings factor derived in respect of the year commencing on 6th April 1987, or any subsequent year, from those of his earnings in contracted-out employment upon which contracted-out

contributions have been paid or treated as paid, in respect of such year, shall be equal to the amount of those earnings.

(2) Any earnings factor ascertained under sub-paragraph (1) above shall be rounded down to the nearest whole pound.

(3) Where, in respect of the year commencing on 6th April 1987, or any subsequent year, a person's earnings upon which contracted-out contributions have been paid or treated as paid are, or are to be, recorded as separate sums in the records of the Department of Health and Social Security, the earnings factor derived from those earnings shall be equal to the aggregate of the amounts ascertained by rounding down each sum separately to the nearest whole pound.''.

Transitional

3. A person's earnings factors in respect of any year before 6th April 1987 shall be ascertained as if regulation 2 of these regulations had not been made.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 26th March 1987.

(L.S.) *A. N. Burns*
Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations correspond to provision contained in regulations made by the Secretary of State for Social Services in relation to Great Britain and accordingly by virtue of section 10(2) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1980 (c. 30) are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee.

Section 13(5) of the Social Security (Northern Ireland) Act 1975 (''the Act'') is one of the enabling provisions under which these regulations are made. Paragraph 1(4) of Schedule 8 to the Social Security (Northern Ireland) Order 1986, which amends section 13(5) of the Act, is brought into operation on 6th April 1987 by the Social Security (1986 Order) (Commencement No. 3) Order (Northern Ireland) 1987 (S.R. 1987 No. 21 (C. 3)).

The regulations further amend the Social Security (Earnings Factor) Regulations (Northern Ireland) 1979 (''the principal regulations''). The amendments are contained in regulation 2 and apply in respect of the tax year 1987-88 and subsequent years.

Regulation 2(2) makes amendments consequential on the following changes.

Regulation 2(3) amends regulation 2 of the principal regulations to provide that earnings factors derived from a person's earnings or Class 2 or Class 3 contributions shall be ascertained in accordance with Schedule 1 to the principal regulations.

Regulation 2(4) amends Schedule 1 to the principal regulations by omitting paragraphs 1(1)(*e*) and (*f*), 4 and 5 and by substituting paragraphs 2, 3, 6 and 7 as follows:

paragraph 2 as substituted provides that a person's earnings factor derived from specified earnings shall be equal to the amount of those earnings; paragraph 7(1) as substituted provides that the earnings factor shall be ascertained in the same way in respect of specified earnings in contracted-out employment. In both cases, the earnings factor is to be rounded down to the nearest pound;

paragraph 3 as substituted provides that the earnings factor derived from specified earnings recorded as separate sums in Department of Health and Social Security records shall be equal to the aggregate of the amounts ascertained by rounding down each sum to the nearest pound; paragraph 7(3) as substituted provides similarly in relation to specified earnings on which contracted-out contributions have been paid or treated as paid;

paragraph 6 as substituted reflects the changes in the method of ascertaining earnings factors.

Regulation 3 provides for earnings factors in respect of tax years ending before 6th April 1987 to be ascertained without reference to regulation 2 of these regulations.