
STATUTORY INSTRUMENTS

2008 No.

SOCIAL SECURITY

**The Draft Social Security (Contributions) (Amendment No. X)
Regulations 2008**

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	6th April 2009

These Regulations are made by the Treasury and the Commissioners for Her Majesty's Revenue and Customs ("the Commissioners").

The powers exercised by the Treasury are sections 5(4), (5) and (6) and 122(1), (6A) and (6B) of the Social Security Contributions and Benefits Act 1992(a).

The powers exercised by the Commissioners are paragraph 6 of Schedule 1 to the Social Security Contributions and Benefits Act 1992(b).

Citation and commencement

1.—(1) These Regulations may be cited as the Social Security (Contributions) (Amendment No. X) Regulations 2008.

(2) These Regulations shall come into force on 6th April 2009.

Amendments to the Social Security (Contributions) Regulations 2001

2. The Social Security (Contributions) Regulations 2001(c) are amended as follows.

3.—(1) Amend regulation 11 (prescribed equivalents) as follows.

(2) In paragraph (1)—

(a) after sub-paragraph (a) insert—

“(aa) section 22 of the Act (earnings factors); and”; and

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- (a) 1992 c. 4. Section 5 was substituted by paragraph 1 of Schedule 9 to the Welfare Reform and Pensions Act 1999 (c. 30). Section 122(1) of the Social Security Contributions and Benefits Act 1992 (“the 1992 Act”) is cited because of the meaning given to “prescribe”. Sub-sections (6A) and (6B) of section 122 of that Act were inserted by the National Insurance Contributions Act 2008 (c. 8) (“the 2008 Act”).
- (b) Paragraph 6 of Schedule 1 to the 1992 Act was amended by paragraph 77(8) of Schedule 7 to the Social Security Act 1998 (c.14) and paragraph 35 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2). The functions of the Commissioners of Inland Revenue were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act provides that a reference to the Commissioners of Inland Revenue, however expressed, shall be taken as a reference to the Commissioners of Her Majesty's Revenue and Customs.
- (c) S.I. 2001/1004. The relevant amending instruments are S.I. 2003/193 and S.I 2004/770.

- (b) in sub-paragraph (b) for “sections 41(1) and 42A(1)” substitute “sections 41(1), 42A(1) and 45(1)”.
- (3) After paragraph (1) insert—
- “(1A) The prescribed equivalents of the upper accrual point(a) for the purposes of—
- (a) section 22 of the Act (earnings factors); and
- (b) sections 41(1), 42A(1) and 45(1) of the Pensions Act (reduced rates of Class 1 contributions and rebates),
- shall be determined in accordance with paragraphs (2), (4) and (5).”.
- (4) In paragraph (2) after “the lower and upper earnings limits”, in both places where those words occur, insert “and the upper accrual point”.
- 4.—(1) Amend Schedule 4 (provisions derived from the Income Tax Acts and the Income Tax (Pay As You Earn) Regulations 2003) as follows.
- (2) In paragraph 7(13)(b) (calculation of deduction)—
- (a) in paragraph (iii) for “current upper earnings limit” substitute “upper accrual point”, and
- (b) after paragraph (iii) insert—
- “(iiia) earnings which exceed the upper accrual point but do not exceed the current upper earnings limit.”.
- (3) In paragraph 9(1) (certificate of contributions paid)—
- (a) in paragraph (c) for “current upper earnings limit” substitute “upper accrual point”, and
- (b) after paragraph (c) insert—
- “(ca) the amount of any earnings in respect of which primary Class 1 contributions were payable which exceed the upper accrual point but do not exceed the current upper earnings limit, other than earnings from non-contracted-out employment in respect of which primary Class 1 contributions were payable at the reduced rate.”.
- (4) In paragraph 22(1)(c)(i) (return by employer at end of year) for “(iii)” substitute “(iiia)”.

Name

Two of the Lords Commissioners of Her Majesty’s Treasury

Name

Two of the Commissioners for Her Majesty’s Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004) (“the principal Regulations”) to reflect the changes made by the Pensions Act 2007 (c. 22) and the National Insurance Contributions Act 2008 (c. x) (“the 2008 Act”) as regards the upper accrual point. The upper accrual point was introduced by the 2008 Act for the tax year 2009-10 and subsequent years. They also make some related amendments regarding the upper earnings limit.

The upper accrual point replaces the upper earnings limit in respect of limiting the amount of earnings on which a contracted-out rebate or minimum contribution is payable and which are taken into account in calculating earnings factors for the purposes of the second state pension.

(a) The term “upper accrual point” is defined in section 122 of the 1992 Act. This term was introduced by section 12 of the Pensions Act 2007 (c. 22) (“the 2007 Act”) and the definition of upper accrual point was amended by section 3(4) of the 2008 Act. Section 22 of the 1992 Act was amended by the 2007 Act to refer to the upper accrual point. Section 22 was then amended by section 3(2) of the 2008 Act to introduce the upper accrual point for the tax year 2009-10 and subsequent years and by paragraph 2 of Schedule 1 to that Act to include a reference to “the prescribed equivalent”. Section 41(1) of the Pensions Scheme Act 1993 (c. 48) was amended by paragraph 37 to Schedule 1 to the 2007 Act. Section 41, 42A and 45 of that Act were amended by paragraphs 10, 11 and 12 of the 2008 Act to refer to the upper accrual point.

Regulation 1 provides for citation and commencement.

Regulation 2 introduces the changes made to the principal Regulations.

Regulation 3 amends regulation 11(1) to the principal Regulations which provides for the determination of the prescribed equivalents of the lower and upper earnings limits and the primary and secondary thresholds. This regulation now refers to section 22 of the Social Security Contributions and Benefits Act 1992 (c. 4) to reflect the amendment made to sub-section (9) of that section by the 2008 Act. It also refers to section 45(1) of the Pensions Schemes Act 1993 (c.48) which had been inadvertently omitted from that regulation.

Regulation 3 also inserts a new paragraph (1A) to determine the prescribed equivalents of the upper accrual point where a person's earnings period is other than a week.

Regulation 4 amends paragraph 7 of Schedule 4 to the principal Regulations to require that, in addition to the other information required, an employer shall record on the deductions working sheet—

- the earnings which exceed the current primary threshold and the current secondary threshold but do not exceed the upper accrual point, and
- the earnings which exceed the upper accrual point but do not exceed the current upper earnings limit.

Regulation 4 also amends paragraph 9 of Schedule 4 of the principal Regulations to ensure that this information is included in the certificate given to employees (Form P 60) and makes a consequential amendment to paragraph 22 of that Schedule.