
STATUTORY INSTRUMENTS

2016 No. 267

SOCIAL SECURITY

The Social Security Benefit (Computation of Earnings) (Amendment) Regulations 2016

<i>Made</i>	- - - -	<i>2nd March 2016</i>
<i>Laid before Parliament</i>		<i>3rd March 2016</i>
<i>Coming into force</i>	- -	<i>6th April 2016</i>

These Regulations are made by the Treasury with the concurrence of the Secretary of State for Work and Pensions in exercise of the powers conferred by sections 3(2) and (3), 122(1) and 175(3) of the Social Security Contributions and Benefits Act 1992(1).

In accordance with section 173(1)(b) of the Social Security Administration Act 1992(2), the Social Security Advisory Committee has agreed 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 Benefit (Computation of Earnings) (Amendment) Regulations 2016 and come into force on 6th April 2016.

Amendments to the Social Security Benefit (Computation of Earnings) Regulations 1996

2.—(1) The Social Security Benefit (Computation of Earnings) Regulations 1996(3) are amended as follows.

(2) In regulation 2(1) (interpretation)—

- (a) omit the definition of “lower rate”;
- (b) at the appropriate places insert—

““basic rate” means the rate of income tax of that name determined in pursuance of section 6(2) of the Income Tax Act 2007(4);”;

(1) 1992 c. 4. Section 3(2) is amended by paragraph 3 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2). Section 122(1) is cited for the meaning of “prescribe”.
(2) 1992 c. 5.
(3) S.I. 1996/2745; relevant amending instruments are S.I. 1999/3178 and 2000/678.
(4) 2007 c. 3. Section 6(2) is amended by section 5(3) of the Finance Act 2008 (c. 9) and paragraph 2(2) of Schedule 2 to the Finance Act 2009 (c. 10).

““Scottish basic rate” means the rate of income tax of that name calculated in accordance with section 6A of the Income Tax Act 2007(5);” and

““Scottish taxpayer” has the same meaning as in Chapter 2 of Part 4A of the Scotland Act 1998(6);”.

(3) In regulation 4 (notional earnings)—

- (a) omit paragraph (2);
- (b) in paragraph (3) omit “or (2)”; and
- (c) in paragraph (3)(a)—
 - (i) for “lower rate or, as the case may be, the lower rate and the basic rate” substitute “basic rate, or in the case of a Scottish taxpayer, the Scottish basic rate,”;
 - (ii) for “personal relief to which the claimant is entitled under sections 257(1), 257A(1) and 259 of the Income and Corporation Taxes Act 1988 (personal reliefs) as is” substitute “personal reliefs to which the claimant is entitled under Chapters 2, 3 and 3A of Part 3 of the Income Tax Act 2007(7) as are”;
 - (iii) for “lower rate” in the third place it appears substitute “basic rate, or the Scottish basic rate,”; and
 - (iv) for “relief” in the second place it appears substitute “reliefs”.

(4) In regulation 14(1) (deduction of tax and contributions for self-employed earners)—

- (a) for the words from “lower rate” the first time it appears to “as is” substitute “basic rate, or in the case of a Scottish taxpayer, the Scottish basic rate, of tax less only the personal reliefs to which the claimant is entitled under Chapters 2, 3 and 3A of Part 3 of the Income Tax Act 2007 as are”;
- (b) for “lower rate” in the third place it appears substitute “basic rate, or the Scottish basic rate,”; and
- (c) for “relief” in the second place it appears substitute “reliefs”.

(5) In paragraph 6 of Schedule 1 (sums to be disregarded in the calculation of earnings) for “or, as the case may be,” substitute “, section 81 of the Social Services and Well-being (Wales) Act 2014(8), or”.

Charlie Elphicke

David Evennett

Two of the Lords Commissioners of Her Majesty’s Treasury

2nd March 2016

(5) Section 6A was inserted by paragraph 3 of Schedule 38 to the Finance Act 2014 (c. 26).

(6) 1998 c. 46. Part 4A, sections 80A and 80B, were inserted by section 23(2) of the Scotland Act 2012 (c. 11) and sections 80C to 80H were inserted by section 25(3) of that Act and amended by paragraph 16(2) of Schedule 38 to the Finance Act 2014 (c. 26) and sections 11 and 29(2)(b) of the Wales Act 2014 (c. 29).

(7) 2007 c. 3. Chapter 3A was inserted by section 11(2) of the Finance Act 2014 (c. 26).

(8) 2014 anaw 4.

The Secretary of State for Work and Pensions concurs
Signed by authority of the Secretary of State for Work and Pensions

29th February 2016

Baroness Altmann
Minister of State
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security Benefit (Computation of Earnings) Regulations 1996 (S.I. 1996/2745).

The 1996 Regulations make provision for the calculation or estimation of income so as to enable the Secretary of State to determine the amount of benefit a claimant should be awarded. Broadly, the income of a self-employed claimant is calculated by determining the claimant's net profit over a representative period and then deducting (amongst other liabilities) an amount in respect of income tax, based on the basic rate of tax applicable to that period.

Regulations 2(2) to (4) of these Regulations amend the provisions relating to calculation or estimation of income in consequence of the power of the Scottish Parliament to set a Scottish rate of income tax provided for in Part 4A of the Scotland Act 1998 (c. 46). The power is first being exercised for the tax year 2016-2017.

Paragraph (2) introduces definitions of a "Scottish taxpayer" and the "Scottish basic rate" of tax and paragraphs (3) and (4) add references to the "Scottish basic rate" of tax to the existing references to the basic rate of tax and update references to "personal reliefs" so as to refer to the relevant provisions of the Income Tax Act 2007 (c. 3).

Regulation 2(3)(a) omits regulation 4(2) of the 1996 Regulations, which is no longer relevant.

Paragraph (5) amends paragraph 6 of Schedule 1 to the 1996 Regulations, which enables a payment to be disregarded in the calculation of earnings if it is made by a local authority in relation to a child being looked after by the authority, so as to include a reference to the provisions under which such payments are made in the Social Services and Well-being (Wales) Act 2014 (anaw 4).

An impact assessment has not been produced for this instrument as it has no impact on business or civil society organisations.