

2009 No. 111**SOCIAL SECURITY****The Social Security (Contributions)
(Amendment) Regulations 2009**

<i>Made</i> - - - -	<i>28th January 2009</i>
<i>Laid before Parliament</i>	<i>28th January 2009</i>
<i>Coming into force</i> -	<i>6th April 2009</i>

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 conferred by sections 5(4), (5) and (6), 122(1), (6A) and (6B) and 175(3) and (4) of the Social Security Contributions and Benefits Act 1992(a) and sections 5(4), (5) and (6), 121(1) and 171(3), (4) and (10) of the Social Security Contributions and Benefits Act (Northern Ireland) Act 1992(b).

The powers exercised by the Commissioners are conferred by paragraph 6 of Schedule 1 to the Social Security Contributions and Benefits Act 1992(c) and paragraph 6 of Schedule 1 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992(d).

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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) is cited because of the meaning given to "prescribe". Sub-sections (6A) and (6B) of section 122 were inserted by the National Insurance Contributions Act 2008 (c. 16). Section 175(4) was amended by paragraph 29(4) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).
- (b) 1992 c. 7. Section 5 was substituted by paragraph 1 of Schedule 10 to the Welfare Reform and Pensions Act 1999. Section 121(1) is cited because of the meaning given to "prescribe". Section 171(10) was substituted by paragraph 28(3) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671).
- (c) The relevant amendments to paragraph 6 of Schedule 1 were made by paragraph 77(8) of Schedule 7 to the Social Security Act 1998 (c. 14), paragraph 35 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) and paragraph 185 of Schedule 6 to the Income (Earnings and Pensions) Act 2003 (c. 1). 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.
- (d) The relevant amendments to paragraph 6 of Schedule 1 were made by paragraph 58(8) of Schedule 6 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506), paragraph 34 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Northern Ireland Order 1999 (S.I. 1999/671) and paragraph 204 of Schedule 6 to the Income (Earnings and Pensions) Act 2003. 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. 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.

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") in three main ways. They—

- amend the manner in which the prescribed equivalents of the upper earnings limit ("UEL") are calculated so as to bring their calculation into line with the calculation of the prescribed equivalents of the primary and secondary thresholds and accordingly the prescribed equivalent of the UEL where the earnings period is a month is £3,656 and where the earnings period is a year is £43,875;
- amend the prescribed equivalents of the primary and secondary thresholds so that where the earnings period is a month the threshold is £476 and where the earnings period is a year the threshold is £5,715; and
- reflect the changes made by the Pensions Act 2007 (c. 22) and the National Insurance Contributions Act 2008 (c. 16) ("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. It 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 state second pension.

Regulation 2 introduces the changes made to the principal Regulations.

Regulation 3 amends regulation 11 of the principal Regulations so as to—

- refer 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 is also amended to include a reference to section 45(1) of the Pensions Schemes Act 1993 (c. 48) which had been inadvertently omitted from regulation 11,
- insert a new paragraph (1A) in regulation 11 of the principal Regulations to determine the prescribed equivalents of the upper accrual point where a person's earnings period is other than a week,
- insert a new paragraph (6) which provides that paragraph (1A) and both the references to the "upper accrual point" in paragraph (2) of regulation 11 do not apply to Northern Ireland,
- remove references to determining the upper earnings limit for prescribed equivalents in paragraph (2) of the principal Regulations and sets the new prescribed equivalents of the upper earnings limit by way of the amendment introduced in new paragraph (2A) of regulation 11 of the principal Regulations, and
- provide for the equivalents of the primary and secondary thresholds where the earnings period is a month or a year.

Regulation 5 amends paragraph 7 of Schedule 4 to the principal Regulations so, in addition to providing the other information required, an employer must record on the deductions working sheet (Form P11)—

- 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 5 also amends paragraph 9 of Schedule 4 to the principal Regulations to ensure that this information is included in the certificate given by employers to employees (Form P60) and makes an amendment to paragraph 22 of that Schedule to ensure that this information is also included in the employers' end of year summary (Form P14).

A full impact assessment has not been produced for the amendments contained in sub-paragraphs (5) to (8) of regulation 3 as no impact on the private or voluntary sector is foreseen. No impact assessment has been produced for the rest of this instrument as there was a full impact assessment prepared for the Bill which became the National Insurance Contributions Act 2008. That impact assessment, which included an analysis of the impact of the changes made by this instrument, of the effect that the legislation will have on the costs of business and the voluntary sector is available at <http://www.hmrc.gov.uk/ria/nics-bill-ia.pdf> and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website.