

## 1994 No. 704

### SOCIAL SECURITY

#### The Social Security Pensions (Home Responsibilities) Regulations 1994

*Made* - - - - *11th March 1994*  
*Laid before Parliament* *15th March 1994*  
*Coming into force* - *6th April 1994*

The Secretary of State for Social Security, in exercise of the powers conferred on him by sections 21(3) and 175(1) to (5) of, and paragraph 5(7)(b) of Schedule 3 to, the Social Security Contributions and Benefits Act 1992(a) and of all other powers enabling him in that behalf, after agreement by the Social Security Advisory Committee that proposals to make these Regulations should not be referred to it(b), hereby makes the following Regulations:

#### Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security Pensions (Home Responsibilities) Regulations 1994, and shall come into force on 6th April 1994.

(2) In these Regulations, unless the context otherwise requires—

“the Act” means the Social Security Contributions and Benefits Act 1992;  
“child benefit” means child benefit within the meaning of section 141 of the Act;

▶<sup>1</sup>“foster parent” means a person approved as—

- (a) a foster parent in accordance with the provisions of Part IV of the Fostering Services Regulations 2002(c) (approval of foster parents); or
- (b) a foster carer in accordance with the provisions of Part II of the Fostering of Children (Scotland) Regulations 1996(d) (approval of foster carers);◀

▶<sup>2</sup>“the General Regulations” means the Child Benefit (General) Regulations 2003 (e);◀

“Personal Injuries Scheme”, “Pneumoconiosis and Byssinosis Benefit Scheme”, “Service Pensions Instrument” and “1914–1918 War Injuries Scheme” have the same meaning as assigned to them in regulation 2 of the Social Security (Overlapping Benefits) Regulations 1979(f);

“year” means tax year.

<sup>1</sup>Defn. of “foster parent” inserted by reg. 2(2) of S.I. 2003/1767 as from 1.9.03.

<sup>2</sup>Defn. of “the General Regulations” inserted by reg. 2(2) of S.I. 2005/48 as from 9.2.05.

#### Preclusion from regular employment for the purpose of paragraph 5(7)(b) of Schedule 3 to the Act

2.—(1) For the purpose of paragraph 5(7)(b) of Schedule 3 to the Act a person shall, subject to paragraph (5) below, be taken to be precluded from regular employment by responsibilities at home in any year—

- (a) throughout which he satisfies any of the conditions specified in paragraph (2) below;

(a) 1992 c. 4.

(b) See s. 173(1)(b) of the Social Security Administration Act 1992 c. 5.

(c) S.I. 2002/57.

(d) S.I. 1996/3263 (s. 253).

(e) S.I. 2003/493.

(f) S.I. 1979/597; the relevant amending instrument is 1980/1927.

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- (b) throughout which he satisfies the conditions specified in paragraph (3) below; or
- (c) in which he satisfies, for part of the year, any of the conditions specified in paragraph (2) below and for the remainder of the year, the condition specified in paragraph (3)(a) below.

(2) The conditions specified in this paragraph are—

- (a) that child benefit awarded to him was payable in respect of a child under the age of 16;
- ▶<sup>1</sup>(aa) that child benefit awarded to his partner was payable in respect of a child under the age of 16;◀
- (b) that—
  - ▶<sup>1</sup>(i) he is a person to whom paragraphs 4 to 6 of Schedule 1B to the Income Support (General) Regulations 1987(a) apply, and◀
  - (ii) income support is payable to him.
- ▶<sup>2</sup>(c) that he was a foster parent.◀ ▶<sup>1</sup>throughout the year 2003-2004 or any subsequent year◀

<sup>1</sup>In reg. 2(2), sub-para (aa) inserted, (b)(i) substituted and words added to para. (2)(c) by reg. 2(2)(a)-(c) of S.I. 2008/498 as from 6.4.08.

<sup>2</sup>Reg. 2(2)(c) inserted by reg. 3 of S.I. 2003/1767 as from 1.9.03.

(3) The conditions specified in this paragraph are—

- (a) that he was regularly engaged, for at least 35 hours per week, in caring for a person in respect of whom there was payable any of the benefits specified in paragraph (4) below;
- (b) that those benefits were payable to that person for at least 48 weeks in that year.

(4) The benefits referred to in paragraph (3) above are an attendance allowance under section 64 of the Act, the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72 of the Act, a constant attendance allowance under any Service Pensions Instrument, Personal Injuries Scheme or 1914–1918 War Injuries Scheme, an increase of disablement pension under section 104 of the Act in respect of constant attendance and any benefit corresponding to such an increase under a Pneumoconiosis and Byssinosis Benefit Scheme or under Regulations under paragraph 7(2) of Schedule 8 to the Act.

<sup>3</sup>Para. (4A) inserted in reg. 2 by reg. 2 of S.I. 2001/1265 as from 6.4.02.

▶<sup>3</sup>(4A) For the purposes of paragraph (2)(a) above, where—

- (a) child benefit first becomes payable to a person in respect of a child on the first Monday in a year; and
- (b) child benefit would, but for the provisions of section 147(2) of the Act, have been payable to that person in respect of that child for the part of that year falling before that Monday,

that person shall be treated as if he were entitled to child benefit and, accordingly, as if child benefit were payable to him for that part of that year.◀

<sup>4</sup>Para. (4B) inserted in reg. 2 by reg. 2(3) of S.I. 2005/48 as from 9.2.05.

▶<sup>4</sup>(4B) For the purposes of paragraph (2)(a) above, in respect of the year 2004-2005 or any subsequent year, where—

- (a) a notice is given under regulation 15(1) of the General Regulations (modification of priority between persons entitled to child benefit) by the person who is entitled to child benefit;
- (b) that notice becomes effective in relation to any week falling in the first three months of a year;
- (c) as a result of that notice, child benefit becomes payable to another person (“the new payee”) in priority to anyone else;
- (d) for each week of that year prior to that notice becoming effective, child benefit would, but for the provisions of regulation 15(2)(b) of those Regulations, have been payable to the new payee; and

(a) S.I. 1987/1967. Schedule 1B is inserted by S.I. 1996/206. Paragraph 4 is amended by S.I. 1996/1517, 2000/681, 2002/490 and 2002/2497.

- (e) no other notice under regulation 15(1) of those Regulations was given in respect of the same child which became effective during any week referred to in subparagraph (d);

the new payee shall be treated as if he were entitled to child benefit and, accordingly, as if child benefit were payable to him for each week of the year prior to the notice becoming effective.◀

▶<sup>1</sup>(4C) In paragraph (2)(aa), “partner” means the person with whom he was both residing and sharing responsibility for the child throughout that year.◀

<sup>1</sup>Reg. 2(4C) & (5)(aza) inserted by reg. 2(3) & (4) of S.I. 2008/498 as from 6.4.08.

(5) Except where paragraph (6) below applies, paragraph (1) above shall not apply in relation to any year—

- (a) if the person in question is a woman who has made or is treated as having made an election in accordance with regulations having effect under section 19(4) of the Act(a) and that election had effect at the beginning of that year; or

▶<sup>1</sup>(aza) in the case of a person who satisfies the condition in paragraph (2)(aa) above—

- (i) such information is not furnished as the Secretary of State may from time to time require which is relevant to the question of whether in that year he was precluded from regular employment by responsibilities at home within the meaning of these Regulations;
- (ii) he attained pensionable age on or before 5<sup>th</sup> April 2008 or, in relation to a claim for a bereavement benefit in respect of his death, he died on or before that date; or
- (iii) the aggregate of his partner’s earnings factors—
  - (aa) in respect of any year preceding 2002-2003;
  - (bb) in respect of the year 2002-2003 or any subsequent year, where those earnings factors are derived from so much of his earnings as do not exceed the upper earnings limit and upon which primary Class 1 contributions have been paid or treated as paid,is less than the qualifying earnings factor for the year in question.◀

▶<sup>2</sup>(aa) in the case of a person who satisfies the condition in paragraph (2)(c) above in respect of the year 2003-04 or any subsequent year, if he does not furnish such information as the Secretary of State may from time to time require which is relevant to the question of whether in that year he was precluded from regular employment by responsibilities at home within the meaning of these Regulations; or◀

<sup>2</sup>Reg. 2(5)(aa) inserted by reg. 3 of S.I. 2003/1767 as from 1.9.03.

▶<sup>3</sup>(b) in the case of a person who satisfies the conditions in paragraph (3) above in respect of any year preceding 2002-2003, if he does not furnish such information as the Secretary of State may from time to time require which is relevant to the question of whether in that year he was precluded from regular employment by responsibilities at home within the meaning of these Regulations; or

<sup>3</sup>Sub-para. (b) & (c) substituted for sub-para. (b) in reg. 2(5) by reg. 7 of S.I. 2001/1326 as from 6.4.02.

- (c) in the case of a person who satisfies the conditions in paragraph (3) above in respect of the year 2002-2003 or any subsequent year, if he does not, within the period of three years immediately following the end of that year, furnish such information as the Secretary of State may from time to time require which is relevant to the question of which is relevant to the question of whether, in that year, he was precluded from regular employment by responsibilities at home within the meaning of these Regulations.◀

(6) This paragraph applies to a woman who throughout the period beginning on 6th April 1975 and ending on 5th April 1980—

- (a) had no earnings in respect of which primary Class 1 contributions were payable; and
- (b) was not at any time a self-employed earner.

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(a) S. 19(4) consolidates s. 3(2) of the Social Security Pensions Act 1975 c. 60, which previously gave the power to make such regs.

**Revocations**

3. The provisions specified in Columns (1) and (2) of the Table in the Schedule to these Regulations are hereby revoked to the extent specified in Column (3) of that Table.

Signed by authority of the Secretary of State for Social Security.

11th March 1994

*William Hague*  
Parliamentary Under-Secretary of State,  
Department of Social Security

**THE SCHEDULE**

Regulation 3

**THE TABLE**

<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
The Social Security Pensions (Home Responsibilities and Miscellaneous Amendments) Regulations 1978	S.I. 1978/508	Regulations 1(2) and 2
The Social Security Pensions (Home Responsibilities and Graduated Retirement Benefit) Amendment Regulations 1981	S.I. 1981/330	The Whole Regulations
The Social Security Pensions (Home Responsibilities and Miscellaneous Amendments) Amendment Regulations 1988	S.I. 1988/623	The Whole Regulations

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations consolidate, with amendments, provisions contained in the Social Security Pensions (Home Responsibilities and Miscellaneous Amendments) Regulations 1978, (“the 1978 Regulations”) relating to the contribution conditions for entitlement to retirement pension applicable to persons who have home responsibilities. The amendments are contained in:

- regulation 2(1)(b) and (c) which relax the conditions subject to which a person may qualify for home responsibilities protection;
- regulation 2(6) which makes new provision for protection to be afforded to certain married women and widows who, prior to 6th April 1975, had elected to pay Class 1 national insurance contributions at the reduced rate.

Regulations 1(2) and 6 of the 1978 Regulations are revoked, as also are the Social Security Pensions (Home Responsibilities and Graduated Retirement Benefit) Amendment Regulations 1981 and the Social Security Pensions (Home Responsibilities and Miscellaneous Amendments) Amendment Regulations 1988.

These Regulations do not impose any costs on business.