Draft Regulations laid before Parliament under section 176(1)(aa) of the Social Security Contributions and Benefits Act 1992, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2009 No. 0000

SOCIAL SECURITY

The Social Security (Contributions Credits for Parents and Carers) Regulations 2009

Made - - - -	*2009*
Coming into force - -	*6th April 2010*

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 23A(3)(c), (4) and (9) and section 175(1), (4) and (5) of the Social Security Contributions and Benefits Act 1992(**1**).

A draft of this instrument was laid before and approved by a resolution of each House of Parliament in accordance with section 176(1)(aa) of that Act(**2**).

The Social Security Advisory Committee has agreed that proposals in respect of these Regulations should not be referred to it(**3**).

PART 1

General provisions

Citation and commencement

1. These Regulations may be cited as the Social Security (Contributions Credits for Parents and Carers) Regulations 2009 and shall come into force on 6th April 2010.

Interpretation

2.—(1) In these Regulations—

"partner" means the person with whom another person—

(**1**) 1992 c. 4. Section 23A was inserted by section 3(1) of the Pensions Act 2007 (c. 22).
(**2**) Section 176(1)(aa) was inserted by paragraph 10 of Schedule 1 to the Pensions Act 2007 (c. 22).
(**3**) Section 173(1)(b) of the Social Security Administration Act 1992 (c. 5) provides that proposals in respect of regulations which would otherwise be referable to the Social Security Advisory Committee may not be so referred with the agreement of that Committee. These Regulations would otherwise be so referable by virtue of section 172 of that Act.

(a) resides; and

(b) shares responsibility for a child under the age of 12;

"relevant benefit" means—

(a) attendance allowance in accordance with section 64 (entitlement);

(b) the care component of disability living allowance in accordance with section 72 (the care component), at the middle or highest rate prescribed in accordance with subsection (3) of that section;

(c) an increase in the rate of disablement pension in accordance with section 104 (increase where constant attendance needed);

(d) any benefit by virtue of—

(i) the Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefit Scheme 1983(**4**); or

(ii) regulations made under paragraph 7(2) in Part 2 (regulations providing for benefit) of Schedule 8 (industrial injuries and diseases (old cases)),

which is payable as if the injury or disease were one in respect of which a disablement pension were for the time being payable in respect of an assessment of 100 per cent.;

(e) a constant attendance allowance payable by virtue of—

(i) article 8 (constant attendance allowance) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006(**5**); or

(ii) article 14 (constant attendance allowance) of the Personal Injuries (Civilians) Scheme 1983(**6**).

(2) In these Regulations, a reference to a section or Schedule by number alone is a reference to the section or Schedule so numbered in the Social Security Contributions and Benefits Act 1992.

Transitional provision

3. For the period of 12 weeks from the date on which these Regulations come into force, regulation 7(1)(a) has effect as if the reference in regulation 7(1) to 12 weeks were a reference to the number of complete weeks since these Regulations came into force.

PART 2

Meaning of "foster parent" and "engaged in caring"

Meaning of "foster parent"

4.—(1) For the purposes of subsection (3)(b) of section 23A (contributions credits for relevant parents and carers), a foster parent is a person approved as—

(a) a foster parent in accordance with Part 4 (approval of foster parents) of the Fostering Services Regulations 2002(**7**); or

(b) a foster carer in accordance with Part 7 (fostering) of the Looked After Children (Scotland) Regulations 2009(**8**).

(**4**) S.I. 1983/136.
(**5**) S.I. 2006/606. Relevant amending instrument is S.I. 2006/1455.
(**6**) S.I. 1983/686. Article 14 was substituted by S.I. 2001/420.
(**7**) S.I. 2002/57. Relevant amending instruments are S.I. 2002/865 and S.I. 2008/640.
(**8**) S.S.I. 2009/210.

(2) Paragraph (1) is subject to regulation 8.

Meaning of "engaged in caring"

5.—(1) For the purposes of subsection (3)(c) of section 23A, a person is engaged in caring in a week—

(a) if that person is the partner of a person who is awarded child benefit for any part of that week in respect of a child under the age of 12;

(b) if that person is caring for another person or persons for a total of 20 or more hours in that week and—

(i) that other person is, or each of the persons cared for are, entitled to a relevant benefit for that week; or

(ii) the Secretary of State considers that level of care to be appropriate;

(c) if that person is one to whom any of paragraphs 4 to 6 (persons caring for another person) of Schedule 1B (prescribed categories of person) to the Income Support (General) Regulations 1987(**9**) applies.

(2) Paragraph (1) is subject to regulations 6 to 8.

Limit on the period in respect of partners of persons awarded child benefit

6.—(1) Regulation 5(1)(a) does not apply to any week which falls within a tax year in respect of which the person awarded child benefit satisfies the following condition.

(2) The condition is that that person's earnings factor for the purposes of section 45 (additional pension in a Category A retirement pension) does not exceed the qualifying earnings factor for that year.

(3) In calculating a person's earnings factor for the purposes of paragraph (2), no account is to be taken of any earnings factor derived from contributions credited by virtue of that person being a relevant carer due to an award of child benefit.

Additional period in respect of entitlement to carer's allowance and relevant benefits

7.—(1) A person is engaged in caring for a period of 12 weeks—

(a) prior to the date on which that person becomes entitled to carer's allowance by virtue of subsection (1) of section 70 (carer's allowance);

(b) subject to paragraph (2), following the end of the week in which that person ceases to be entitled to carer's allowance by virtue of that subsection;

(c) following the end of a week in which regulation 5(1)(b) ceases to be satisfied.

(2) For the purposes of paragraph (1)(b), a person is not engaged in caring in a week in respect of which that person is entitled, under regulations made under subsection (5) of section 22 (earnings factors), to be credited with contributions by virtue of being entitled to an allowance under section 70.

Disqualification due to residence or imprisonment

8. A person is not a foster parent or engaged in caring for the purposes of section 23A during any period in respect of which that person is—

(a) not ordinarily resident in Great Britain; or

(**9**) S.I. 1987/1967. Schedule 1B was inserted by S.I. 1996/206. Relevant amending instruments are S.I. 1996/1517, S.I. 2000/681, S.I. 2001/859, S.I. 2002/490 and S.I. 2002/2497.