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STATUTORY INSTRUMENTS

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**1996 No. 3182**

**EUROPEAN COMMUNITIES**

**The European Communities (Iron and Steel Employees Re-adaptation Benefits Scheme) (No. 2) (Amendment) Regulations 1996**

<i>Made</i>	- - - -	<i>17th December 1996</i>
<i>Laid before Parliament</i>		<i>18th December 1996</i>
<i>Coming into force</i>	- -	<i>8th January 1997</i>

The Secretary of State, being a Minister designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to measures relating to redundancy among steel workers, in exercise of the powers conferred on him by that section and of all his other enabling powers, hereby makes the following Regulations:—

**Citation and commencement**

1. These Regulations may be cited as the European Communities (Iron and Steel Employees Re-adaptation Benefits Scheme) (No. 2) (Amendment) Regulations 1996 and shall come into force on 8th January 1997.

**Interpretation**

2. In these Regulations, “the 1988 Regulations” mean the European Communities (Iron and Steel Employees Re-adaptation Benefits Scheme) (No. 2) Regulations 1988<sup>(3)</sup> as they continue to apply by virtue of regulation 4 of the European Communities (Iron and Steel Employees Re-adaptation Benefits Scheme) (No. 2) (Scheme Termination) Regulations 1994<sup>(4)</sup>.

**Amendment to the 1988 Regulations**

3. Paragraph (1)(a) of Article 2 of Schedule 1 to the 1988 Regulations shall be amended by inserting after the words “transferred employee” the words “on or before 31st March 1996”.

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(1) S.I.1972/1811.  
(2) 1972 c. 68.  
(3) S.I. 1988/538.  
(4) S.I. 1994/141.

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#### **Application of the Scheme**

4. The Scheme set out in the Schedule to these Regulations (hereinafter referred to as “the Supplemental Scheme”) shall apply to those classes of persons prescribed therein who, but for the provisions of regulation 3 of these Regulations, would have been eligible for payments under the Scheme set out in Schedule 1 to the 1988 Regulations.

17th December 1996

*Greg Knight*  
Minister for Industry  
Department of Trade and Industry

## SCHEDULE

Regulation 4

### IRON AND STEEL EMPLOYEES RE-ADAPTATION BENEFITS SCHEME (SUPPLEMENTAL SCHEME)

#### Interpretation

1. In the Supplemental Scheme, unless the context otherwise requires:–

“the 1992 Act” means the Social Security Contributions and Benefits Act 1992<sup>(5)</sup>;

“the 1995 Act” means the Jobseekers Act 1995<sup>(6)</sup>;

“the 1996 Act” means the Employment Rights Act 1996<sup>(7)</sup>;

“earnings”, in relation to a person engaged in employment, include bonus and shift work payments and overtime payments made in any case where the employee is under his contract of employment required to work overtime and the payment is in respect of overtime so worked but do not include any other payments for overtime working, or payments related to particular working conditions; and where an employee’s earnings in any week are affected by unpaid absence, by absence from work by reason of injury or ill-health, or by any reduction in the normal rate of production from whatever cause, his earnings shall be such amount as the Secretary of State considers that employee would have earned if he had been normally employed in that week;

“full time employment” means employment which normally involves employment for 16 hours or more in each week;

“invalidity pension” means incapacity benefit to which a person is entitled under section 30A of the 1992 Act, and includes–

- (a) any additional pension payable under sections 44 and 45 of the 1992 Act,
- (b) a widow’s or widower’s invalidity pension, payable under section 40 or 41 of the 1992 Act respectively;

“jobseeker’s allowance” means contribution-based jobseeker’s allowance payable under section 4 of the 1995 Act;

“previous earnings” means:–

- (a) the average of the employee’s weekly earnings from employment by a steel company for the period of 13 weeks immediately preceding the fourth week before the relevant date,
- (b) or
- (c) if he underwent retraining which affected his earnings in the said period, the average of his earnings from employment by a steel company for each of the weeks within that period in which he was normally employed and, for the weeks in which he was not normally employed, such amount as the Secretary of State considers he would have earned, had he been so employed:

Provided that, in any case where previous earnings exceed the maximum level, that is to say, twice the limit (in force on the last day of the said period) imposed by section 227(1)(c) of the 1996 Act on the amount of a week’s pay for the purpose of calculating a redundancy payment under that Act, they shall be deemed to be equal to the maximum level;

“redundant employee” means a steel employee who has been dismissed by his employer within the meaning of Part XI of the 1996 Act and whose dismissal is attributable wholly or mainly

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<sup>(5)</sup> 1992 c. 4. Section 30A was inserted by section 1 of the Social Security (Incapacity for Work) Act 1994 (c. 18).

<sup>(6)</sup> 1995 c. 18.

<sup>(7)</sup> 1996 c. 18.

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to a relevant event and in respect of whom the Commission approves the provision of non-repayable aid under Article 56(2) of the ECSC Treaty;

“relevant date” has the same meaning as in section 145(2), (3) and (4), or, as the case may require, section 145(5), of the 1996 Act;

“relevant event” means any permanent discontinuance or curtailment of, or change in, the activities of a steel company, which occurred before 28 January 1994 and was occasioned by fundamental changes, not directly connected with the establishment of the common market, in market conditions for the steel industry, and which is accepted by the Commission of the European Communities as justifying payments under Article 56(2) of the ECSC Treaty;

“relevant married woman” means a married woman who has elected to pay primary Class 1 contributions at the reduced rate in accordance with the Social Security (Contributions) Regulations 1979(8), and “election” shall be construed accordingly;

“severe disablement allowance” means severe disablement allowance payable under section 68 of the 1992 Act;

“steel company” means any body corporate engaged in the production of steel as defined in Annex 1 to the ECSC Treaty or in the production of coke for steel making;

“steel employee” means an employee who immediately prior to the relevant date (or, in a case where section 145(5) of the 1996 Act applies, immediately prior to dismissal) was wholly or mainly engaged in the course of his employment in the United Kingdom in activities connected with the production of steel as so defined or in the production of coke for steel making;

“unemployment benefit” means unemployment benefit payable under section 25 of the 1992 Act;

“week” means, in relation to employment by a steel company, a period of seven days beginning at 06.00 hours on a Sunday.

### **Payments to men under 55 and women under 50**

2. The Secretary of State may pay to any steel employee who has been in the full time employment in the United Kingdom of the same steel company for the 52 weeks immediately preceding the relevant date and who—

- (a) has become a redundant employee on or after 1 April 1996; and
- (b) has not on the relevant date attained, if a man, the age of 55 or, if a woman, the age of 50,

a lump sum equal to 70 times previous earnings.

### **Payments to men of 55 or over and women of 50 or over**

3. The Secretary of State may pay to any steel employee who has been in the full time employment in the United Kingdom of the same steel company for the 52 weeks immediately preceding the relevant date and who—

- (a) has become a redundant employee on or after 1 April 1996; and
- (b) has on the relevant date attained, if a man, the age of 55 or, if a woman, the age of 50,

a lump sum equal to 64 times previous earnings.

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(8) S.I. 1979/591, as amended by S.I. 1982/1739 and 1983/496. There are other amendments not relevant for the purposes of these Regulations.

## **Pension Option**

4.—(1) This Article applies to a steel employee who, having been in the full time employment in the United Kingdom of the same steel company for the 52 weeks immediately preceding the relevant date, has become a redundant employee on or after 1 April 1996 and who on the relevant date is aged

- (a) 55 or over but under 65, if a man, or
- (b) 50 or over but under 60, if a woman,

and, having become an unemployed person in the United Kingdom on the relevant date, has not entered into other employment or accepted a payment under any other Article hereof.

(2) A steel employee to whom this Article applies may, in lieu of accepting payments under Article 3 of this Scheme, and after obtaining from his employer the particulars referred to in paragraph (6) of this Article, request the Secretary of State to agree to pay into the pension fund of the steel company by which he was employed immediately prior to the relevant date a capital sum for the purchase of additional benefits, or where the Secretary of State is satisfied that no suitable pension fund exists for that purpose, to apply that sum to purchase an annuity.

(3) Notwithstanding the provisions of paragraph (1), the Secretary of State may entertain a request under paragraph (2) in any case in which he is satisfied that the employee entered into other employment, or accepted a payment under Article 3 hereof, not being fully aware of the provisions of this Article and may, where the employee has accepted such a payment, make his agreement conditional upon repayment of that payment.

(4) Where the Secretary of State has agreed with an employee that he will make a capital payment or provide an annuity in accordance with this Article, that employee shall not be eligible for a payment under Article 3 hereof.

(5) The amount of the capital payment under this Article shall be the sum of:

- 90% of his previous earnings for 52 weeks, and
- 80% of his previous earnings for 26 weeks,

less 26 weeks unemployment benefit or jobseeker's allowance at the rate to which he is entitled for the first week of entitlement after the relevant date, or if he was entitled to invalidity pension or severe disablement allowance in that week, to which he would otherwise have been entitled:

Provided that—

- (a) in any case where a request has been entertained under paragraph (3), the rate of unemployment benefit or jobseeker's allowance at which this deduction shall be made shall be the rate to which he would have been entitled for the first week of entitlement after the relevant date had he been available to be employed on that date;
- (b) in the case of a relevant married woman, there shall be deducted the amount of unemployment benefit or jobseeker's allowance to which she would have been entitled but for her election;
- (c) in calculating the amount of the said capital payment in the case of an employee who is in receipt of a pension in respect of his employment with a steel company or compensation under the Iron and Steel (Compensation to Employees) Regulations 1968<sup>(9)</sup> the sums specified in this paragraph as a percentage of previous earnings shall be abated so as to ensure that the weekly aggregate of those sums, that pension and that compensation does not exceed the amount of his previous earnings;
- (d) in calculating the rate of unemployment benefit to which a person is, or would be entitled for the first week after the relevant date, any abatement under section 30 of the 1992 Act shall be disregarded;

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(9) S.I. 1968/1170, as amended by S.I. 1971/2026.

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(e) in calculating the rate of jobseeker's allowance to which a person is, or would be entitled for the first week after the relevant date, any abatement under section 4 of the 1995 Act shall be disregarded.

(6) Any eligible steel employee who proposes to make a request to the Secretary of State under paragraph (2) of this Article shall, within four weeks after the relevant date, apply to his employer for particulars of the additional benefits or annuity which would be payable under this Article, and no such request shall be made to the Secretary of State after the expiry of four weeks from the date on which those particulars are received by that employee.

#### **Time for payment and claiming of payments**

5.—(1) A steel employee shall not be eligible for the lump sum under this Scheme unless that payment is claimed within eight weeks after the date on which he was made redundant:

Provided that the Secretary of State may admit a claim not so made if he is satisfied that the delay in claiming was not attributable to the fault of that employee.

(2) Payments to a redundant steel employee under this Scheme may be paid on such date as the Secretary of State may determine.

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#### **EXPLANATORY NOTE**

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

These Regulations amend the existing powers of the Secretary of State under the Scheme established by the European Communities (Iron and Steel Employees Re-adaptation Benefits Scheme) (No. 2) Regulations 1988 ("the 1988 Regulations"), as continued in force by the European Communities (Iron and Steel Employees Re-adaptation Benefits Scheme) (No. 2) (Scheme Termination) Regulations 1994, by establishing a Supplemental Scheme to replace weekly payments under the 1988 Regulations by a lump sum payment to steel employees who are made redundant on or after 1 April 1996. The alternative pension option for redundant employees who are men aged 55 and over and women aged 50 and over in regulation 6 of the 1988 Regulations is retained.