1988 No. 189

SOCIAL SECURITY

The Social Security (Contributions) (Amendment No. 3) Regulations (Northern Ireland) 1988

Made . . . . . 24th May 1988

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by section 3(2) and (3) of the Social Security (Northern Ireland) Act 1975(**a**) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation and interpretation

1.—(1) These regulations may be cited as the Social Security (Contributions) (Amendment No. 3) Regulations (Northern Ireland) 1988.

(2) In these regulations "the principal regulations" means the Social Security (Contributions) Regulations (Northern Ireland) 1979(**b**).

Amendment of regulation 19 of the principal regulations

2. In regulation 19(1)(*d*) of the principal regulations (payments to be disregarded) after "in kind" there shall be inserted "(other than a payment to which regulation 19C of these regulations applies)".

Insertion of regulation 19C in the principal regulations

3. After regulation 19B of the principal regulations(**c**) (payments to directors which are to be disregarded) there shall be inserted the following regulation—

"*Payments in kind not to be disregarded*

19C.—(1) A payment in kind shall not by virtue of regulation 19(1)(*d*) of these regulations be excluded from the computation of a person's earnings in respect of any employed earner's employment so far as it consists of the conferment of a beneficial interest in any security falling within the next succeeding paragraph or in any derivative instrument falling within paragraph (3) of this regulation.

(2) In this regulation "security" means debentures, including debenture stock, loan stock, bonds, certificates of deposit and other instruments creating or acknowledging indebtedness issued by or on behalf of a government, local authority, public authority, body corporate or any other person, but does not include shares and stock in the share capital of a company.

(**a**) 1975 c. 15
(**b**) S.R. 1979 No. 186, to which there are amendments not relevant to these regulations
(**c**) Inserted by S.R. 1987 No. 468

(3) In this regulation "derivative instrument" means—

(*a*) a warrant or other instrument entitling the holder to subscribe for securities falling within the last preceding paragraph;

(*b*) a certificate or other instrument which confers—

(i) property rights in respect of any security falling within the last preceding paragraph or of any derivative instrument falling within sub-paragraph (*a*), (*c*), (*d*) or (*e*) of this paragraph,

(ii) any right to acquire, dispose of, underwrite or convert a security falling within the last preceding paragraph or a derivative instrument falling within sub-paragraph (*a*), (*c*), (*d*) or (*e*) of this paragraph, being a right to which the holder would be entitled if he held any such security or derivative instrument to which the certificate or instrument relates, or

(iii) a contractual right (other than an option) to acquire, otherwise than by subscription, any security falling within the last preceding paragraph or any derivative instrument falling within sub-paragraph (*a*), (*c*), (*d*) or (*e*) of this paragraph,

not being a certificate or other instrument in relation to units in an authorised unit trust scheme or a recognised scheme within the meaning of the Financial Services Act 1986(**a**);

(*c*) an option to acquire or dispose of—

(i) a security falling within the last preceding paragraph or a derivative instrument falling within sub-paragraph (*a*), (*b*), (*d*) or (*e*) of this paragraph,

(ii) an option to acquire or dispose of a security or derivative instrument falling within head (i) of this sub-paragraph;

(*d*) rights under a contract for the sale of any security falling within the last preceding paragraph or of any derivative instrument falling within sub-paragraph (*a*), (*b*), (*c*) or (*e*) of this paragraph under which delivery is to be made at a future date agreed upon when the contract is made and at a price agreed upon when the contract is made;

(*e*) rights under a contract for differences or under any other contract, the purpose or pretended purpose of which is to secure a profit or avoid a loss by reference to fluctuations in the value or price of a security falling within the last preceding paragraph or a derivative instrument falling within sub-paragraph (*a*), (*b*), (*c*) or (*d*) of this paragraph or by reference to fluctuations in an index or other factor relating to such securities or derivative instruments designated for that purpose in the contract.

(**a**) 1986 c. 60

(4) So far as a payment in kind consisting of the conferment of a beneficial interest falls by virtue of paragraph (1) of this regulation to be taken into account in the computation of a person's earnings, the amount of his earnings comprised in that payment shall be calculated or estimated at the price which that interest might reasonably be expected to fetch if sold in the open market on the day on which it is conferred.''.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 24th May 1988.

(L.S.) *A. N. Burns*
Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations further amend the Social Security (Contributions) Regulations (Northern Ireland) 1979 (''the principal regulations''). They correspond to provision contained in regulations made by the Secretary of State for Social Services in relation to Great Britain and accordingly, by virtue of section 10(2) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1980 (c. 30), are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee.

Regulation 3 inserts a new regulation 19C into the principal regulations. The new regulation provides that for the purposes of earnings-related contributions payments to employed earners in the form of a wide range of securities and derivative instruments are not to be disregarded in the computation of their earnings. It also includes provision for calculation of the value of the payments not to be disregarded.

Regulation 2 makes a minor amendment to regulation 19 of the principal regulations to give effect to the new provisions.