STATUTORY INSTRUMENTS

1987 No. 2111

SOCIAL SECURITY

The Social Security (Contributions) Amendment (No.4) Regulations 1987

Made - - - -	*8th December 1987*
Laid before Parliament	*16th December 1987*
Coming into force	*6th January 1988*

The Secretary of State for Social Services, in exercise of powers conferred upon him by sections 3(2) and (3), 4(2)(b), (6), (6A) and (6D), 11(3), 131, 166(2) and 168 of, and paragraphs 6(1)(b) and (h) of Schedule 1, and Schedule 20, to the Social Security Act 1975(**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 (Contributions) Amendment (No. 4) Regulations 1987 and shall come into force on 6th January 1988.

(2) In these Regulations "the principal Regulations" means the Social Security (Contributions) Regulations 1979(**c**).

Amendment of regulation 8 of the principal Regulations

2. In regulation 8 of the principal Regulations (equivalent amounts) –

(a) in paragraph (2)(c) for the words "applying sub-paragraph (b) of this paragraph" there shall be substituted the words "multiplying each of the said limits by 4 1/3";

(b) in paragraph (3) for the words "the last preceding paragraph" there shall be substituted the words "paragraph (2) of this Regulation".

Amendment of regulation 8A of the principal Regulations

3. In regulation 8A of the principal Regulations (equivalent earnings brackets for earners paid otherwise than weekly,(**d**) –

(a) in paragraph (3)(c) for the words "applying sub-paragraph (b) of this paragraph" there shall be substituted the words "multiplying each lower bracket by 4 1/3";

(**a**) 1975 c.14; section 4(2) was amended by the Social Security and Housing Benefits Act 1982 (c.24), section 48(6) and Schedule 5, and by the Education (School-leaving Dates) Act 1976 (c.5), section 2(4); sections 4(6), (6A) and (6D) were substituted by the Social Security Act 1985 (c.53), section 7(2); paragraph 6(1)(h) of Schedule 1 was amended by the Social Security Act 1986 (c.50); Schedule 10, paragraph 10. (**b**) *See* section 10(2)(b) of the Social Security Act 1980 (c.30). (**c**) S.I. 1979/591; the relevant amending instruments are S.I. 1985/1398, 1987/413, 1590. (**d**) Regulation 8A was inserted by the Social Security (Contributions and Credits) (Transitional and consequential Provisions) Regulations 1985 (S.I. 1985/1398).

[SS87/1785]

(b) in paragraph (4) for the words "the last preceding paragraph" there shall be substituted the words "paragraph (3) of this Regulation".

Insertion of regulation 19B in the principal Regulations

4. After regulation 19A of the principal Regulations (certain payments by trustees to be disregarded) there shall be inserted the following regulation:–

"Payments to directors which are to be disregarded

19B.—(1) For the purposes of earnings-related contributions, there shall be excluded from the computation of a person's earnings any payment in so far as it is a payment –

(a) by a company,

(b) to or for the benefit of a director of that company,

(c) in respect of any employed earner's employment of that director with that company, and

(d) in respect of which the conditions set out in paragraph (2), (3) or (4) of this regulation are satisfied.

(2) The conditions referred to in paragraph (1) of this regulation as being set out in this paragraph are –

(a) that the director is a partner in a firm carrying on a profession;

(b) that being a director of a company is a normal incident of membership of that profession and of membership of the firm of the director;

(c) that the director is required by the terms of his partnership to account to his firm for the payment; and

(d) that the payment forms an insubstantial part of the gross returns of that firm.

(3) The conditions referred to in paragraph (1) of this regulation as being set out in this paragraph are –

(a) that the director was appointed to that office by a company having the right to do so by virtue of its shareholding in, or an agreement with, the company making the payment;

(b) that by virtue of an agreement with the company that appointed him, the director is required to account for the payment to that company; and

(c) that the payment forms part of the profits brought into charge to corporation tax or income tax of the company that appointed the director.

(4) The conditions referred to in paragraph (1) of this regulation as being set out in this paragraph are –

(a) that the director was appointed to that office by a company other than the company making the payment;

(b) that by virtue of an agreement with the company that appointed him, the director is required to account for the payment to that company;

(c) that the payment forms part of the profits brought into charge to corporation tax of the company that appointed the director; and

(d) that the company that appointed the director is not one over which –

(i) the director has, or

(ii) any person connected with the director has, or

(iii) the director and any persons connected with him together have,

control.

(5) In this regulation –

(a) in pararaphs (2), (3), (4) and (5) (b) the expression "the director" means the director to or for the benefit of whom the payment referred to in paragraph (1) is made; and

(b) in paragraph (4)(d) –

(i) "control" has the same meaning as in section 534 of the Income and Corporation Taxes Act 1970(a);

(ii) "any person connected with the director" means any of the following, namely the spouse, parent, child, son-in-law or daughter-in-law of the director.".

Amendment of regulation 23 of the principal Regulations

5. In paragraph (1)(*a*) of regulation 23 of the principal Regulations (exception from liability for Class 2 contributions) for the words "sickness benefit, invalidity benefit or injury benefit" there shall be substituted the words "sickness benefit or invalidity benefit".

Amendment of regulation 32 of the principal Regulations

6. In paragraph (4) of regulation 32 of the principal Regulations (return of contributions) for the words from "Contributions paid" to the words "recovered from him" there shall be substituted the words "Contributions paid by a secondary contributor on behalf of any person in error or in excess of the amount prescribed in regulation 17 of these regulations, and not recovered from that person,".

Amendment of regulation 39 of the principal Regulations

7. In regulation 39 of the principal Regulations (treatment for the purposes of any contributory benefit of late paid or unpaid primary Class 1 contributions where there was no consent, connivance or negligence by the primary contributor) –

(a) the words, "maternity grant" shall be omitted;

(b) in paragraph (*a*) for the words ", sickness benefit or maternity grant" there shall be substituted the words "or sickness benefit".

Amendment of regulation 121 of the principal Regulations

8. In paragraph (1)(*a*) of regulation 121 of the principal Regulations (Class 2 and Class 3 contributions for periods abroad) for the words "otherwise than as an employed earner" there shall be substituted the words "in employment which is not employment in respect of earnings from which Class 1 contributions are payable".

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

Michael Portillo
Parliamentary Under Secretary of State,
Department of Health and Social Security

8th December 1987

(a) 1970 c.10.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Social Security (Contributions) Regulations 1979 ("the principal Regulations").

Regulation 2 amends regulation 8 of the principal Regulations, first insofar as it relates to the intermediate stages in calculating the equivalent amounts for lower and upper earnings limits for employed earners paid otherwise than weekly, and secondly to take account of the insertion of paragraph (2A) into regulation 8 by the Social Security (Contributions) Amendment (No.2) Regulations 1987 (S.I. 1987/413). Regulation 3 makes amendments likewise to regulation 8A of the principal Regulations.

Regulation 4 inserts a new regulation, 19B, into the principal Regulations. The new regulation 19B specifies circumstances in which payments to a director of a company are to be disregarded in computing the director's earnings. The company making the payments is excepted already from having to deduct from them income tax under section 204 of the Income and Corporation Taxes Act 1970 (pay as you earn).

Regulation 5 amends regulation 23 of the principal Regulations by removing the reference to injury benefit, which was abolished by the Social Security and Housing Benefits Act 1982.

Regulation 6 amends regulation 32 of the principal Regulations by providing as to the person to whom contributions paid in excess of the annual maximum are to be returned.

Regulation 7 amends regulation 39 of the principal Regulations by removing the reference to maternity grant, the contribution conditions for which were removed by the Social Security Act 1980.

Regulation 8 amends regulation 121 of the principal Regulations insofar as it relates to the circumstances in which an earner may pay a Class 2 contribution while employed outside Great Britain.

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