STATUTORY INSTRUMENTS

1977 No. 638

SOCIAL SECURITY

The Social Security (Contributions) (Amendment) Regulations 1977

Made - - - -	1*st April* 1977
Laid before Parliament	4*th April* 1977
Coming into Operation	6*th April* 1977

The Secretary of State for Social Services with the concurrence of the Inland Revenue in so far as their concurrence is required, in exercise of the powers conferred on him by section 3(2) of and paragraphs 5 and 6(1)(*d*) of Schedule 1 to, the Social Security Act 1975**(a)**, and of all other powers enabling him in that behalf, hereby makes the following regulations which contain only provisions made in consequence of the Social Security (Miscellaneous Provisions) Act 1977**(b)** and accordingly by virtue of section 24(4)(*a*) of that Act are exempt from the requirements of section 139(1) of the Social Security Act 1975 (duty to consult National Insurance Advisory Committee about proposed regulations).

Citation, interpretation and commencement

1. These regulations, which may be cited as the Social Security (Contributions) (Amendment) Regulations 1977 shall be read as one with the Social Security (Contributions) Regulations 1975**(c)** as amended **(d)** (hereinafter referred to as "the principal regulations") and shall come into operation on 6th April 1977.

Amendment of regulations 2 *and* 4 *of the principal regulations*

2.—(1) In regulation 2 of the principal regulations (earnings periods) for the words "regulation 3 or, as the case may be, regulation 4" there shall be substituted the words "regulation 3, 4 or 4A".

(2) In regulation 4 of the principal regulations (earnings period for earnings normally paid otherwise than at regular intervals and not treated as paid at regular intervals)—

(*a*) for the words "of these regulations (earnings period . . . after end of employment)" there shall be substituted the words "or 4A of these regulations";

(*b*) for the words "the next succeeding regulation" there shall be substituted the words "regulation 5 of these regulations".

(a) 1975 c. 14. **(b)** 1977 c. 5.
(c) S.I. 1975/492 (1975 I, p. 1516)
(d) There is no amendment which relates expressly to the subject matter of these Regulations.

Insertion of regulation 4A *in the principal regulations*

3. After regulation 4 of the principal regulations there shall be inserted the following regulation—

"*Earnings period for sums deemed to be earnings by virtue of regulations made under section* 18 *of the Social Security* (*Miscellaneous Provisions*) *Act* 1977

4A. Where any sum or amount is deemed to be earnings by virtue of any regulations made under section 18 of the Social Security (Miscellaneous Provisions) Act 1977:—

(*a*) the earnings period in respect of any payment of those earnings shall be—

(i) in the case of any sum to which section 18(2)(*a*) or (*b*) of the said Act refers, the period in respect of which the sum is paid;

(ii) in the case of any sum (and any amount treated as related to such sum by virtue of any regulations made under section 18 as aforesaid) to which section 18(2)(*c*) or (*d*) of the said Act refers, the period to which the sum relates by virtue of the order as referred to in the said section 18(2)(*c*) or (*d*) or a week, whichever is the longer;

(iii) in the case of any sum (and any amount treated as related to such sum by virtue of any regulations made under section 18 as aforesaid) to which section 18(2)(*e*) of the said Act refers, the protected period (as referred to in section 101 of the Employment Protection Act 1975**(a)**) or, as the case may be, that part of it in respect of which the sum is paid, or a week whichever is the longer:

(*b*) contributions paid in respect of such earnings shall, if the employed earner so requests—

(i) where the earnings period as aforesaid falls wholly in a year other than the year in which they are paid, be treated as paid in respect of the year in which the earnings period falls, or

(ii) where the earnings period as aforesaid falls partly in the year in which they are paid and partly in one or more other years, be treated as paid proportionately in respect of each of the years in which the earnings period falls, or

(iii) where the earnings period as aforesaid falls wholly in two or more years other than the year in which they are paid, be treated as paid proportionately in respect of each of the years in which the earnings period falls."

Substitution for paragraph 13(2A) *in Parts II and III of Schedule* 2 *to the principal regulations*

4. For paragraph 13(2A) in Parts II and III of Schedule 2 to the principal regulations there shall be substituted the following paragraph—

"(2A) (*a*) If the employer on making any payment of emoluments to an employee does not deduct therefrom the full amount of earnings-related contributions which by virtue of these Regulations he is entitled to deduct, he may, subject to the provisions of the next

(a) 1975 c. 71.

succeeding paragraph of this Regulation, recover the amount so underdeducted by deduction from any subsequent payment of emoluments to that employee during the same year:

(*b*) this paragraph applies only where—

(i) the underdeduction occurred by reason of an error made by the employer in good faith, or

(ii) the emoluments in respect of which the underdeduction occurred are deemed to be earnings by virtue of regulations made under section 18 of the Social Security (Miscellaneous Provisions) Act 1977."

David Ennals,
Secretary of State for Social Services.

31st March 1977.

The Commissioners of Inland Revenue hereby concur.

By Order of the Commissioners of Inland Revenue.

J. D. Taylor Thompson,
Secretary.

1st April 1977.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations amend the Social Security (Contributions) Regulations 1975 ("the principal regulations") and are consequential on the passing of the Social Security (Miscellaneous Provisions) Act 1977. Accordingly they have not been referred to the National Insurance Advisory Committee.

These Regulations make provision as to the earnings period in respect of sums deemed to be earnings by virtue of regulations made under section 18 of the Social Security (Miscellaneous Provisions) Act 1977 and as to the tax years in respect of which contributions paid on such earnings may be treated as paid.

The Regulations substitute new provisions in paragraph 13(2A) in Parts II and III of Schedule 2 to the principal regulations which prescribe the circumstances in which an employer is permitted to deduct from subsequent earnings the amount of any underdeduction of earnings-related contributions.

The other amendments are of a minor consequential nature.

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