STATUTORY INSTRUMENTS

2005 No. 3131

SOCIAL SECURITY

The Social Security Contributions (Intermediaries) (Amendment) Regulations 2005

Made - - - - *10th November 2005*

Laid before Parliament *11th November 2005*

Coming into force in accordance with regulation 1(2) and (3)

The Treasury, with the concurrence of the Secretary of State, in exercise of the powers conferred on them by sections 4A, 122(1) and 175(3) and (4) of the Social Security Contributions and Benefits Act 1992(**a**), make the following Regulations:

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Social Security Contributions (Intermediaries) (Amendment) Regulations 2005.

(2) Except for regulation 8, these Regulations shall come into force on 5th December 2005, have effect for the tax year 2005-06 and subsequent tax years, and apply in relation to services performed, or to be performed, on or after 5th December 2005.

(3) Regulation 8 shall come into force on 6th April 2006, have effect for the tax year 2006-07 and subsequent tax years, and apply in relation to services performed, or to be performed, on or after 6th April 2006.

Interpretation

2. In these Regulations—

"the principal Regulations" means the Social Security Contributions (Intermediaries) Regulations 2000(**b**);

"intermediary" has the meaning given in regulation 5 of the principal Regulations;

"tax year" means the 12 months beginning with 6th April in any year;

"worker" has the meaning given in regulation 6(1)(a) of the principal Regulations.

Amendment of the principal Regulations

3. The principal Regulations are amended as follows.

4.—(1) Amend regulation 2 (interpretation) as follows.

(**a**) 1992 c. 4. Section 4A was inserted by section 75 of the Welfare Reform and Pensions Act 1999 (c. 30), and modified by S.I. 2003/1874. Section 122(1) is cited because of the meaning ascribed to the word "prescribe". Section 175(4) was amended by paragraph 29 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).

(**b**) S.I. 2000/727, amended by S.I. 2002/703, 2003/2079 and regulation 35 of S.I. 2004/770.

(2) In paragraph (1) for the definition of "the Board" substitute—

""the Board" means the Commissioners for Her Majesty's Revenue and Customs;".

(3) After paragraph (5) insert the following paragraph—

"(6) For the purposes of these Regulations two people of the same sex living together as if they were civil partners of each other are treated as if they were civil partners of each other; and, for the purposes of these Regulations, two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.".

5. In regulation 5(6) (meaning of intermediary) for "husband or wife" substitute "spouse or civil partner".

6.—(1) Amend regulation 7 (calculation of worker's attributable earnings) as follows.

(2) In paragraph (1), in Step Five, after the words "the employee", insert ", and any payments made in that year in respect of the worker by the intermediary in respect of any of the Pensions Act levies".

(3) After paragraph (10)(**a**) insert the following paragraph—

"(11) In this regulation "the Pensions Act levies" means—

(a) the administration levy referred to in section 117(1) of the Pensions Act 2004(**b**);

(b) the initial levy referred to in section 174(1) of that Act;

(c) the risk-based pension protection levy referred to in section 175(1)(a) of that Act;

(d) the scheme-based pension protection levy referred to in section 175(1)(b) of that Act;

(e) the fraud compensation levy referred to in section 189(1) of that Act;

(f) a levy in respect of eligible schemes imposed by regulations made under section 209(7) of that Act (the Ombudsman for the Board of the Pension Protection Fund).".

Transitional provision

7.—(1) This regulation applies for the purposes of the tax year 2005-06 ("the relevant year") in the case of a worker to whom the principal Regulations apply only by virtue of the amendment made by regulation 5 of these Regulations.

(2) For the purposes of the relevant year regulation 7(1) of the principal Regulations shall have effect as if—

(a) for "a tax year" there were substituted "the relevant period";

(b) for each of the references to "in that year" there were substituted "in that period";

(c) in Step Six for "for that year" there were substituted "for the relevant period"; and

(d) at the end there were added—

"In this paragraph "the relevant period" means the period beginning with 5th December 2005 and ending with 5th April 2006.".

Further amendment of the principal Regulations

8.—(1) The principal Regulations are also amended as follows.

(**a**) Paragraphs (6) to (10) of regulation 7 were added by regulation 5 of S.I. 2002/703.
(**b**) 2004 c. 35.

(2) In regulation 7(1), in Step Five, for "a scheme approved under Chapter I or Chapter IV of Part XIV of the Taxes Act" substitute "a registered pension scheme for the purposes of Part 4 of the Finance Act 2004(**a**)".

Vernon Coaker
Gillian Merron
10th November 2005 — Two of the Lords Commissioners of Her Majesty's Treasury

The Secretary of State concurs
Signed by authority of the Secretary of State

Philip A Hunt
Parliamentary Under-Secretary of State,
8th November 2005 — Department for Work and Pensions

(**a**) 2004 c. 12.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security Contributions (Intermediaries) Regulations 2000 (S.I. 2000/727) ("the principal Regulations") to take account of changes made to legislation.

As a result of the bringing into force of the Commissioners for Revenue and Customs Act 2005 (c. 11), the functions of the Commissioners of Inland Regulation have been transferred to the Commissioners for Her Majesty's Revenue and Customs. The definition of "the Commissioners" in regulation 2(1) of the principal Regulations has accordingly been amended (see regulation 4(2) of these Regulations).

As a result of the bringing into force of the Pensions Act 2004 (c. 35), it is necessary to amend the principal Regulations to deal with payments made under the levies for which that Act provides. Regulation 6 of these Regulations accordingly make the necessary amendments to regulation 7 of the principal Regulations.

As a result of the bringing into force of the Civil Partnership Act 2004 (c. 33), it is necessary to amend the principal Regulations to take account of the existence of civil partnerships, and regulations 4(3) and 5 of these Regulations accordingly make the necessary amendments to the principal Regulations.

The amendments made by these Regulations as a result of the bringing into force of the Commissioners for Revenue and Customs Act 2005, the Pensions Act 2004 and the Civil Partnership Act 2004 come into force on 5th December 2005: the date on which the Civil Partnership Act 2004 takes effect.

Regulation 7 of these Regulations accordingly makes transitional provision for the tax year 2005-06 in the case of a person to whom the principal Regulations would not apply but for the amendment made by regulation 5 of these Regulations: an amendment coming into force during the tax year rather than at the beginning of a tax year.

Regulation 8 of these Regulations makes an amendment to regulation 7 of the principal Regulations to deal with the changes made to the tax provisions relating to pensions by the Finance Act 2004 (c. 12). This amendment comes into force on 6th April 2006: the date on which the legislation contained in the Finance Act 2004 takes effect.

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