
STATUTORY INSTRUMENTS

1985 No. 1398

SOCIAL SECURITY

The Social Security (Contributions and Credits) (Transitional and Consequential Provisions) Regulations 1985

<i>Made</i>	- - - -	<i>6th September 1985</i>
<i>Laid before Parliament</i>		<i>12th September 1985</i>
<i>Coming into Operation</i>		<i>6th October 1985</i>

The Secretary of State for Social Services, in exercise of powers conferred upon him by sections 4(6A) and (6D), 13(4) and 168(1) of, and Schedule 20 to, the Social Security Act 1985⁽¹⁾ and section 32(6) of the Social Security Act 1985, and of all other powers enabling him in that behalf, by this instrument, which contains only provisions consequential on section 7 of the said Act of 1985 and regulations made under section 4(6A) and (6D) of the Social Security Act 1975, makes the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (Contributions and Credits) (Transitional and Consequential Provisions) Regulations 1985 and shall come into operation on 6th October 1985.

(2) In these regulations—

“the Act” means the Social Security Act 1975;

“the principal regulations” means the Social Security (Contributions) Regulations 1979⁽²⁾; and other expressions have the same meanings as in that Act or, as the case may be, those Regulations.

Transitional provisions for the assessment of Class 1 contributions

2.—(1) This regulation applies in the case of a person—

(a) who on 6th October 1985 is a director of a company and has been such a director continuously since 6th April 1985 and in respect of whose earnings, by virtue of

(1) section 4(6A) and (6D) was inserted by section 7(2) of the Social Security Act 1985 (c.53).

(2) the relevant amending provisions are Schedule 1, paragraph 3(2) and (4) to the Social Security (Contributions) Act 1982 (c.2) and section 8(2) of the Social Security Act 1985 and the relevant amending instruments are S.I. 1980/1975, 1982/206, 1983/10, 1984/77, 1985/397, 398.

- regulation 6A(1) and (3) of the principal regulations, the earnings period is the year commencing 6th April 1985; or
- (b) who on or after 6th October 1985 is a director of a company and in respect of whose earnings the earnings period falls to be determined in accordance with—
- (i) regulation 6A(1) and (2), or
 - (ii) regulation 6A(1) and (3)
- of the principal regulations, and which commenced during the period from 6th April 1985 to 5th October 1985; or
- (c) who is a person whose earnings, by virtue of regulations 2, 3, 5A, 21 or 22 of the principal regulations, are assessed by reference to an earnings period which is the year commencing 6th April 1985; or
- (d) who after 5th April 1985 but before 6th October 1985 ceased to be a director of a company and—
- (i) in respect of whose earnings, by virtue of regulation 6A(1) and (3) of the principal regulations, the earnings period is the year commencing 6th April 1985, or
 - (ii) in respect of whose earnings, the earnings period is determined by virtue of regulation 6A(1) and (2) of the principal regulations,
- and is paid earnings in respect of any employed earner's employment with that company at any time in the period from 6th October 1985 to 5th April 1986; or
- (e) who—
- (i) ceased to be a director of a company before 6th April 1985, and
 - (ii) in respect of whose earnings, by virtue of regulation 6A(1) and (5) of the principal regulations, the earnings period is the year commencing 6th April 1985, and
 - (iii) is paid earnings in respect of any period during which he was such a director at any time in the period from 6th October 1985 to 5th April 1986; or
- (f) who—
- (i) is a person whose earnings, by virtue of regulations 2, 3, 5A, 21 or 22 of the principal regulations, are assessed by reference to an earnings period which is the year commencing 6th April 1985, and
 - (ii) after 5th April 1985 but before 6th October 1985 ceased to be employed in the employment from which those earnings derived, and
 - (iii) is paid any such earnings in the period from 6th October 1985 to 5th April 1986.
- (2) In a case to which this regulation applies no secondary Class 1 contribution shall be payable on such earnings as are paid within an earnings period specified in paragraph (1) above as exceed an amount which is the sum of—
- (a) the equivalent amount for the upper earnings limit for that earnings period calculated in accordance with regulation 8 of the principal regulations, and
 - (b) half the amount whereby the earnings paid in the earnings period exceed that equivalent amount, disregarding any fraction of £1.
- (3) Where the earnings period is the period mentioned in paragraph 1(a), (b)(ii), (c), (d)(i), (e) or (f) above, for the purposes of section 4(6B) and (6E) of the Act (incidence of Class 1 contributions)⁽³⁾ the appropriate percentage rates shall be—
- (a) where the earnings in that earnings period do not exceed £2859.95, in the case of primary and secondary Class 1 contributions, 5 per cent.;

(3) 1975 c. 14; section 4(6B) and (6E) was inserted by section 7(2) of the Social Security Act 1985 (c.53).

- (b) where the earnings in that earnings period exceed £2859.95 but do not exceed £4679.99, in the case of primary and secondary Class 1 contributions, 7 per cent.;
- (c) where the earnings in that earnings period exceed £4679.99, in the case of primary Class 1 contributions, 9 per cent.;
- (d) where the earnings in that earnings period exceed £4679.99 but do not exceed £6759.95, in the case of secondary Class 1 contributions, 9 per cent.;
- (e) where the earnings in that earnings period exceed £6759.95, in the case of secondary Class 1 contributions, 10.45 per cent..

(4) Where the earnings period is the period mentioned in paragraph 1(b)(i) or (d)(ii) above, for the purposes of the said section 4(6B) and (6E) the appropriate percentage rate shall be obtained by dividing the amount of the earnings paid in the earnings period by the number of weeks therein and by applying the quotient as if it were a payment of weekly earnings.

Amount of Class 3 contributions payable in respect of the year 1985/86

3.—(1) Subject to section 8(2C) of the Act⁽⁴⁾ the amount of a Class 3 contribution payable in respect of the year commencing 6th April 1985 shall be—

- (a) in respect of the first 26 contribution weeks of that year £4.65;
- (b) in respect of the last 26 contribution weeks of that year £3.40.

(2) Where contributions paid by or credited to a person in respect of the year commencing 6th April 1985 are insufficient to enable him to satisfy the contribution conditions of entitlement to benefit by acquiring the requisite earnings factor for that year, then, subject to regulations 27 and 28 of the principal regulations, he may not pay more than 26 Class 3 contributions at the amount of £3.40 and, where he has paid or there are payable Class 2 contributions at the rate of £3.50 (being the rate coming into force on 6th October 1985) he may only pay a number of such Class 3 contributions which, when added to the number of such Class 2 contributions, does not exceed 26.

(3) For the purposes of Class 3 contributions in respect of the year commencing 6th April 1985, the contribution week commencing 31st March 1985 shall be treated as falling wholly in the year commencing 6th April 1984.

Modification of the Act

4.—(1) Sections 7A (late paid Class 2 contributions) and 8(2C) (Class 3 contributions) of the Act⁽⁵⁾ shall be modified in accordance with the following provisions of this regulation.

(2) In section 7A(3) for sub-paragraph (b) to the end there shall be substituted—

- “(b) the weekly rate of ordinary Class 2 contributions for the week in respect of which the contribution was payable in the contribution year differs from the weekly rate applicable at the time of payment in the payment year,

the amount of the contribution shall be computed by reference to the highest weekly rate of ordinary Class 2 contributions in the period from the week in respect of which the contribution is paid to the day on which it is paid.”.

(3) In section 8(2C) for sub-paragraph (b) to the end there shall be substituted—

- “(b) the amount of a Class 3 contribution applicable had the contribution been paid in the contribution year differs from the amount applicable at the time of payment in the payment year,

(4) 1975 c. 14; section 8(2C) was inserted by section 18(3) of the Health and Social Security Act 1984 (c.48).

(5) 1975 c. 14; section 7A was inserted by section 17(2) of the Health and Social Security Act 1984.

the amount of the contribution shall be computed by reference to the highest of those two amounts and of any amount of a Class 3 contribution in the intervening period.”.

Amendment of the principal regulations

5.—(1) The principal regulations shall be amended in accordance with the provisions of this regulation.

(2) In regulation 1(2) of the principal regulations (interpretation)—

- (a) in the definition of “non-contracted-out rate” for the words from “the percentages” to “section 4(6)” there shall be substituted the words “the appropriate percentage rate for the time being specified in section 4(6B) or, as the case may be, (6E)” ;
- (b) for the definition of “standard rate” there shall be substituted

““standard rate” means the appropriate percentage rate specified in section 4(6B) of the Act for primary Class 1 contributions;”.

(3) After regulation 8 of the principal regulations (equivalent amounts) there shall be inserted the following regulation—

“Equivalent earnings brackets for earners paid otherwise than weekly

8A.—(1) The amounts of the equivalent earnings brackets for the purposes of section 4(6B) and (6E) of the Act shall be determined in accordance with the following provisions of this regulation.

(2) In this regulation “the lower bracket” means the lesser amount in each bracket specified in the said section 4(6B) and (6E) and “the higher bracket” means any greater amount therein specified.

(3) The respective equivalent lower brackets shall be—

- (a) where the earnings period is a multiple of a week, the amounts calculated by multiplying each lower bracket by the corresponding multiple;
- (b) where the earnings period is a month, the amounts calculated by multiplying each lower bracket by $4\frac{1}{3}$;
- (c) where the earnings period is a multiple of a month, the amounts calculated by applying sub-paragraph (b) of this paragraph and multiplying each product by the corresponding multiple;
- (d) in any other case, the amounts calculated by dividing each lower bracket by 7 and multiplying each quotient by the number of days in the earnings period concerned.

(4) Each of the calculations prescribed in sub-paragraphs (b) and (d) of the last preceding paragraph shall be to the nearest £0.01, and any amount of £0.005 or less shall be disregarded.

(5) The respective equivalent higher brackets shall be—

- (a) in the case of brackets 1 and 2 in the said section 4(6B) and in the case of brackets 1 to 3 in the said section 4(6E), £0.01 less than the next succeeding lower bracket.
- (b) in the case of bracket 3 in the said section 4(6B), the upper earnings limit determined in accordance with regulation 8 of these regulations (equivalent amounts).”

(4) Regulation 9 of the principal regulations (calculation of earnings-related contributions) shall be amended as follows—

- (a) in paragraph (2) after the word “scale” there shall be inserted the words “or, for contributions payable on earnings above the upper earnings limit or the prescribed equivalent thereof, a contributions calculator;”

- (b) for paragraphs (3) and (4) there shall be substituted the following paragraphs—
- “(3) Where the amount of earnings to which—
- (a) the appropriate scale is to be applied does not appear in the scale, the amount of contributions payable shall be calculated by reference to the next smaller amount of earnings in the appropriate column in the scale;
 - (b) the appropriate contributions calculator is to be applied does not appear in the calculator, the amount of contributions payable shall be calculated—
 - (i) by obtaining from the calculator the amounts of contributions payable on the largest components of the earnings provided for therein and
 - (ii) by adding the amounts of those contributions together.
- (4) Where a scale or a contributions calculator would, but for the period to which it relates, be appropriate and the earnings period in question is a multiple of the period in the scale or, as the case may be, calculator, the scale or calculator shall be applied by dividing the earnings in question so as to obtain the equivalent earnings for the period to which the scale or calculator relates and—
- (i) in the case of the scale, by multiplying the amount of contributions shown in the scale as appropriate to those equivalent earnings by the same factor as the earnings were divided;
 - (ii) in the case of the calculator, by multiplying the amount of contributions shown in the calculator as appropriate to those equivalent earnings or, where no equivalent earnings are shown, the amount of contributions calculated in accordance with paragraph 3(b) above, by the same factor as the earnings were divided.”;
- (c) at the end of paragraph (5) there shall be inserted the words “, save that the contributions calculator may also be used where the contributions have been calculated in accordance with paragraph (1)”.
- (5) In regulation 12(1)(a) of the principal regulations (aggregation of earnings paid in respect of different employed earner's employments by different persons and apportionment of contribution liability) the words from “and the amount of” to “(or its equivalent)” shall be omitted.
- (6) In regulation 32 of the principal regulations (return of contributions)—
- (a) in paragraph (1) for the words from “half a standard rate” to the words “lower earnings limit” there shall be substituted the words “one fifteenth of a standard rate contribution payable on earnings at the upper earnings limit in respect of primary Class 1 contributions”;
 - (b) in paragraph 2(d)(i) after the words “in excess of 53 times the amount” there shall be inserted the words “, calculated at the appropriate primary percentage rate specified for bracket 3 in section 4(6B) of the Act”.
- (7) In regulation 43B(2) of the principal regulations (Class 2 contributions paid late in accordance with a payment undertaking) for the words “in the year in which” wherever they appear there shall be substituted the words “at the time when” .
- (8) In regulation 43C of the principal regulations (Class 2 and Class 3 contributions paid within a month from notification of amount of arrears) for the words “paid in the year” there shall be substituted the words “paid on the last day of the year” .
- (9) In regulation 43D (Class 2 and Class 3 contributions paid late through ignorance or error)—
- (a) in paragraph (2) and (3) for the words “paid in the year in which” there shall be substituted the words “paid at the time when” ;

- (b) in paragraph 3(a) for the words “applicable in the contribution year” there shall be substituted the words “applicable to the period for which the contribution is paid”.

Minor and consequential amendment of the principal regulations

6. In the principal regulations—

- (a) in regulation 61(1)(a) (exception from Class 4 liability by reference to Class 1 contributions paid on earnings chargeable to income tax under Schedule D), for the words “the figure specified in section 4(6)(a)” there shall be substituted the words “the appropriate percentage rate specified in section 4(6B)”;
- (b) at the end of regulation 67(1) (annual maximum of Class 4 contributions due under section 9(1) of the Act) there shall be inserted the words “, or in the case only of the year commencing 6th April 1985 equal to such higher money sum and £218.”;
- (c) in regulation 89 (modification of section 4(6) of the Act)—
- (i) in paragraph (1) after the words “section 4(6)” there shall be inserted the words “to 4(6E)”⁽⁶⁾,
 - (ii) in sub-paragraph (1)(a) for the words from “the percentage rate” to the end there shall be substituted the words “the appropriate percentage rate of the primary Class 1 contribution specified in section 4(6B) of the Act and the reduced primary Class 1 contribution specified in regulation 104 of these regulations shall be reduced by 0.25 and the appropriate percentage rate of the secondary Class 1 contribution specified in section 4(6E) by 0.15.”;
 - (iii) in sub-paragraph (1)(b) for the words from “the percentage rate” to “section 4(6)(b)” there shall be substituted the words “the appropriate percentage rate of the secondary Class 1 contribution specified in section 4(6E)”;
- (d) for regulation 90(2)(b)(i) (earnings periods for mariners and apportionment of earnings) there shall be substituted the following—
- “(i) the appropriate percentage rate for a primary or secondary Class 1 contribution specified in section 4(6B) or, as the case may be, 4(6E) of the Act,”
- (e) in regulation 91 of the principal regulations (calculation of earnings-related contributions for mariners)—
- (i) in paragraph (1)(a) at the end thereof there shall be inserted the words “, save that in the case of a contribution payable on earnings above the upper earnings limit or the prescribed equivalent thereof, the appropriate contributions calculator prepared by the Secretary of State may be applied”.
 - (ii) in paragraph (2) at the end thereof there shall be inserted the words “or, in the case of such a contribution payable on earnings above the upper earnings limit or the prescribed equivalent thereof, a contributions calculator appropriate to that rate, prepared by the Secretary of State”;
- (f) in regulation 115 (reduction of rate of Class 1 contributions)—
- (i) in paragraph (1) after the words “section 4(6)” there shall be inserted the words “to 4(6E)”;
 - (ii) in paragraph (2) at the end thereof there shall be inserted the words “, save that in the case of such contributions payable on earnings above the upper earnings limit or the prescribed equivalent thereof, the appropriate contributions calculator prepared by the Secretary of State may be applied”;

(6) 1975 c. 14; section 4(6B) to (6E) was inserted by section 7(2) of the Social Security Act 1985 (c.53).

- (g) in regulation 133 of the principal regulations (reduction of rate of secondary Class 1 contributions payable in respect of registered dock workers)—
- (i) in paragraph (1) for the words from “the percentage rate” to the end there shall be substituted the words “the appropriate percentage rate of the primary Class 1 contribution specified in section 4(6B) of the Act shall be reduced by 0.25 and that of the secondary Class 1 contribution specified in section 4(6E) of the Act by 0.15.”;
 - (ii) in paragraph (2) at the end thereof there shall be inserted the words “, save that in the case of a contribution payable on earnings above the upper earnings limit or the prescribed equivalent thereof, the appropriate contributions calculator prepared by the Secretary of State may be applied”;
 - (iii) in paragraph (3) at the end thereof there shall be inserted the words “or, in the case of contributions payable on earnings above the upper earnings limit or the prescribed equivalent thereof, a contributions calculator appropriate to that rate, prepared by the Secretary of State” .

Amendment of the Social Security (Credits) Regulations 1975

7. In regulation 3(2)(b) of the Social Security (Credits) Regulations 1975(7) for the words “in section 4(6)(a)” there shall be substituted the words “in relation to the highest current primary earnings bracket in section 4(6B)” .

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

6th September 1985

Trumpington
Parliamentary Under-Secretary of State
Department of Health and Social Security

EXPLANATORY NOTE

These regulations contain provisions which are transitional and consequential on the amendments made to sections 4, 7 and 8 of the Social Security Act 1975 (“the Act”) by the Social Security Act 1985 (“the 1985 Act”). They are either made under section 4(6A) and (6D) of the Act, as inserted by section 7(2) of the 1985 Act, or are made under section 32(6) of the 1985 Act and are consequential on section 7 of that Act. As they are also made earlier than six months from the first day appointed for the coming into force of section 7 (6th October 1985) they are exempted by section 27(8)(b) of the 1985 Act from the requirement under section 10(1) of the Social Security Act 1980 to refer proposals to the Social Security Advisory Committee and are made without reference to that Committee.

Regulation 2 makes special transitional provision for the amount and incidence of secondary Class 1 contributions in respect of earnings paid to a director of a company who is such a director on or after 6th October 1985, but whose directorship commenced before that date, or who receives a payment of earnings during the period 6th October 1985 to 5th April 1986, in respect of a directorship which ceased before 6th April 1985. It also makes similar provision in respect of employees whose earnings period, in respect of any earnings from their employment, is the tax year 1985/86.

Regulation 3 makes special transitional provision for the amount payable in respect of a Class 3 contribution for the tax year 1985/86.

Regulation 4 modifies the Act. Paragraph (2) of the regulation modifies section 7A of the Act, which was inserted by section 17 of the Health and Social Security Act 1984, by providing that where the rate applicable to a Class 2 contribution which is paid more than one tax year after the tax year in respect of which it is payable and the rate of a Class 2 contribution for the week in respect of which it is paid differ, the rate at which that Class 2 contribution is payable shall be the highest rate applicable during the period from the week in respect of which it is paid to the time of payment. Paragraph (3) makes similar provision in respect of a Class 3 contribution paid more than two tax years after the year in respect of which it is paid.

Regulation 5 makes substantial amendments to the Social Security (Contributions) Regulations 1979 (“the principal regulations”). Paragraph (2) inserts a new definition of “standard rate” and amends the definition of “non-contracted-out rate” to take account of the new appropriate percentage rates of Class 1 contributions for the specified earnings brackets.

Paragraph (3) inserts regulation 8A into the principal regulations. The new regulation provides for the calculation of the amounts of equivalent earnings brackets for the purposes of section 4(6B) or (6E) of the Act, for earnings paid otherwise than weekly.

Paragraph (4) amends regulation 9 of the principal regulations. The amendment provides that the secondary Class 1 contributions payable by the employer on earnings above the upper earnings limit may be calculated by applying a contributions calculator prepared by the Secretary of State. The amendment also provides for the use of the contributions calculator where contributions on earnings up to the upper earnings limit were calculated either by reference to the appropriate percentage specified in section 4 of the Act, or by reference to the appropriate scale prepared by the Secretary of State.

Paragraph (5) amends regulation 12(1) of the principal regulations to provide that, for the purposes of assessing Class 1 contributions, earnings paid to an employee in respect of different employed earner's employments in the same earnings period, which are paid by different secondary contributors who, in respect of the employments, carry on business in association, may be aggregated.

Paragraph (6) amends regulation 32 of the principal regulations. The amendment in subparagraph (a) provides that contributions to be returned by virtue of regulation 32 shall only be

returned if the amount exceeds one fifteenth of a primary Class 1 contribution payable on earnings at the upper earnings limit. Sub-paragraph (b) provides for an amendment of the method of determining the return of contributions paid in excess of the annual maximum at the contracted-out percentage rate.

Paragraphs (7), (8) and (9) make amendments respectively to regulations 43B , 43C and 43D of the principal regulations to take account of the alteration of the weekly rate of a Class 2 contribution, and the amount of a Class 3 contribution on 6th October 1985. The amendments also provide for the possibility of further mid-year changes to the rate of a Class 2, or amount of a Class 3 contribution.

Regulation 6 makes minor and consequential amendments to regulations 61(1)(a), 67(1), 89, 90(2) (b)(i), 91, 115 and 133 of the principal regulations. The amendments take account of the insertion into section 4 of the Act of subsections (6A) to (6E) which relate to the appropriate percentage rates and to earnings brackets. They also provide for the use of the contributions calculator in respect of earnings above the upper earnings limit in relation to mariners (regulation 91), Her Majesty's forces (regulation 115) and registered dock workers (regulation 133).

Regulation 7 makes a consequential amendment to the Social Security (Credits) Regulations 1975.