

---

STATUTORY INSTRUMENTS

---

**1996 No. 2407**

**SOCIAL SECURITY**

**The Social Security (Contributions)  
Amendment (No. 5) Regulations 1996**

<i>Made</i>	- - - -	<i>16th September 1996</i>
		<i>23rd September</i>
<i>Laid before Parliament</i>		<i>1996</i>
<i>Coming into force</i>	- -	<i>6th April 1997</i>

The Secretary of State for Social Security, with the concurrence of the Inland Revenue in so far as required<sup>(1)</sup>, in exercise of powers conferred by sections 1(4), 3(2) and (3), 4(5), 17(3) and (6), 122(1) and 175(1) to (3) of, and paragraphs 1(1), 2, 6(1) and 8(1)(m) of Schedule 1 to, the Social Security Contributions and Benefits Act 1992<sup>(2)</sup> 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<sup>(3)</sup>, hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Social Security (Contributions) Amendment (No. 5) Regulations 1996 and shall come into force on 6th April 1997.

(2) In these Regulations “the principal Regulations” means the Social Security (Contributions) Regulations 1979<sup>(4)</sup> and “Schedule 1” means Schedule 1 to the principal Regulations (containing the provisions of the Income Tax (Employments) Regulations 1973<sup>(5)</sup> as (with extensions and modifications) they apply to earnings-related contributions and Class 1A contributions under the Social Security Contributions and Benefits Act 1992<sup>(6)</sup>).

---

(1) See the Social Security Contributions and Benefits Act 1992 (c. 4), section 17(6) and Schedule 1, paragraph 6(1).  
(2) 1992 c. 4. Section 122(1) is cited because of the meaning ascribed to the word “prescribe”.  
(3) See the Social Security Administration Act 1992 (c. 5), section 173(1)(b).  
(4) S.I. 1979/591; the relevant amending instruments are S.I. 1980/1975, 1981/82, 1984/77, 1985/1398, 1988/992, 1989/1677, 1990/605, 1992/97 and 1440, 1995/730 and 1996/700.  
(5) S.I. 1973/334; this and its subsequent amending instruments were consolidated as S.I. 1993/744.  
(6) The Social Security Contributions and Benefits Act 1992 consolidated, inter alia, the Social Security Act 1975 (c. 14) (“the 1975 Act”). Schedule 1 to the Social Security (Contributions) Regulations 1979 which was made, inter alia, pursuant to powers in Schedule 1 to the 1975 Act, contained provisions of the Income Tax (Employments) Regulations 1973 as they applied (with extensions and modifications) to earnings-related and Class 1A contributions under the 1975 Act.

### **Amendment of regulation 1 of the principal Regulations**

2. In regulation 1(2) of the principal Regulations (interpretation)(7) at the appropriate places, insert—

““COMPS employment” means employment in respect of which minimum payments are made to a money purchase pension scheme contracted out under section 9(3) of the Pension Schemes Act 1993(8);

“COSRS employment” means employment which qualifies an earner for a pension provided by a salary related scheme contracted out under section 9(2) of the Pension Schemes Act 1993(9);

“director” means—

- (a) in relation to a company whose affairs are managed by a board of directors or similar body, a member of that board or similar body;
- (b) in relation to a company whose affairs are managed by a single director or similar person, that director or person;
- (c) any person in accordance with whose directions or instructions the company’s directors as defined in (a) and (b) above are accustomed to act; and for this purpose a person is not to be treated as such a person by reason only that the directors act on advice given by him in his professional capacity;”.

### **Amendment of regulation 5A of the principal Regulations**

3. In regulation 5A(2) of the principal Regulations (earnings period for earnings to be aggregated where the earnings periods for those earnings otherwise would be of different lengths)(10) for subparagraph (b), substitute—

“(b) where the earnings are derived from employments which include any contracted-out employment and any non-contracted-out employment and the employed earner is not a person in respect of whom minimum contributions are paid by the Secretary of State in accordance with section 43 of the Pensions Schemes Act 1993, and—

- (i) any of the contracted-out employments is COMPS employment, the earnings period in respect of the earnings derived from that COMPS employment or, if there is more than one such employment, the shorter, or as the case may be the shortest, of the earnings periods derived from such employments;
- (ii) the contracted-out employment is COSRS employment only, the earnings period in respect of the earnings derived from that COSRS employment or, if there is more than one such employment, the shorter, or as the case may be the shortest, of the earnings periods derived from such employments; or

(bb) where the earnings are derived from employments which are contracted-out employment only and—

- (i) any of the employments is COMPS employment, the earnings period in respect of the earnings derived from that COMPS employment or, if there is more than one such employment, the shorter, or as the case may be the shortest, of the earnings periods derived from such employments;

---

(7) To which there are amendments not relevant to this instrument.

(8) 1993 c. 48. Section 9(3) is amended by section 136(4) of, and paragraph 24 of Schedule 5 to, the Pensions Act 1995 (c. 26).

(9) Section 9(2) is amended by section 136(3) of the Pensions Act 1995.

(10) Regulation 5A was inserted by regulation 2 of S.I. 1980/1975 and amended by S.I. 1996/700.

- (ii) all of those employments are COSRS employment, the shorter, or as the case may be the shortest, of the earnings periods derived from such employments; and”.

#### **Amendment of regulation 32 of the principal Regulations**

4.—(1) Regulation 32 of the principal Regulations (return of contributions)(**11**) shall be amended in accordance with the following paragraphs of this regulation.

(2) In paragraph (2)—

- (a) for “section 1(9) of the Social Security Act 1986”, substitute “section 44(1) of the Pension Schemes Act 1993”;
- (b) for sub-paragraph (d), substitute—

“(d) any amount of primary Class 1 contributions at the percentages applying under section 41(1)(**12**) of the Pension Schemes Act 1993 in respect of COSRS employment as specified in head (i), (ii) or (iii) below—

- (i) where the amount paid at the contracted-out percentage is equal to or exceeds 53 times the amount payable on earnings at the upper earnings limit for that year, the amount paid at the normal percentage in excess of 53 times the amount, calculated at the initial primary percentage rate specified in section 8(2)(a) of the Social Security Contributions and Benefits Act 1992, payable on earnings at the lower earnings limit for that year and the amount paid at the contracted-out percentage if any;
- (ii) where the amount paid at the contracted-out percentage is less than 53 times the amount payable on earnings at the upper earnings limit for that year, the amount paid at the normal percentage;
- (iii) where no amount has been paid at the contracted-out percentage, the amount paid at the normal percentage;

(e) any amount of primary Class 1 contributions at the percentages applying under section 42A of the Pension Schemes Act 1993(**13**) in respect of COMPS employment as specified in head (i), (ii) or (iii) below—

- (i) where the amount paid at the contracted-out percentage is equal to or exceeds 53 times the amount payable on earnings at the upper earnings limit for that year, the amount paid at the normal percentage in excess of 53 times the amount, calculated at the initial primary percentage rate specified in section 8(2)(a) of the Social Security Contributions and Benefits Act 1992, payable on earnings at the lower earnings limit for that year and the amount paid at the contracted-out percentage if any;
- (ii) where the amount paid at the contracted-out percentage is less than 53 times the amount payable on earnings at the upper earnings limit for that year, the amount paid at the normal percentage;
- (iii) where no amount has been paid at the contracted-out percentage, the amount paid at the normal percentage.”.

(3) In paragraph (2A)—

- (a) for “section 1(9) of the Social Security Act 1986”, substitute “section 44(1) of the Pension Schemes Act 1993”;

---

**(11)** The relevant amending instruments are S.I. [1985/1398](#), [1988/992](#) and [1989/1677](#).

**(12)** Section 41(1) is amended by section 137(2) of the Pensions Act 1995.

**(13)** Section 42A is inserted by section 137(5) of the Pensions Act 1995.

- (b) for “sub-paragraph (d) of that paragraph shall be returned before those specified in sub-paragraph (c)”, substitute “sub-paragraph (c) of that paragraph shall be returned after those specified in sub-paragraphs (d) and (e)”.

#### **Amendment of regulation 35 of the principal Regulations**

5. In regulation 35(1) of the principal Regulations (calculation of return of contributions)(14) after sub-paragraph (f), add—

- “(g) in the case of such contributions paid in error in respect of any person, the amount of any payment made by the Secretary of State under section 42A(3) of the Pension Schemes Act 1993 (age-related rebates).”.

#### **Amendment of regulation 69 of the principal Regulations**

6. In regulation 69(2) of the principal Regulations (repayment of Class 4 contributions which are not due) for sub-paragraph (b), substitute—

- “(b) the said application is made within a period of—
- (i) 6 years beginning with 6th April in the year of assessment next following that in respect of which the payment was made where the application is in respect of any year of assessment ending before 6th April 1996;
  - (ii) 5 years beginning with 1st February in the year of assessment next following that in respect of which the payment was made where the application is in respect of any year of assessment beginning on or after 6th April 1996; or
  - (iii) if later than (i) or (ii), 2 years beginning with 6th April in the year of assessment next following that in which the payment was made.”.

#### **Amendment of Schedule 1**

7.—(1) Schedule 1 shall be amended in accordance with the following paragraphs of this regulation.

(2) In regulation 13A (recording of Class 1A contributions)(15) for “75 days”, substitute “105 days”.

(3) In regulation 26C (payment of Class 1A contributions)(16)—

- (a) in paragraph (1)—
  - (i) omit the words “and to the provisions of paragraph (2) of this Regulation”;
  - (ii) for “19th June”, substitute “19th July”;
- (b) omit paragraph (2).

(4) In—

- (a) regulation 27(2A) and (3)(b) (employer failing to pay earnings-related contributions or Class 1A contributions)(17);
- (b) regulation 27B(1), (2)(a), (3) and (5) (specified amount of Class 1A contributions)(18);
- (c) regulation 28(1)(b) (recovery of earnings-related contributions or Class 1A contributions)(19);

---

(14) The relevant amending instruments are S.I. 1984/77 and 1988/992.

(15) Regulation 13A was inserted by regulation 13 of S.I. 1992/97 and amended by S.I. 1992/1440.

(16) Regulation 26C was inserted by regulation 15 of S.I. 1992/97 and amended by S.I. 1992/1440.

(17) Regulation 27 was substituted by regulation 2 of S.I. 1990/605 and amended by S.I. 1992/97 and 1440.

(18) Regulation 27B was inserted by regulation 17 of S.I. 1992/97 and amended by S.I. 1992/1440 and 1995/730.

(19) Regulation 28 was substituted by regulation 18 of S.I. 1992/97 and amended by S.I. 1992/1440.

(d) regulation 32(5) (inspection of employer's records)(**20**),  
omit the words "or (2)".

Department of Social Security  
12th September 1996

*Peter Lilley*  
Secretary of State,

The Commissioners of Inland Revenue hereby concur.

16th September 1996

*S C T Matheson*  
*C W Corlett*  
Two of the Commissioners of Inland Revenue

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

---

## 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 1(2) of the principal Regulations by inserting new definitions of “COMPS employment”, “COSRS employment” and “director”.

Regulation 3 amends regulation 5A(2) of the principal Regulations by designating the appropriate earnings period where an employed earner’s earnings in respect of one or more COMPS (contracted-out money purchase scheme) and COSRS (contracted-out salary related scheme) employments are aggregated and the earnings period for those earnings would otherwise be different.

Regulation 4 amends regulation 32(2) and (2A) of the principal Regulations by providing an order of priority for the return of earnings-related contributions in respect of COMPS employment and COSRS employment.

Regulation 5 amends regulation 35(1) of the principal Regulations to require the Secretary of State to deduct from earnings-related contributions which have been paid in error, before they are repaid, the amount of any payment made by the Secretary of State under section 42A of the Pension Schemes Act 1993 (age-related rebate).

Regulation 6 amends regulation 69(2) of the principal Regulations to provide different periods for different years of assessment for the making of an application for the repayment of Class 4 contributions which were not due to be paid under section 15 of the Social Security Contributions and Benefits Act 1992 (formerly section 9 of the Social Security Act 1975 (c. 14)).

Regulation 7 amends regulations 13A, 26C(1) and (2), 27(2A) and (3), 27B(1), (2), (3) and (5), 28(1) and 32(5) of Schedule 1 to the principal Regulations. Paragraph (2) amends regulation 13A by altering the time limit for the recording of Class 1A contributions and the preparation of deductions working sheets from 75 days to 105 days after the end of the year in respect of which the contributions are payable. Paragraph (3) amends regulation 26C(1) by altering the date for payment of Class 1A contributions from 19th June to 19th July of the year immediately following the year of assessment. Paragraph (3) also omits paragraph (2) of regulation 26C, and paragraph (4) makes consequential amendments.

Regulations 1, 2, 4, 5 and 6 do not impose any additional costs on business. Regulation 7 makes consequential changes to the principal Regulations as a result of the introduction of self-assessment for income tax by the Inland Revenue and in respect of which they have lodged a compliance cost assessment. These changes to the social security legislation will not involve business in any additional costs to those specified in the Inland Revenue’s compliance cost assessment.

Regulation 3 does impose costs on business. An assessment of the compliance costs for business has been made and a copy has been placed in the libraries of both Houses of Parliament. Copies can be obtained by post from the Department of Social Security, Deregulation Unit, 11th Floor, Adelphi, 1—11 John Adam Street, London WC2N 6HT.