

2002 No. 307

SOCIAL SECURITY

**The Social Security (Contributions) (Amendment No. 2)
Regulations 2002**

Made - - - - - 13th February 2002

Laid before Parliament 13th February 2002

Coming into force - - 6th April 2002

The Treasury, with the concurrence of the Secretary of State, in exercise of the powers conferred upon them by sections 3(2) and (3) and 4(6) and (7) of the Social Security Contributions and Benefits Act 1992(a) and, with the concurrence of the Department for Social Development, in exercise of the powers conferred on them by sections 3(2) and (3) and 4(6) and (7) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(b) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Contributions) (Amendment No. 2) Regulations 2002 and shall come into force on 6th April 2002.

(2) In these Regulations—

(a) “the principal Regulations” means the Social Security (Contributions) Regulations 2001(c); and

(b) except where the context otherwise requires—

(i) a reference to a numbered regulation is a reference to the regulation of the principal Regulations bearing that number; and

(ii) a reference to a numbered Schedule is a reference to the Schedule to the principal Regulations bearing that number.

(a) 1992 c. 4. Section 3(2) was amended by paragraph 3 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) (“the Transfer Act”). Section 4(6) was substituted by section 74(3) of the Child Support, Pensions and Social Security Act 2000 (c. 19) and subsection (7) was inserted by paragraph 1(4) of Schedule 3 to the Transfer Act.

(b) 1992 c. 7. Section 3(2) was amended by paragraph 4 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) (“the Transfer Order”). Section 4(6) was substituted by section 78(3) of the Child Support, Pensions and Social Security Act 2000 and subsection (7) was inserted by paragraph 5 of Schedule 3 to the Transfer Order. The functions of the Department of Health and Social Services for Northern Ireland under the Social Security Contributions and Benefits (Northern Ireland) Act 1992 were transferred to the Department for Social Development by Article 8(b) of, and Part II of Schedule 6 to, the Departments (Transfer and Assignment of Functions) Order (Northern Ireland) 1999 (S.I. 1999 No. 481).

(c) S.I. 2001/1004. Relevant amendments are those made by S.I. 2001/2412.

Amendment of the principal Regulations

2. Amend the principal Regulations as follows.
3. In regulation 1(2) after the definition of “the Board” insert—
““business travel” has the meaning given in paragraph 2 of Schedule 12AA to the Taxes Act(a);”
- 4.—(1) Amend regulation 22 (payments to be treated as earnings) as follows.
(2) In paragraph (1) for “(2) to (4)” substitute “(2) to (5)”.
(3) After paragraph (4) insert—
“(5) The amount specified in his paragraph is the amount equal to the cash equivalent, in respect of car fuel, which is chargeable to tax under Schedule E by virtue of section 158 of the Taxes Act(b).”.
5. After regulation 22 insert—
“Amounts to be treated as earnings in connection with the use of qualifying vehicles other than cycles
22A.—(1) To the extent that it would not otherwise be earnings, the amount specified in paragraph (2) shall be so treated.
(2) The amount is that produced by the formula—
RME—QA
Here—
RME is the aggregate of relevant motoring expenditure within the meaning of paragraph (3) in the earnings period; and
QA is the qualifying amount calculated in accordance with paragraph (4).
(3) A payment is relevant motoring expenditure if—
(a) it is a mileage allowance payment within the meaning of section 197AD(2) of the Taxes Act(c);
(b) it would be such a payment but for the fact that it is paid to another for the benefit of the employee; or
(c) it is any other form of payment, except a payment in kind, made by or on behalf of the employer, and made to, or for the benefit of, the employee in respect of the use by the employee of a qualifying vehicle.
Here “qualifying vehicle” has the same meaning as in Schedule 12AA to the Taxes Act, but does not include a cycle within the meaning of section 192(1) of the Road Traffic Act 1988(d).
(4) The qualifying amount is the product of the formula—
M x R
Here—
M is the sum of—
(a) the number of miles of business travel undertaken, at or before the time when the payment is made—
(i) in respect of which the payment is made, and
(ii) in respect of which no other payment has been made; and
(b) the number of miles of business travel undertaken—
(i) since the last payment of relevant motoring expenditure was made, or, if there has been no such payment, since the employment began, and
(ii) for which no payment has been, or is to be, made; and

(a) Schedule 12AA was inserted by Schedule 12 to the Finance Act 2001 (c. 9).

(b) Section 158 was amended by section 53(2)(b) of the Finance Act 1989 (c. 26), section 53 of the Finance (No. 2) Act 1992 (c. 48), paragraphs 1, 6(2) and 7 of Schedule 3 to the Finance Act 1993 (c. 34), paragraph 22 of Schedule 3 to the Vehicle Excise and Registration Act 1994 (c. 22), section 43(2) and (4) of the Finance Act 1995 (c. 4) and S.I. 2001/635.

(c) Section 197AD was inserted by section 57(1) of the Finance Act 2001.

(d) 1988 c. 52. There are amendments to section 192 which are not relevant for the purposes of this instrument.

R is the rate applicable to the vehicle in question, at the time when the payment is made, in accordance with paragraph 4(2) of Schedule 12AA to the Taxes Act and, if more than one rate is applicable to the class of vehicle in question, is the higher or highest of those rates.”.

6. In Part V of Schedule 3 (payments to be disregarded in the calculation of earnings for the purpose of earnings-related contributions: non-cash vouchers to be disregarded as payments in kind) for paragraph 1(2) substitute—

“(2) A non-cash voucher may also be disregarded—

- (a) by virtue of paragraph 7D of Part VIII (car fuel); or
- (b) in the circumstances specified in paragraph 4 of Part X (payments by way of incidental expenses).”.

7.—(1) Amend Part VIII of Schedule 3 (payments to be disregarded in the calculation of earnings for the purposes of earnings-related contributions: travelling, relocation and other expenses and allowances of the employment) as follows.

(2) After paragraph 7 insert—

“Qualifying amounts of relevant motoring expenditure

7A. To the extent that it would otherwise be earnings, the qualifying amount calculated in accordance with regulation 22A(4).

Qualifying amounts of mileage allowance payment in respect of cycles

7B.—(1) To the extent that it would otherwise be earnings, the qualifying amount of a mileage allowance payment in respect of a cycle.

(2) The qualifying amount is that which would be produced by the formula in regulation 22A(4) if the value for **R** were the rate for the time being approved under paragraph 4(2) of Schedule 12AA to the Taxes Act in respect of a cycle.

(3) In this paragraph—

“cycle” has the meaning given in section 192(1) of the Road Traffic Act 1988; and
“mileage allowance payment” has the meaning given in section 197AD(2) of the Taxes Act.

Qualifying amounts of passenger payment

7C.—(1) To the extent that it would otherwise be earnings, the qualifying amount of a passenger payment.

(2) The qualifying amount is that which would be produced by the formula in regulation 22A(4) if—

- (a) references to business travel were to business travel for which the employee carries a qualifying passenger; and
- (b) the value for **R** were the rate for the time being approved for a passenger payment under paragraph 5 of Schedule 12AA to the Taxes Act.

(3) In this paragraph—

“passenger payment “ has the meaning given in section 197AE(2) of the Taxes Act(a); and

“qualifying passenger” has the same meaning as it has in paragraph 5(3) of Schedule 12AA to the Taxes Act.

Car fuel

7D.—(1) A payment by way of the provision of car fuel in circumstances where an amount is chargeable to income tax under Schedule E, in respect of its provision, under section 158 of the Taxes Act.

(2) Subsection (3) of section 158 of the Taxes Act applies for the construction of the reference to car fuel in sub-paragraph (1) as it applies for the construction of that section.”.

(3) Amend paragraph 9 (specific and distinct expenses) as follows—

- (a) renumber the existing paragraph 9 as sub-paragraph (1) of that paragraph;
- (b) at the end of sub-paragraph (1) add—
“This is subject to the following qualification.”; and

(a) Section 197AE was inserted by section 57(1) of the Finance Act 2001.

(c) after sub-paragraph (1) add—

“(2) Sub-paragraph (1) does not authorise the disregard of any amount by way of relevant motoring expenditure, within the meaning of paragraph (3) of regulation 22A, in excess of that permitted by the formula in paragraph (4) of that regulation.”

Nick Ainger
Tony McNulty

13th February 2002

Two of the Lords Commissioners of Her Majesty's Treasury

The Secretary of State hereby concurs.

Signed by authority of the Secretary of State

Malcolm Wicks
Parliamentary Under-Secretary of State,
Department for Work and Pensions

11th February 2002

The Department for Social Development hereby concurs.

Sealed with the Official Seal of the Department for Social Development on 31st January 2002



John O'Neil
Senior Officer of the Department for Social Development

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004) (“the principal Regulations”).

Regulation 1 provides for the citation and commencement of these Regulations and provides definitions for certain terms used in them.

Regulation 2 introduces the amendments made by these Regulations to the principal Regulations.

Regulation 3 inserts a definition of “business travel” in regulation 1(2) of the principal Regulations.

Regulation 4 amends regulation 22 of the principal Regulations (payments to be treated as earnings). It inserts a new paragraph (5). This brings into charge to Class 1 contributions the cash equivalent for car fuel provided for use by an employee if the cash equivalent is charged to tax under section 158 of the Taxes Act. It also makes a consequential amendment.

Regulation 5 inserts a new regulation 22A which treats the amount of relevant motoring expenditure, less any qualifying amount, as earnings, to the extent that the expenditure would not otherwise be so treated. The rules for the calculation of the qualifying amount reflect those for mileage allowance payments introduced by Schedule 12AA to the Income and Corporation Taxes Act 1988 (c. 1) (“the Taxes Act”), inserted by Schedule 12 to the Finance Act 2001 (c. 9).

Regulation 6 amends paragraph 1(2) of Part V of Schedule 3 to the principal Regulations. It makes it clear that a payment, by way of the provision of a non-cash voucher for car fuel, is disregarded, for the purposes of computing liability for Class 1 contributions, if the car fuel attracts a charge under section 158 of the Taxes Act.

Regulation 7 amends Part VIII of Schedule 3 to the principal Regulations. It inserts new paragraphs 7A to 7D into that Part. The purpose of these new paragraphs is to reflect, so far as is practicable, the treatment of such payments for tax purposes. Paragraph 7A provides for the disregard of the qualifying amount of relevant motoring expenditure to the extent that it would otherwise be earnings. Paragraph 7B provides for the disregard of the qualifying amount of a mileage allowance payment in respect of a cycle, to the extent that it would otherwise be earnings. Paragraph 7C provides for the disregard of qualifying passenger payments (within the meaning of section 197AE of the Taxes Act) to the extent that they would otherwise be earnings. Paragraph 7D provides for the disregard of a payment by way of provision of car fuel for the purposes of liability for Class 1 contributions if income tax is chargeable under section 158 of the Taxes Act in respect of its provision.

Regulation 7 also amends paragraph 9 of Part VIII of Schedule 3 (specific and distinct payments of expenses to be disregarded in the calculation of earnings for the purposes of earnings-related contributions). This amendment makes it clear that paragraph 9 does not authorise the disregard of an amount of relevant motoring expenditure greater than that permitted under regulation 22A(4).

A regulatory impact assessment in respect of the changes to the treatment of mileage allowance payments for the purposes of both income tax and social security contributions has been published by the Inland Revenue and placed in the library of each House of Parliament. A copy can be found on the Inland Revenue website (www.inlandrevenue.gov.uk) or obtained from the Inland Revenue’s Regulatory Impact Unit, Room 34, 1st Floor, New Wing Somerset House, London WC2R 1LB.

2002 No. 307

SOCIAL SECURITY

**The Social Security (Contributions) (Amendment No. 2)
Regulations 2002**

£2.00

© Crown copyright 2002

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of
Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.
E0223 3/2002 120223 19585

ISBN 0-11-039557-3



9 780110 395579