
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”), mainly in consequence of changes to the taxation of share-based earnings introduced by Schedule 22 to the Finance Act 2003 (c. 14) and the rewriting of the law on income tax by the Income Tax (Earnings and Pensions) Act 2003 (c. 1: “ITEPA 2003”).

Regulation 1 provides for the citation and commencement of the Regulations, and regulation 2 for interpretation.

Regulation 3 introduces the amendments to the principal Regulations.

Regulation 4 amends regulation 1(2) of the principal Regulations by amending, inserting or deleting definitions consequent on the following amendments.

Regulation 5 amends regulation 22 of the principal Regulations by substituting new paragraphs (paragraphs (5) to (8)) for the existing paragraphs (3) and (4) to reflect changes made to the provisions on the taxation of share-based income in ITEPA 2003 by the Finance Act 2003. It also amends regulation 22 to treat as earnings sums on which an employee is taxable under section 222 of ITEPA 2003 (the new regulation 22(4)), and re-enacts the original regulation 22(5) as regulation 22(3).

Regulation 6 amends regulation 40 of the principal Regulations by substituting references to “general earnings” for references to “emoluments”. The expression “general earnings” is defined in section 122(1) of the Social Security Contributions and Benefits Act 1992 (c. 4) and section 121(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7), having been inserted by ITEPA 2003 (see paragraphs 178 and 199 of Schedule 6 to ITEPA 2003). It also omits, from regulation 40(7), references to a series of Extra Statutory Concessions which were replaced by statutory disregards from general earnings by ITEPA 2003 (and accordingly fell outside the scope of Class 1A contributions). It also restructures the original paragraph (6) of regulation 40 in the light of the different approach taken to the taxation of contributions to retirement benefit schemes by ITEPA 2003.

Regulation 7 amends Schedule 2 to the principal Regulations to reflect changes made to the income tax charges on share-based earnings by Schedule 22 to the Finance Act 2003 and the abolition, by ITEPA, of Schedule E, formerly set out in section 19 of the Income and Corporation Taxes Act 1988 (c. 1: “the Taxes Act”).

Regulations 8 to 13 amend Schedule 3 to the principal Regulations.

Regulation 8 introduces the amendments.

Regulations 9 and 11 amend Parts 1 and 4 respectively of the Schedule consequent upon the changes made to Part 9 by regulation 12. Regulation 10 amends paragraph 2 of Part 3 of the Schedule to reflect the re-enactment of section 203FB of the Taxes Act as section 697 of ITEPA 2003.

Regulation 12 makes amendments to Part 9 which mirror the new treatment of share-based income for income tax purposes introduced by Schedule 22.

Regulation 13 amends Part 10 to provide a disregard in respect of any amount actually paid by an employer in respect of the income tax liability.

Regulation 14 makes amendments to Schedule 4 to the principal Regulations consequent on the changes in the taxation of share-based earnings for income tax purposes.