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STATUTORY INSTRUMENTS

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**2003 No. 2085**

**The Social Security (Contributions)  
(Amendment No. 5) Regulations 2003**

**Amendment of the principal Regulations**

**12.**—(1) Amend Part 9 as follows.

(2) For the heading substitute—

*“Incentives by way of securities.”*

(3) For paragraph 1 and the heading preceding it substitute—

**“Certain payments by way of securities, restricted securities and restricted interests in securities, and gains arising from them, disregarded**

**1.** Payments by way of securities, restricted securities and restricted interests in securities, and gains arising from them, are disregarded in the calculation of an employed earner’s earnings to the extent mentioned in this Part.”.

(4) Omit paragraph 2.

(5) For paragraph 3 (rights to acquire shares) and the heading preceding it substitute—

**“Rights to acquire securities**

**3.** A payment by way of a right to acquire securities.”.

(6) Omit paragraphs 3A(1) and 4.

(7) For paragraph 5 and the heading preceding it substitute—

**“Priority share allocations**

**5.** A payment by way of an allocation of shares in priority to members of the public in respect of which no liability to income tax arises by virtue of section 542 of ITEPA 2003.”.

(8) In paragraph 6 for “paragraph 34 of Schedule 8 to the Finance Act 2000.” substitute “paragraph 44 of Schedule 2 to ITEPA 2003.”.

(9) For paragraph 7 and the heading preceding it substitute—

**“Shares under share incentive plans**

**7.** A payment by way of an award of shares under a share incentive plan within the meaning of Schedule 2 to ITEPA 2003.

### **Securities and interests in securities which are not readily convertible assets**

**7A.** A payment by way of the acquisition of securities, interests in securities or securities options in connection with employed earner’s employment if, or to the extent that, what is acquired is not a readily convertible asset.

Here “acquisition” includes acquisition pursuant to an employment-related securities option within the meaning of section 471(5) of ITEPA 2003 as substituted by the Finance Act 2003(2).”.

(10) Omit paragraph 8.

(11) For paragraph 9 and the heading preceding it substitute—

#### **“Restricted securities and restricted interests in securities**

**9.—(1)** A payment by way of the acquisition of restricted securities, or a restricted interest in securities, where those securities are, or that interest is, employment-related, if no charge to income tax arises under section 425 of ITEPA 2003(3) other than by virtue of subsection (2) of that section.

This is subject to the following qualification.

(2) This paragraph does not apply if an election has been made as mentioned in subsection (3) of section 425 of ITEPA 2003.

(3) References in this paragraph to section 425 of ITEPA 2003 are to that section as substituted by paragraph 3(1) of Schedule 22 to the Finance Act 2003.”.

(12) Omit paragraphs 10 to 15.

(13) For paragraph 16 and the heading preceding it substitute—

#### **“Exercise of options acquired before 6th April 1999**

**16.—(1)** A gain realised by the exercise (in whole or in part) of a right, obtained before 6th April 1999, to acquire shares in a body corporate unless paragraph 17(4) applies, but only to the extent that the gain realised consists of the shares acquired.

(2) In this paragraph and paragraphs 16A and 17—

“shares” includes stock; and

“body corporate” includes—

- (a) a body corporate constituted under the law of a country or territory outside the United Kingdom; and
- (b) an unincorporated association wherever constituted.

#### **Exercise of replacement share options where original option acquired before 6th April 1999**

**16A.—(1)** A gain realised by the exercise of a replacement right to acquire shares in a body corporate where the original right was obtained before 6th April 1999 provided that—

- (a) sub-paragraph (4) is satisfied, and
- (b) paragraph 17 does not apply,

The disregard conferred by this paragraph is subject to the following limitation.

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(2) Section 471(5) is substituted by paragraph 10(1) of Schedule 22.

(3) Section 425 is substituted by paragraph 3(1) of Schedule 22.

(4) Paragraph 17 was inserted by regulation 4 of [S.I. 2003/1059](#).

(2) Only the value of the shares acquired by the exercise of the replacement right shall be disregarded.

(3) In this paragraph and paragraph 17—

“the original right” means the right, acquired before 6th April 1999, to acquire shares in a body corporate; and

“replacement right” means a right to acquire shares, obtained, whether as the result of one transaction or a series of transactions, and whether directly or indirectly, in consequence of—

- (a) the assignment or release of the original right; or
- (b) the assignment or release of a right which was itself obtained in consequence of the assignment or release of that right.

(4) This sub-paragraph is satisfied in respect of a transaction through which the replacement right was obtained if **A** is not substantially greater than **R**.

Here—

**A** is the market value of the shares which may be obtained by the exercise of the right acquired on that occasion, less any consideration which would have to be given on that occasion by or on behalf of the earner if that right were to be exercised immediately after its acquisition (disregarding any restriction on its exercise); and

**R** is the market value of the shares subject to the right assigned or released on that occasion, immediately before that occasion, less any consideration which would have been required to be given by or on behalf of the earner for the exercise of that right, disregarding any restriction on its exercise, subject to the following qualification.

If a transaction involves only a partial replacement of an earlier right, the amount of the earlier consideration to be deducted in computing **R** shall be proportionately reduced.”.

(14) In paragraph 17—

- (a) in sub-paragraph (1)(b) after “paragraph 16” insert “or 16A”;
- (b) in sub-paragraph(2)(b)—
  - (i) for “subsequent right” substitute “replacement right”; and
  - (ii) for “the replacement right and any subsequent replacement right.” substitute “a replacement right.”.