
STATUTORY INSTRUMENTS

2005 No. 728

SOCIAL SECURITY

**The Social Security (Contributions)
(Amendment No. 2) Regulations 2005**

<i>Made</i>	- - - -	<i>16th March 2005</i>
<i>Laid before Parliament</i>		<i>16th March 2005</i>
<i>Coming into force</i>	- -	<i>6th April 2005</i>

The Treasury, in exercise of the powers conferred by sections 3(2) and 10(9)(a) of the Social Security Contributions and Benefits Act 1992(1) with the concurrence of the Secretary of State so far as required, and, in exercise of the powers conferred by sections 3(2) and 10(9)(a) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(2), with the concurrence of the Department for Social Development so far as required, make the following Regulations:

Citation, commencement and effect

1. These Regulations may be cited as the Social Security (Contributions) (Amendment No. 2) Regulations 2005, shall come into force on 6th April 2005 and have effect in relation to payments of earnings made in respect of the academic year beginning on 1st September 2005 and subsequent academic years.

Amendment of the Social Security (Contributions) Regulations 2001

2. The Social Security (Contributions) Regulations 2001(3) are amended as follows.

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- (1) 1992 c. 4. Section 3 was relevantly amended by paragraph 3 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2). Section 10 was substituted by section 74(2) of the Child Support, Pensions and Social Security Act 2000 (c. 19: “the 2000 Act”), and amended by paragraphs 1 and 2 of Schedule 1 to the National Insurance Contributions Act 2002 (c. 19: “the 2002 Act”) and paragraph 174 of Schedule 6, and the relevant entry in Part I of Schedule 8, to the Income Tax (Earnings and Pensions) Act 2003 (c. 1: “ITEPA”).
- (2) 1992 c. 7. Section 3 was amended by paragraph 4 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Order (Northern Ireland) 1999 (S.I. 1999/671). Section 10 was substituted by section 78 of the 2000 Act and amended by paragraph 21 of Schedule 1 to the 2002 Act and paragraph 195 of Schedule 6, and the relevant entry in Part I of Schedule 8 to ITEPA. The functions of the Department of Health and Social Services for Northern Ireland 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.R. 1999 No. 481).
- (3) S.I. 2001/1004.

Amendment of regulation 40

3.—(1) Amend regulation 40 (prescribed general earnings in respect of which Class 1A contributions are not payable)(4) as follows.

(2) In paragraph (2), after sub-paragraph (a) insert—

“(ab) in Part 7, paragraph 12;”.

Amendment of Part 7 of Schedule 3

4.—(1) Part 7 of Schedule 3 to the principal Regulations (payments in respect of training and similar courses disregarded in the computation of employed earner’s earnings)(5) is amended as follows.

(2) At the end add the following paragraph—

“Payments made by employers to earners in full-time attendance at universities &c.

12.—(1) A payment to an employed earner receiving full-time instruction at a university, technical college or similar educational establishment (within the meaning of section 331 of the Taxes Act) if the conditions in sub-paragraphs (2) to (6) are satisfied, but subject to the exclusion in sub-paragraph (7).

(2) The employed earner must have enrolled at the educational establishment for a course lasting at least one academic year at the time when payment is made.

(3) The secondary contributor must require the employed earner to attend the course for an average of at least twenty weeks in an academic year.

(4) The educational establishment—

- (a) must be open to members of the public generally,
- (b) must offer more than one course of practical or academic instruction.

(5) The educational establishment must not be run by—

- (a) the secondary contributor, or a person who would be treated by section 839 of the Taxes Act as connected with him; or
- (b) a trade organisation of which the secondary contributor is a member.

(6) The total amount of earnings payable to the earner in respect of his attendance, including lodging, travelling and subsistence allowances, but excluding any tuition fees, must not exceed £15,000 in respect of an academic year.

(7) This paragraph does not apply to any payment made by the secondary contributor to the employed earner for, or in respect of, work done for the secondary contributor by the earner (whether during vacations or otherwise).

(8) This paragraph has effect in respect of payments made in relation to the academic year beginning on 1st September 2005 and subsequent academic years.

(9) In this paragraph—

“academic year” means the period beginning on 1st September of one calendar year and ending on 31st August of the following calendar year.

“trade organisation” means an organisation of secondary contributors (in their capacity as employers) the members of which carry on a particular profession or trade for the purposes of which the organisation exists.”.

(4) Regulation 40 has been amended. The relevant amending instruments are S.I. 2001/2412, 2003/2085 and 2004/770.

(5) The relevant amendment to Part 7 of the Schedule are those made by S.I. 2003/2340 and 2958, and S.I. 2004/770.

16th March 2005

Jim Murphy
Nick Ainger
Two of the Lords Commissioners of Her
Majesty's Treasury

The Secretary of State concurs.
Signed by authority of the Secretary of State for Works and Pensions

15th March 2005

Malcolm Wicks
Minister of State
Department for Work and Pensions

The Department for Social Development concurs.
Sealed with the Official Seal of the Department for Social Development on 15th March 2005

L.S.

15th March 2005

John O'Neill
Senior Officer of the
Department

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 amend the Social Security (Contributions) Regulations 2001 (S.I.2001/1004: “the 2001 Regulations”). The effect is to secure parity of treatment, for income tax and national insurance purposes, of payments made by employers secondary contributors to employees in respect of the employees' attendance for long-term training at recognised educational establishments. Such payments are not subjected to income tax by virtue of Inland Revenue Statement of Practice 4/86, a revised version which was published on 16th March 2005.

Regulation 1 provides for the citation, commencement and effect of the Regulations.

Regulation 2 introduces the amendments to the 2001 Regulations.

Regulation 3 makes an amendment to regulation 40 of the 2001 Regulations to ensure that the sums which are disregarded in computing the liability to Class 1 National Insurance Contributions by virtue of the amendment made by regulation 4 are also disregarded in computing the secondary contributor's liability for Class 1A contributions.

Regulation 4 amends Part 7 of Schedule 3 to the 2001 Regulations adding a new paragraph 12, which corresponds, as nearly as possible, to the revised provisions of the Statement of Practice.

These Regulations do not impose new costs on business.