

1983 No. 10
SOCIAL SECURITY
**The Social Security (Contributions)
Amendment Regulations 1983**

<i>Made</i> - - - - -	13th January 1983
<i>Laid before Parliament</i>	17th January 1983
<i>Coming into Operation</i>	6th April 1983

The Secretary of State for Social Services in exercise of powers conferred upon him by section 3(2) and (4) of, and paragraphs 1(1) and 2 of Schedule 1 to, the Social Security Act 1975(a) and section 1(3) of the Social Security (Miscellaneous Provisions) Act 1977(b) and of all other powers enabling him in that behalf, after reference to the Social Security Advisory Committee(c), hereby makes the following regulations:—

Citation, interpretation and commencement

1. These regulations, which may be cited as the Social Security (Contributions) Amendment Regulations 1983, amend the Social Security (Contributions) Regulations 1979(d) (hereinafter referred to as “the principal regulations”) and shall come into operation on 6th April 1983.

Amendment of regulation 1(2) of the principal regulations

2. In regulation 1(2) of the principal regulations (interpretation) after the definition of British ship there shall be inserted—

“ “company” means a company within the meaning of section 455(1) of the Companies Act 1948(e) or a body corporate to which, by virtue of section 435 of that Act, any provision of that Act applies;”.

Amendment of regulation 2 of the principal regulations

3. At the beginning of regulation 2 of the principal regulations (earnings periods) there shall be inserted the words “Except where the provisions of regulation 6A of these regulations apply”.

Insertion of regulation 6A in the principal regulations

4. After regulation 6 of the principal regulations (treatment of earnings paid otherwise than at regular intervals) there shall be inserted the following regulation—

(a) 1975 c. 14; section 3(4) was added by paragraph 8 of Schedule 4 to the Social Security and Housing Benefits Act 1982 (c. 24).

(b) 1977 c. 5.

(c) See sections 9 and 10 of the Social Security Act 1980 (c. 30).

(d) S.I. 1979/591; the relevant amending instrument is S.I. 1980/1975.

(e) 1948 c. 38.

“Earnings period for directors

6A.—(1) Where a person is, or is appointed, or ceases to be a director of a company during any year the amount, if any, of earnings-related contributions payable in respect of earnings paid to or for the benefit of that person in respect of any employed earner’s employment with that company shall, subject to the provisions of regulations 9 and 11 to 13 of these regulations, be assessed on the amount of all such earnings paid (whether or not paid weekly) in the earnings periods specified in the following paragraphs of this regulation.

(2) Where on one or more than one occasion a person is appointed a director of a company during the course of a year the earnings period in respect of such earnings as are paid in so much of the year as remains in the period commencing with the week in which he is appointed or, as the case may be, first appointed shall be the number of weeks in that period.

(3) Where a person is a director of a company at the beginning of a year the earnings period in respect of such earnings shall be that year, whether or not he remains such a director throughout that year.

(4) Where the earnings paid in respect of two or more employed earner’s employments fall to be aggregated and the earnings periods in respect of those earnings would be of different lengths then—

- (a) if those periods are determined only by the preceding paragraphs of this regulation, or
- (b) if the length of one or more of those periods is determined by the preceding paragraphs of this regulation and the length of one or more of the others is determined by any other provision of these regulations,

the earnings period in respect of all those earnings shall be the period determined by those paragraphs or, where there is more than one such period the longer, or as the case may be, longest period so determined.

(5) Where a person is no longer a director of a company and in any year after that in which he ceased to be a director thereof he is paid earnings in respect of any period during which he was such a director, then—

- (a) notwithstanding the provisions of regulation 12 of these regulations (aggregation of earnings paid in respect of different employed earner’s employments by different persons and apportionment of contribution liability), those earnings shall not be aggregated with any other earnings with which otherwise they would fall to be aggregated, and
- (b) the earnings period in respect of those earnings shall be the year in which they are paid.”.

Insertion of regulation 17A in the principal regulations

5. After regulation 17 of the principal regulations (annual maximum) there shall be inserted the following regulation—

“Payments to directors to be treated as earnings

17A. For the purposes of section 3 of the Act (“earnings”) there shall be treated as remuneration derived from an employed earner’s employ-

ment any payment made by a company to or for the benefit of any of its directors if—

- (a) apart from this regulation the payment would, when made, not be earnings for the purposes of the Act, and
- (b) the payment is made on account of or by way of an advance on a sum which would be earnings for those purposes.”.

Signed by authority of the Secretary of State for Social Services.

Hugh Rossi,
Minister of State,
Department of Health and Social Security.

13th January 1983.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations further amend the Social Security (Contributions) Regulations 1979 (“the principal regulations”) by making separate provision for the assessment of earnings-related contributions payable by and in respect of directors of companies within the meaning of section 455(1) of the Companies Act 1948 and of those bodies corporate to which section 435 thereof applies any of the provisions of that Act.

Regulation 3 amends regulation 2 of the principal regulations consequent on the insertion of regulation 6A therein. Regulation 4 inserts regulation 6A in the principal regulations which prescribes the earnings periods applicable to directors. Where a person is appointed a director during the course of a year the earnings period in respect of all earnings paid to him by the company in so much of the income tax year as remains therein is the number of tax weeks in the period commencing with the week in which he is first appointed. Where a person is a director at the beginning of a year the earnings period in respect of all earnings paid to him by the company therein is that year, whether or not he remains a director throughout the year. Where earnings in respect of two or more employed earner’s employments fall to be aggregated and the earnings periods in respect of those earnings would be of different lengths, the earnings period to be applied to the aggregated earnings is the period determined by the foregoing provisions or, where there is more than one such period the longer, or as the case may be, longest period. Where a person is no longer a director of a company and in any year following that in which he ceased to be a director earnings are paid to him in respect of a period when he was a director, those earnings are not to be aggregated with any other earnings which otherwise might fall to be aggregated with them and the earnings period to be applied to them is the year in which they are paid.

Regulation 5 treats an advance on a sum made by the company to a director as earnings provided that the sum itself would be, when paid, earnings for the purposes of the Social Security Act 1975.

The Report of the Social Security Advisory Committee dated 21 December 1982 on the draft of these Regulations, together with a statement showing that the Regulations give effect to the Committee's recommendations, is contained in Command Paper (Cmnd. 8788) published by Her Majesty's Stationery Office.

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