
STATUTORY INSTRUMENTS

1996 No. 3031

SOCIAL SECURITY

**The Social Security (Contributions)
Amendment (No. 6) Regulations 1996**

Made - - - - *4th December 1996*
Laid before Parliament *4th December 1996*
Coming into force - - *5th December 1996*

The Secretary of State for Social Security, in exercise of powers conferred by sections 3(2) and (3), 122(1) and 175(1) to (3) of the Social Security Contributions and Benefits Act 1992⁽¹⁾ and of all other powers enabling him in that behalf, after agreement by the Social Security Advisory Committee that proposals to make these Regulations should not be referred to it⁽²⁾, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Contributions) Amendment (No. 6) Regulations 1996 and shall come into force on 5th December 1996.

(2) In these Regulations “the principal Regulations” means the Social Security (Contributions) Regulations 1979⁽³⁾.

Amendment of regulation 1 of the principal Regulations

2. In regulation 1(2) of the principal Regulations (citation, commencement and interpretation) after the definition of “standard rate” there shall be inserted the following definition —

““trading arrangements” in relation to any asset (including a voucher) shall be construed in accordance with section 203K(2)(a) and (3) of the Income and Corporation Taxes Act 1988⁽⁴⁾”.

Amendment of regulation 18 of the principal Regulations

3. In regulation 18 of the principal Regulations (calculation of earnings)⁽⁵⁾ —

(1) 1992 c. 4. Section 122(1) is cited because of the meaning ascribed to the word “prescribe”.
(2) See the Social Security Administration Act 1992 (c. 5), section 173(1)(b).
(3) S.I.1979/591. The relevant amending instruments are S.I. 1991/2205, 1993/2925, 1994/2194 and 1995/1003.
(4) 1988 c. 1; section 203K was inserted by section 131 of the Finance Act 1994 (c. 9).
(5) The relevant amending instruments are S.I. 1991/2505, 1993/2925, 1994/2194 and 1995/1003.

- (a) in paragraph (2) for the words “paragraph (4), (6), (8) or (9)” there shall be substituted the words “paragraph (4), (6), (7A), (8) or (9)”;
- (b) after paragraph (7) there shall be inserted the following paragraph —
- “(7A) The amount of earnings which is comprised in any payment by way of the conferment of a beneficial interest in any option to acquire any asset falling within Schedule 1A to these Regulations and which falls to be taken into account in the computation of a person’s earnings shall, for the purposes of earnings-related contributions, be calculated or estimated by reference to the amount which would be comprised in accordance with paragraph (2) of this regulation or, where paragraph (4), (6), (8) or (9) would apply in accordance with that paragraph, in a payment by way of the conferment of any beneficial interest —
- (i) in the asset which may be acquired by the exercise of that option; or
 - (ii) where that asset (the first asset) may be exchanged for another asset (the second asset) and the value of the beneficial interest in the second asset is greater than that in the first asset, in that second asset,
- on the day the beneficial interest in the option is conferred, reduced by the amount or value (or if variable, the least amount or value) of the consideration for which the asset may be so acquired.”;
- (c) in paragraph (8) —
- (i) for the words “paragraph 9ZA, 9ZB or 9B of Schedule 1A to these Regulations” there shall be substituted the words “paragraph 9ZA or 9ZB of Schedule 1A to these Regulations or in any voucher falling within paragraph 9B or 9C of that Schedule”;
 - (ii) at the end there shall be inserted —
- “and for the purposes of this paragraph “the cost of the asset” in relation to any voucher includes the cost of any asset for which that voucher is capable of being exchanged”;
- (d) for paragraph (9) there shall be substituted the following paragraph —
- “(9) The amount of earnings which is comprised in any payment by way of the conferment of a beneficial interest in any asset specified in Schedule 1A to these Regulations for which trading arrangements exist and which falls to be taken into account in the computation of a person’s earnings, shall, for the purposes of earnings-related contributions, be calculated or estimated in accordance with the following provisions of this paragraph —
- (a) the amount of earnings shall be calculated or estimated by reference to the amount which is the greater of —
 - (i) the amount obtainable under the trading arrangements in question;
 - (ii) the amount calculated or estimated in accordance with paragraph (2) of this regulation or, where paragraph (4), (6), (7A) or (8) of this regulation would apply, the amount calculated or estimated in accordance with that paragraph;
 - (b) the calculation or estimate of the amount of earnings by reference to the amount obtainable under trading arrangements shall be carried out on the basis that such amount was obtained on the day on which the beneficial interest was conferred;
 - (c) the reference in this paragraph to an asset does not include any voucher falling within paragraph 9B or 9C of Schedule 1A to these Regulations.”

Amendment of regulation 19 of the principal Regulations

4. In regulation 19 of the principal Regulations (payments to be disregarded)(6) —
- (a) for sub-paragraphs (1)(l) and (m) there shall be substituted the following sub-paragraphs —
- “ (l) a payment by way of shares where such shares —
- (i) form part of the ordinary share capital of —
- (aa) the secondary contributor; or
- (bb) a company which has control of that secondary contributor; or
- (cc) a company which either is, or has control of, a body corporate which is a member of a consortium owning either that secondary contributor or a body corporate having control of that secondary contributor; and
- (ii) are either —
- (aa) appropriated under a profit sharing scheme to which the provisions of section 186 of the Income and Corporation Taxes Act 1988 (approved) profit sharing schemes)(7) apply; or
- (bb) non-tradeable shares;
- (m) a payment by way of an option to acquire shares where such option is —
- (i) a right obtained in accordance with the provisions of a scheme approved under Schedule 9 to the Income and Corporation Taxes Act 1988 for the purposes of section 185 of that Act (approved share option schemes); or
- (ii) a right to acquire shares which are non-tradeable shares and is a non-tradeable option”;
- (b) paragraph (7)(f) shall be omitted;
- (c) at the end of paragraph (7) there shall be added the following sub-paragraph —
- “ (g) a payment by way of shares appropriated under a profit sharing scheme to which the provisions of section 186 of the Income and Corporation Taxes Act 1988 (approved profit sharing schemes) apply includes a payment derived from such shares.”;
- (d) after paragraph (7) there shall be inserted the following paragraph —
- “(7A) For the purposes of paragraphs (1)(l) and (m) of this regulation —
- (a) a share or option is non-tradeable if at the time when the payment is made, that share or option is incapable of being sold or otherwise realised on a recognised investment exchange within the meaning of the Financial Services Act 1986(8) and no trading arrangements exist in respect of it;
- (b) “shares” include stock.”

Amendment of Schedule 1A to the principal Regulations

5. In Schedule 1A to the principal Regulations (assets not to be disregarded as payments under regulation 19(1)(d))(9) paragraph 19 shall be omitted.

(6) The relevant amending instrument is S.I. 1991/2505.

(7) 1988 c. 1.

(8) 1986 c. 60.

(9) The relevant amending instruments are S.I. 1991/2505 and 1995/1003.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Signed by authority of the Secretary of State for Social Security

4th December 1996

Roger Evans
Parliamentary Under-Secretary of State,
Department of Social Security

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Social Security (Contributions) Regulations 1979 (“the principal Regulations”).

Regulation 3 amends regulation 18 of the principal Regulations (calculation of earnings).

A new paragraph 7A is inserted so that where a payment of earnings is made in the form of a beneficial interest in an option to acquire an asset listed in Schedule 1A the value of the payment is determined by reference to the value of the asset concerned.

Paragraph (8) is amended to include any vouchers for which trading arrangements exist and vouchers for assets for which such arrangements exist. Where a payment of earnings is made in the form of a voucher the value of the payment is determined by reference to the cost of the voucher and the cost of the asset for which the voucher is exchangeable.

Paragraph (9) is amended so that where a payment of earnings is made in the form of the beneficial interest in any asset listed in Schedule 1A (other than a voucher) for which trading arrangements exist the value of the payment is determined by reference to the amount obtainable under the trading arrangements if that is greater than the value of the beneficial interest in the asset.

Regulation 4 amends regulation 19 of the principal Regulations (payments to be disregarded) so that the exclusion from the computation of a person’s earnings of shares forming part of the ordinary share capital of the secondary contributor or a company having control in relation to that contributor is limited to those shares which are provided under a scheme approved under Schedule 9 to the Income and Corporation Taxes Act 1988 or which are not tradeable on a recognised investment exchange and for which no trading arrangements exist. Options to acquire shares which are provided under a scheme approved under this Schedule or which are not tradeable on a recognised investment exchange or for which no trading arrangements exist are also excluded from the computation of a person’s earnings.

Regulations 1, 2, 3, and 4 will not impose a significant additional administrative cost on business. An assessment of the compliance costs for business has been placed in the libraries of both Houses of Parliament. Copies can be obtained by post from the Department of Social Security, Deregulation Unit, 11th Floor, Adelphi, 1 – 11 John Adam Street, London WC2N 6HT.