

2002 No. 2929

SOCIAL SECURITY

**The Social Security (Contributions)(Amendment No. 5)
Regulations 2002**

<i>Made</i> - - - -	<i>27th November 2002</i>
<i>Laid before Parliament</i>	<i>27th November 2002</i>
<i>Coming into force</i> - -	<i>28th November 2002</i>

The Commissioners of Inland Revenue, in exercise of the powers conferred upon them by paragraph 6(1) and (2) of Schedule 1 to the Social Security Contributions and Benefits Act 1992(a) and paragraph 6(1) and (2) of Schedule 1 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992(b) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Social Security (Contributions)(Amendment No. 5) Regulations 2002 and shall come into force on 28th November 2002.

Interpretation

2. In these Regulations “the principal Regulations” means the Social Security (Contributions) Regulations 2001(c) and “regulation” and “Schedule” mean a regulation of or Schedule to the principal Regulations, as the case may be.

Amendments to the principal Regulations

3. In regulation 70(4) for the words from “includes” to the end substitute “means the person liable, in accordance with section 10(2) or 10ZA(d) of the Act, to pay a Class 1A contribution”.

4. In paragraph 1(2) of Schedule 4 for the definition of “employer” substitute –
““employer” means, subject to paragraph 3, the secondary contributor determined –
(a) by section 7 of the Act, or

(a) 1992 c. 4; paragraph 6 was amended by paragraph 77(8), (9) and (11) of Schedule 7, and Schedule 8, to the Social Security Act 1998 (c. 14), paragraph 17 of Schedule 1, paragraph 35 of Schedule 3, paragraph 9 of Schedule 7, paragraph 5 of Schedule 9 and Part 1 of Schedule 10 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), and paragraph 78 of Schedule 12 to the Welfare Reform and Pensions Act 1999 (c. 30).
(b) 1992 c.7; paragraph 6 was amended by paragraph 58(8), (9) and (11) of Schedule 6, and Schedule 7, to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)), paragraph 20 of Schedule 1, paragraph 34 of Schedule 3, paragraph 7 of Schedule 6, paragraph 3 of Schedule 8, and Part 1 of Schedule 9 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671), and paragraph 86(6) of Schedule 12 to the Welfare Reform and Pensions Act 1999.
(c) S.I. 2001/1004; there are no relevant amending instruments.
(d) Section 10ZA was inserted by section 75 of the Child Support, Pensions and Social Security Act 2000 (c. 19).

- (b) under regulation 5 of and Schedule 3 to the Social Security (Categorisation of Earners) Regulations 1978(a), or
- (c) under regulation 122;”.

5. In paragraph 4 of Schedule 4 for “is required to pay” substitute “pays”.

6. After paragraph 4 of Schedule 4 insert –

“Intermediaries

4A.—(1) Where any payment of emoluments of an employee is made by an intermediary of the employer, the employer shall be treated, for the purposes of this Schedule other than –

- (a) paragraph 7(1),
- (b) paragraph 7(3)(a),
- (c) the references to a subsequent payment of emoluments or of monetary earnings in paragraph 7(3) and (8), and
- (d) paragraph 7(11),

as making the payment of those emoluments to the employee.

(2) For the purposes of this paragraph, a payment of emoluments of an employee is made by an intermediary of the employer if it is made –

- (a) either –
 - (i) by a person acting on behalf of the employer and at the expense of the employer, or
 - (ii) by a person connected with him, or
- (b) by trustees holding property for any persons who include, or class of persons which includes, the employee.

(3) Section 839 of the Taxes Act (connected persons) applies for the purposes of this paragraph.”

7.—(1) Amend paragraph 7 of Schedule 4 as follows.

(2) In sub-paragraph (1) omit “thereon” and add at the end “(the “section 6(4)(a) amount”)”.

(3) For sub-paragraph (3) substitute –

“(3) If the employer –

- (a) on making any payment of emoluments to an employee does not deduct from those emoluments the full section 6(4)(a) amount, or
- (b) is treated as making a payment of emoluments by paragraph 4A,

he may recover, in a case falling within paragraph (a) the amount not so deducted or, in a case falling within paragraph (b) the section 6(4)(a) amount, by deduction from any subsequent payment of emoluments made by the employer to that employee during the same year.

This sub-paragraph is subject to sub-paragraphs (4) and (5).”

(4) In sub-paragraph (4) insert at the end the following paragraph –

“; or

- (e) the employer is treated as making a payment of emoluments by paragraph 4A.”

(a) S.I. 1978/1689; Schedule 3 has been amended by S.I. 1984/350, 1990/1894, 1994/726, 1998/1728 and 1999/3. As to the construction of references in the principal Regulations to enactments applying only in Great Britain, in their application to Northern Ireland, see regulation 156(3) of the principal Regulations.

(5) In sub-paragraph (5)(b) after “sub-paragraphs” insert “in a case falling within paragraph (a) of any of those sub-paragraphs”.

(6) In sub-paragraph (6) for the words from “amount” to the end substitute “section 6(4)(a) amount”.

(7) For sub-paragraph (8) substitute –

“(8) Where, in the circumstances specified in sub-paragraph (6), the employer –

(a) does not deduct from the earnings referred to in that sub-paragraph the full section 6(4)(a) amount, or

(b) is treated as making a payment of emoluments by paragraph 4A,

he may recover, in a case falling within paragraph (a) the amount not so deducted or, in a case falling within paragraph (b) the section 6(4)(a) amount, by deduction from any subsequent payment of monetary earnings to that employee, or ex-employee (as the case may be) during the same year.

This sub-paragraph is subject to sub-paragraph (5).”

(8) In sub-paragraph (9)(c) for the words from “amount” to the end substitute “section 6(4)(a) amount”.

27th November 2002

Tim Flesher
Dave Hartnett
Two of the Commissioners of Inland Revenue

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 28th November 2002, further amend the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004) (“the Contributions Regulations”). The principal effects of these Regulations are to amend the definition of “employer” to be the same as the secondary contributor (usually the contractual employer) in the primary legislation (sections 6, 10 and 10ZA of the Social Security Contributions and Benefits Act 1992 (“the Act”)), and to provide that where a payment of emoluments is made by an intermediary of an employer, it is attributed, for the purposes of the collection provisions in Schedule 4 to the Contributions Regulations, to the employer (who is already liable under the charging provision in section 6 of the Act).

Regulation 1 provides for citation and commencement, and Regulation 2 for interpretation.

Regulation 3 amends the definition of “employer” for the purposes of regulations 70 to 83 of the Contributions Regulations (Class 1A contributions).

Regulation 4 amends the definition of “employer” for the purposes of the collection provisions in Schedule 4 to the Contributions Regulations.

Regulation 5 makes a consequential amendment to paragraph 4 of that Schedule.

Regulation 6 provides for payments of emoluments by intermediaries to be attributed to the employer for the purposes of those collection provisions.

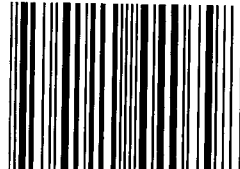
Regulation 7 amends the provisions providing for the employer to reimburse himself for contributions paid on behalf of employees, out of earnings, to cover such attributed payments.

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