

1999 No. 567

**SOCIAL SECURITY
TERMS AND CONDITIONS OF
EMPLOYMENT**

**The Social Security Contributions, Statutory Mater-
nity Pay and Statutory Sick Pay (Miscellaneous
Amendments) Regulations 1999**

Made - - - - *5th March 1999*

Laid before Parliament *11th March 1999*

Coming into force in accordance with regulation 1

The Secretary of State for Social Security, with the concurrence of the Inland Revenue in so far as required(a), in exercise of powers conferred by sections 1(6)(b), 3(2) and (3), 10A(7)(c), 122(1), 163(3), 171(5) and 175(1) to (3) of, and paragraphs 3(5)(d), 5A(e), 6(f) and 8(1)(g)(g), (1)(h), (m), (n) and (q) of Schedule 1 to, the Social Security Contributions and Benefits Act 1992(i), and sections 182C and 189(1) of the Social Security Administration Act 1992(j), and of all other powers enabling him in that behalf, by this instrument, which contains only regulations made by virtue of, or consequential upon, the Social Security Act 1998(k) and the Social Security Contributions (Transfer of Functions, etc.) Act 1999, hereby makes the following Regulations:

Citation, commencement and interpretation

1. —(1) These Regulations may be cited as the Social Security Contributions, Statutory Maternity Pay and Statutory Sick Pay (Miscellaneous Amendments) Regulations 1999 and shall come into force on -

- (a) for the purposes of regulation 7, 1st April 1999;
- (b) for all other purposes, 6th April 1999.

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- (a) See paragraph 6(1) of Schedule 1 to the Social Security Contributions and Benefits Act 1992 (c.4).
 - (b) Section 1(6) was amended by paragraph 56(3) of Schedule 7 to the Social Security Act 1998 (c.14).
 - (c) Section 10A was inserted by section 53 of the Social Security Act 1998.
 - (d) Sub-paragraph (5) was inserted by section 55 of the Social Security Act 1998.
 - (e) Paragraph 5A was inserted by paragraph 77(7) of Schedule 7 to the Social Security Act 1998.
 - (f) Paragraph 6 was amended by paragraph 77(8) to (11) of Schedule 7 to the Social Security Act 1998.
 - (g) Paragraph 8(1)(g) was amended by section 151 of, and paragraph 14 of Schedule 5 to, the Pensions Act 1995 (c.26).
 - (h) Paragraph 8(1)(l) was amended by paragraph 77(16) of Schedule 7 to the Social Security Act 1998.
 - (i) Section 122(1) is cited because of the meaning ascribed to the word “prescribe”.
 - (j) 1992 c.5. Section 182C was inserted by paragraph 9 of Schedule 1 to the Social Security Administration (Fraud) Act 1997 (c.47) and amended by paragraph 31 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2).
 - (k) See section 173(5)(b) of the Social Security Administration Act 1992 (c.5).

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

[Regulations 2 - 11 amend regulations 18, 19, 22H, 31, 32, 44, 46, 119, and 120 and paragraphs 13, 26C and 28 of Schedule 1 of S.I. 1979/591]

[Regulation 12 amends regulation 20(2) of S.I. 1986/1960]

[Regulation 13 amends regulation 17(2) of S.I. 1982/894]

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

5th March 1999

Stephen C. Timms
Minister of State,
Department of Social Security

The Commissioners of Inland Revenue hereby concur.

5th March 1999

S. C. T. Matheson
Tim Flesher
Two of the Commissioners of Inland Revenue

EXPLANATORY NOTE

(This note is not part of the Regulations)

The regulations contained in this instrument are made by virtue of, or consequential upon, amendments made to the Social Security Contributions and Benefits Act 1992 (c.4) and the Social Security Administration Act 1992 (c.5) by the Social Security Act 1998 (c.14) and the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2). This instrument is made before the end of the period of 6 months beginning with the coming into force of sections 50(1) (in part), 53 and 55 of, and paragraph 77(7) of Schedule 7 to, the Social Security Act 1998 on 8th September 1998 and the coming into force of paragraph 31 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 on 25th February 1999. The Regulations are therefore exempt, by virtue of section 173(5)(b) of the Social Security Administration Act 1992 from reference to the Social Security Advisory Committee and have not been so referred.

These Regulations make further amendments to the Social Security (Contributions) Regulations 1979 (S.I. 1979/591) (“the principal Regulations”) to make provision in respect of Class 1B contributions payable by employers in respect of emoluments included in PAYE settlement agreements, gains from the exercise, release or assignment of a right to acquire shares in a body corporate and interest on refunded contributions. These Regulations also make consequential amendments to the Statutory Maternity Pay (General) Regulations 1986 (S.I. 1986/1960) and the Statutory Sick Pay (General) Regulations 1982 (S.I. 1982/894) in respect of Class 1B contributions.

(a) S.I. 1979/591; the relevant amending instruments are S.I. 1981/82, 1982/1033, 1983/395, 1984/77, 1985/396, 1398 and 1411, 1987/413 and 2111, 1988/992, 1989/572 and 1677, 1990/605, 1935 and 2894, 1991/1632 and 2505, 1992/97, 1440 and 2595, 1993/821, 1994/667, 1995/512 and 730, 1996/195, 777, 1245, 2407 and 3031, 1997/820 and 1998/2211, 2320 and 2894.

Regulation 2 amends regulation 18 of the principal Regulations (calculation of earnings) by omitting paragraphs (2A), (2B), (4), (5), (5A) and (9A) and by making a consequential amendments to paragraphs (2), (7A) and (9) thereof. Regulation 2 further amends regulation 18 by adding new paragraphs (16) to (20) to provide for the calculation of earnings in respect of any payment by way of a gain arising from the exercise, assignment or release of a right to acquire shares in a body corporate and for matters incidental thereto.

Regulation 3 amends regulation 19 of the principal Regulations (payments to be disregarded). Regulation 3(2) omits sub-paragraph (mm) of, and adds six new sub-paragraphs (zh)-(zm) to, regulation 19(1). New sub-paragraph (zh) relates to a payment by way of a gain realised by the exercise of a right to acquire shares where that right and those shares are not readily convertible assets. New sub-paragraph (zi) relates to a payment by way of the grant of a right on or after 6th April 1999 to acquire shares which is not capable of being exercised more than 10 years after it is obtained. New sub-paragraph (zj) relates to a payment by way of the conferment of a beneficial interest in conditional shares pursuant to the exercise of a right to acquire shares granted on or after 6th April 1999. New sub-paragraph (zk) relates to a payment by way of the acquisition of conditional and convertible shares pursuant to a right to acquire shares granted before 9th April 1998. New sub-paragraph (zl) relates to a payment by way of a gain realised on the assignment or release of a right to acquire shares where a subsequent right to acquire shares forms all or part of the consideration for that assignment or release. New sub-paragraph (zm) relates to a payment by way of a gain realised on the exercise, assignment or release of a right to acquire shares granted before 6th April 1999 unless that right was received in consideration for the assignment or release of another right and was of a substantially greater total market value than that of the right it replaced. Regulation 3(3) makes incidental provision for the purposes of new sub-paragraphs (zh), (zl) and (zm).

Regulation 4 inserts two new regulations (22I and 22J) into the principal Regulations which provide for the calculation of, and exception from liability for, Class 1B contributions.

Regulation 7 amends regulation 44 of the principal Regulations so that applications for the allocation of national insurance numbers may be made either to the Secretary of State or to the Inland Revenue.

Regulation 11 of these Regulations amends Schedule 1 to the principal Regulations, which contains provisions of the Income Tax (Employments) Regulations 1973 as applied to the collection of earnings-related contributions and Class 1A contributions.

Regulation 11 of these Regulations also extends those provisions to Class 1B contributions for the purposes of the payment and recovery of those contributions and the inspection of employer's records and to provide for the recovery of contributions following a payment to an employee, or an ex-employee, consisting wholly or partially of non-monetary earnings in cases where there are no, or insufficient, monetary earnings from which such contributions could be deducted at the time of that payment.

Regulation 12 of these Regulations substitutes a new regulation 20(2) (meaning of "earnings") into the Statutory Maternity Pay (General) Regulations 1986 to provide for emoluments included in a PAYE settlement agreement to be excluded from the calculation of earnings for the purposes of statutory maternity pay unless such exclusion results in the woman failing to qualify for the benefit.

Regulation 13 of these Regulations substitutes a new regulation 17(2) (meaning of "earnings") into the Statutory Sick Pay (General) Regulations 1982 to provide for emoluments included in a PAYE settlement agreement to be excluded from the calculation of earnings for the purposes of statutory sick pay unless such exclusion results in a person failing to qualify for the benefit.

Regulations 5 and 6 and 8 to 10 make consequential amendments to regulations 31, 32, 46, 119 and 120 of the principal Regulations.

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The costs to business of these amendments were covered in the Regulatory Impact Assessment for the Social Security Act 1998 in accordance with, and in consequence of which, these Regulations are made. That Assessment concluded that significant administrative costs would not be imposed on business and that the provisions of regulation 11(3) is beneficial to employers. A copy of that Regulatory Impact Assessment has been placed in the libraries of both Houses of Parliament and can be obtained from the Department of Social Security, Better Regulation Unit, 3rd Floor, The Adelphi, 1 - 11 John Adam Street, London WC2N 6HT.