

2007 No. 1154

SOCIAL SECURITY

TERMS AND CONDITIONS OF EMPLOYMENT

The Social Security, Occupational Pension Schemes and Statutory Payments (Consequential Provisions) Regulations 2007

Made - - - -

31st March 2007

Coming into force -

6th April 2007

These Regulations are made in exercise of the powers conferred on the Treasury by sections 4C(1) to (6) and 175(3) and (4) of the Social Security Contributions and Benefits Act 1992(a) and sections 4C(1) to (6) and 171(3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(b).

A draft of this instrument has been laid before Parliament in accordance with section 176(1)(a) of the former Act(c) and section 172(11A) of the latter Act(d) and approved by a resolution of each House of Parliament.

It appears to the Treasury to be expedient to make these Regulations in consequence of provision made by or by virtue of section 4B(2) of both those Acts(e).

Accordingly, the Treasury, with the concurrence of the Secretary of State for Work and Pensions, the Department for Social Development and the Department for Employment and Learning, make the following Regulations:

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Social Security, Occupational Pension Schemes and Statutory Payments (Consequential Provisions) Regulations 2007 and shall come into force on 6th April 2007.

(2) These Regulations have effect from 2nd December 2004.

[Regulation 2 amends S.I. 2001/769.]

[Regulation 3 amends S.I. 1996/1172.]

[Regulation 4 amends S.I. 1986/1960.]

(a) 1992 c. 4; section 4C was inserted by section 1(1) of the National Insurance Contributions Act 2006 (c. 10).

(b) 1992 c. 7; section 4C was inserted by section 2(1) of the National Insurance Contributions Act 2006.

(c) Section 176(1)(a) was relevantly amended by section 1(2) of the National Insurance Contributions Act 2006.

(d) Section 172(11A) was inserted by paragraph 29(5) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) and relevantly amended by section 2(2) of the National Insurance Contributions Act 2006.

(e) Section 4B (in each Act) was inserted by sections 1(1) and 2(1) of the National Insurance Contributions Act 2006 respectively.

[Regulation 5 amends S.I. 1982/894.]

[Regulation 6 amends S.I. 2002/2822, not reproduced in these volumes.]

[Regulation 7 amends S.I. 2000/688.]

[Regulations 8 to 13 amend Northern Ireland legislation not reproduced in these volumes.]

Modifications to other contributions legislation (contributory benefits, statutory payments etc.)

14.—(1) In this regulation—

“relevant legislation” means legislation relating to purposes mentioned in section 4C(2)(b) to (e) of the Social Security Contributions and Benefits Act 1992 (“the Act”) or section 4C(2)(b) to (e) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (“the Northern Ireland Act”);

“retrospective contributions regulations” means regulations made by virtue of section 4B(2) of the Act or of the Northern Ireland Act, as the case may be and, in relation to an amount retrospectively treated as earnings, “the relevant retrospective contributions regulations” means the regulations which treated that amount as earnings;

“the relevant time” means the time before the relevant retrospective contributions regulations are made; and

“the revised earnings” means the earnings, in respect of the employment, paid to or for the benefit of the earner at the relevant time as determined after applying the relevant retrospective contributions regulations.

(2) References in any relevant legislation, or any provision made under any such legislation, which relate to—

- (a) the earnings in respect of the employment, paid to or for the benefit of the earner at the relevant time, or
- (b) the amount of such earnings so paid at that time,

are to be read, to the extent they would not otherwise be and in so far as they so relate, as references which relate to the revised earnings or, as the case may be, the amount of those earnings.

(3) Any matter which, at the time when the relevant retrospective contributions regulations are made, has been determined for the purposes of any relevant legislation, or any provision made under any such legislation, wholly or partly by reference to—

- (a) the earnings, in respect of the employment, paid to or for the benefit of the earner at the relevant time, or
- (b) the amount of such earnings so paid at that time,

is to be re-determined (to the extent it would not otherwise be) as it would have been determined at the time of the original determination if it had been determined wholly or partly, as the case may be, by reference to the revised earnings or the amount of those earnings.

Claire Ward
Dave Watts

29th March 2007

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

31st March 2007

James Purnell
Minister of State Department of Work and Pensions

The Department for Social Development concurs.

Sealed with the Official Seal of the Department for Social Development on the 28th day of March 2007.

L.S.

John O'Neill
Senior Officer of the Department for Social Development

The Department for Employment and Learning concurs.

Sealed with the Official Seal of the Department for Employment and Learning on the 28th day of March 2007.

L.S.

D.S.S. McAuley
Senior Officer of the Department for Employment and Learning

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in relation to social security benefits which is consequent upon the making of regulations under section 4B of the Social Security Contributions and Benefits Act 1992 (c. 4) and the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7). Those sections were inserted by sections 1 and 2 respectively of the National Insurance Contributions Act 2006.

Authority for the retrospective provision made by these Regulations is contained in section 4C(4) of each of the 1992 Acts (also inserted by sections 1 and 2 of the 2006 Act).

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

Regulations 2 to 7 make amendments to the Occupational Pension Schemes (Contracting-out) Regulations 1996, (S.I. 1996/1172).

Regulation 2 amends the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations 2001 (S.I. 2001/769), adding a new definition of “the due date” where contributions are charged by retrospective contributions regulations, and adding a new regulation 5A which treats retrospective contributions paid by that date as paid at the time when the earnings to which they relate were actually paid.

Regulation 3 amends the Occupational Pension Schemes (Contracting-out) Regulations 1996, (S.I. 1996/1172), to provide for the recovery by an employer of an employee’s additional pension contribution in respect of retrospective earnings and for the payment by an employer to the trustees of an occupational scheme of additional employer’s contributions on those earnings.

Regulations 4 to 7 amend the Statutory Maternity Pay (General) Regulations 1986 (S.I. 1986/1960), the Statutory Sick Pay (General) Regulations 1982 (S.I. 1982/894), the Statutory Paternity Pay and Statutory Adoption Pay (General) Regulations 2002 (S.I. 2002/2822), and the Social Security (Maternity Allowance) (Earnings) Regulations 2000 (S.I. 2000/688). In each case the effect is to provide for retrospective earnings to be taken into account in computing an employee’s entitlement to relevant earnings-related benefit.

Regulations 8 to 13 make provision corresponding to regulations 2 to 7 but in relation to Northern Ireland.

Regulation 14 provides for the modification of any reference to earnings, in relation to times before retrospective contributions regulations are made and to which those regulations relate so that they are to be treated as references to the amounts of earnings re-computed in line with the regulations, and for the consequent redetermination of any matter which is referable to the amount of the employee’s earnings.

These Regulations do not impose significant additional burdens or costs on employers unless they engage in contrived schemes to avoid income tax and National Insurance contributions on remuneration paid to their employees. Employers who do not engage in such activity will be unaffected.