
 STATUTORY INSTRUMENTS

1983 No. 395

SOCIAL SECURITY

The Social Security (Contributions) Amendment (No. 4) Regulations 1983

<i>Made - - - -</i>	14th March 1983
<i>Laid before Parliament</i>	16th March 1983
<i>Coming into Operation</i>	6th April 1983

The Secretary of State for Social Services with the concurrence of the Inland Revenue in so far as their concurrence is required, in exercise of powers conferred upon him by section 3(1B), (2) and (3) of, and paragraphs 5(1) and 9(1) of Schedule 1 to, the Social Security Act 1975 (a) and section 9(10) of the Social Security and Housing Benefits Act 1982 (b) and of all other powers enabling him in that behalf, hereby makes the following regulations.

This instrument satisfies the requirements of paragraph 38 of Schedule 4 to the Social Security and Housing Benefits Act 1982 and the Secretary of State has not referred proposals to make any of the regulations contained in it to the Industrial Injuries Advisory Council or the Social Security Advisory Committee.

Citation and commencement

1. These regulations, which may be cited as the Social Security (Contributions) Amendment (No. 4) Regulations 1983, amend the Social Security (Contributions) Regulations 1979 (c) (hereinafter referred to as "the principal regulations") and shall come into operation on 6th April 1983.

Insertion of regulation 17B in the principal regulations

2. After regulation 17A of the principal regulations (payments to directors to be treated as earnings) there shall be inserted the following regulation—

"Manner of making sickness payments treated as remuneration

17B. Where by virtue of section 3(1A) (d) of the Act (earnings) a sickness payment is treated as remuneration derived from an employed earner's employment, such payment shall be made through the person who is the secondary contributor in relation to the employment concerned except where—

(a) the payment is payable by another person, and

(a) 1975 c. 14; section 3(1B) and paragraph 9(1) were inserted by the Social Security and Housing Benefits Act 1982 (c. 24), section 37, and paragraph 5(1) was extended by section 9(4) of that Act.

(b) 1982 c. 24.

(c) S.I. 1979/591; the relevant amending instruments are S.I. 1981/82, 1982/206, 1033, 1983/10.

(d) Section 3(1A) was inserted by the Social Security and Housing Benefits Act 1982, section 37(1).

- (b) that person has agreed with the secondary contributor to make the payment, and
- (c) arrangements have been made between them for the person who has agreed to make the payment to furnish the secondary contributor with the information specified in Regulation 3(3)(a) of Schedule 1 to these regulations (intermediate employers).”.

Amendment of regulation 19 of the principal regulations

3. In regulation 19 of the principal regulations (payments to be disregarded)—

- (a) in sub-paragraph (1)(e) after the words “to or by trustees,” there shall be inserted the words “not being a sickness payment which by virtue of section 3(1A) of the Act is treated as remuneration derived from an employed earner’s employment,”;
- (b) after paragraph (1) there shall be inserted the following paragraph—

“(1A) Where the funds for making a sickness payment under arrangements of the kind mentioned in subsection 3(1A)(b) of the Act are attributable in part to contributions to those funds made by the employed earner, for the purposes of section 3(1A) of the Act there shall be disregarded that part of the sickness payment which is attributable to those contributions.”.

Amendment of Regulation 2(1) of Schedule 1 to the principal regulations

4. In Regulation 2(1) of Schedule 1 to the principal regulations (interpretation) after the definition of national insurance number there shall be inserted—

“ “statutory sick pay” means any sum treated as remuneration by virtue of section 23 of the Social Security and Housing Benefits Act 1982;”.

Amendment of Regulation 3 of Schedule 1 to the principal regulations

5. After paragraph (2) of Regulation 3 of Schedule 1 to the principal regulations (intermediate employers) there shall be inserted the following paragraph—

“(3) Where an employee is paid a sickness payment which by virtue of regulation 17B of the Main Regulations (manner of making sickness payments treated as remuneration) is not made through the secondary contributor in relation to the employment concerned—

- (a) the person making such payment shall furnish the secondary contributor with such particulars of that payment as may be necessary to enable the secondary contributor to comply with the provisions of these Regulations, and
- (b) for the purposes only of these Regulations the said secondary contributor shall be deemed to have made the sickness payment.”.

Insertion of Regulation 5A in Schedule 1 to the principal regulations

6. After Regulation 5 of Schedule 1 to the principal regulations (service by post) there shall be inserted the following Regulation—

“Offences and penalties in relation to statutory sick pay

5A. Section 9(8) and (9) of the Social Security and Housing Benefits Act 1982 shall apply, in place of the provision made by section 98(2) of the Taxes Management Act 1970 (a) (penalties for providing false information etc.) as applied by paragraph 5(2) of Schedule 1 to the Act, in relation to any of the requirements regarding statutory sick pay specified in Regulations 13(6), 27(1)(b) and 30(1)(d) and (2)(d) of these Regulations.”.

Amendment of Regulation 6(1) of Schedule 1 to the principal regulations

7. In Regulation 6(1) of Schedule 1 to the principal regulations (deduction of earnings-related contributions) after the words “contributions are payable” there shall be inserted the words “or on making any payment of statutory sick pay”.

Amendment of Regulation 13 of Schedule 1 to the principal regulations

8. In Regulation 13 of Schedule 1 to the principal regulations (calculation of deduction)—

(a) in sub-paragraph (2A)(b) after head (iv) there shall be inserted the following head—

“; or

(v) the emoluments in respect of which the underdeduction occurred are, by virtue of regulation 17B of the Main Regulations, not paid through the secondary contributor in relation to the employment.”;

(b) in sub-paragraph (6)(b) for heads (ii) and (iii) there shall be substituted the following heads—

“(ii) any statutory sick pay;

(iii) all the earnings-related contributions payable on the emoluments otherwise than under paragraph (2A) of this Regulation;

(iv) the primary Class 1 contributions under the Act included in the amount recorded under head (iii);”;

(c) in sub-paragraph (6)(c) for the word “(iii)” there shall be substituted the word “(iv)”;

(d) in paragraph (6B) for the words “(ii)” and “(iii)” there shall be substituted the words “(iii)” and “(iv)”, respectively.

Amendment of Regulation 26(1) of Schedule 1 to the principal regulations

9. In Regulation 26(1) of Schedule 1 to the principal regulations (payment of earnings-related contributions by employer) after the words “which he did not deduct”, where they first appear, there shall be inserted the words “and amounts which he deducted by virtue of regulation 2 of the Statutory Sick Pay (Compensation of Employers) and Miscellaneous Provisions Regulations 1983(b)”.

Amendment of Regulation 27 of Schedule 1 to the principal regulations

10. In Regulation 27 of Schedule 1 to the principal regulations (employer failing to pay earnings-related contributions)—

(a) in sub-paragraph (1)(b) after the words “during that period” there shall

(a) 1970 c.9.

(b) S.I. 1983/376.

be inserted the words “, showing separately the calculations for, and the amount of, any statutory sick pay”;

- (b) at the end of paragraph (2) there shall be inserted the words “, excluding therefrom any amount deducted by the employer by virtue of regulation 2 of the Statutory Sick Pay (Compensation of Employers) and Miscellaneous Provisions Regulations 1983”.

Amendment of Regulation 30 of Schedule 1 to the principal regulations

11. In Regulation 30 of Schedule 1 to the principal regulations (return by employer at end of year)—

- (a) in head (i) of sub-paragraph (1)(c) for the words “(ii)” and “(iii)” there shall be substituted the words “(iii)” and “(iv)”, respectively;

- (b) after sub-paragraph (1)(c) there shall be added the following sub-paragraph—

“, and

- (d) the total amount of any statutory sick pay paid during the year.”;

- (c) after sub-paragraph (2)(c) there shall be added the following sub-paragraph—

“; and

- (d) the total amount of any statutory sick pay paid during that year to—

(i) each employee,

(ii) all his employees.”;

- (d) in paragraph (6) after the words “unpaid for that year” there shall be inserted the words “, excluding any amount deducted by the employer by virtue of regulation 2 of the Statutory Sick Pay (Compensation of Employers) and Miscellaneous Provisions Regulations 1983”.

Amendment of Regulation 32 of Schedule 1 to the principal regulations

12. In sub-paragraph (2)(a) of Regulation 32 of Schedule 1 to the principal regulations (inspection of employer’s records) after the words “to the Collector” there shall be inserted the words “, excluding therefrom any amount deducted by the employer by virtue of regulation 2 of the Statutory Sick Pay (Compensation of Employers) and Miscellaneous Provisions Regulations 1983,”.

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

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

11th March 1983.

The Commissioners of Inland Revenue hereby concur.

By Order of the Commissioners of Inland Revenue.

J. D. Taylor Thompson,
Secretary.

14th March 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 providing for the manner of making sickness payments to which section 3(1A) of the Social Security Act 1975 ("the Act") applies; for disregarding from the computation of earnings so much of a sickness payment as is attributable to contributions made by an employed earner; and for amending the provisions of Schedule 1 to the principal regulations (which contains the provisions of the Income Tax (Employments) Regulations 1973 (S.I. 1973/334) as they apply to earnings-related contributions under the Act) to take into account the payment of statutory sick pay.

Regulation 2 inserts regulation 17B in the principal regulations and prescribes the manner of making sickness payments treated as remuneration derived from an employed earner's employment by virtue of section 3(1A) of the Act. Any such sickness payment is to be made through the secondary contributor unless three conditions are satisfied. The first is that the sickness payment is payable by another person. The second is that that person has agreed with the secondary contributor to make the payment; and the third is that arrangements have been made between them for the person who has agreed to make the payment to furnish the secondary contributor with the information specified in Regulation 3(3)(a) of Schedule 1 to the principal regulations.

Regulation 3 amends regulation 19 of the principal regulations. It provides that where a sickness payment is treated as remuneration derived from an employed earner's employment, for the purposes of earnings-related contributions that part of the payment which is attributable to the earner's contribution shall be disregarded from the computation of his earnings. It also makes a consequential amendment to regulation 19.

Regulation 4 inserts a definition of statutory sick pay into Regulation 2(1) of Schedule 1 to the principal regulations.

Regulation 5 amends Regulation 3 of Schedule 1 to the principal regulations. It provides that where a sickness payment which by virtue of regulation 17B of the principal regulations is made through a person other than the secondary contributor, the person making the sickness payment shall furnish the secondary contributor with such particulars of the payment as are necessary to enable him to comply with the provisions of Schedule 1 to the principal regulations; and for the purposes only of those provisions the secondary contributor is deemed to have made the payment.

Regulation 6 inserts Regulation 5A into Schedule 1 to the principal regulations. It applies the offences and penalties provided for in section 9(8) and (9) of the Social Security and Housing Benefits Act 1982 to the requirements concerning statutory sick pay in Regulations 13(6), 27(1)(b) and 30(1)(d) and (2)(d) in place of those provided for in section 98(2) of the Taxes Management Act 1970.

Regulations 7 to 12 amend Schedule 1 to the principal regulations by prescribing the records of statutory sick pay which the employer is required to keep, and take into account the provisions of the Statutory Sick Pay (Compensation of Employers) and Miscellaneous Provisions Regulations 1983 ("the Deduction Regulations").

Regulation 7 amends Regulation 6(1) of Schedule 1. It requires the employer to prepare or maintain a deductions working sheet on making any payment of statutory sick pay.

Regulation 8 amends Regulation 13 of Schedule 1. Paragraph (a) amends Regulation 13(2A) so that an employer may recover an amount of contributions underdeducted from a payment of emoluments from a subsequent payment of emoluments where the emoluments in respect of which the underdeduction occurred are a sickness payment within the meaning of section 3(1A) of the Act and which, by virtue of regulation 17B of the principal regulations, are not paid through the secondary contributor. Paragraph (b) amends Regulation 13(6) by making provision for the recording of particulars of any payment of statutory sick pay.

Regulation 9 amends Regulation 26(1) of Schedule 1 consequent on regulation 2 of the Deduction Regulations.

Regulation 10 amends Regulation 27 of Schedule 1. Paragraph (a) amends the Regulation by requiring the employer to provide the Collector of Taxes with particulars of the calculations for, and amount of, any statutory sick pay, in a case where the employer has failed to pay any contributions under Regulation 26(1) of Schedule 1. Paragraph (b) amends Regulation 27(2) so as to exclude from the certificate issued by the Collector of Taxes, where the employer has failed to pay contributions in accordance with Regulation 26(1), the amount in respect of statutory sick pay which the employer is entitled to deduct under the Deduction Regulations from the contributions he is liable to pay.

Regulation 11 amends Regulation 30 of Schedule 1 by requiring particulars of the total payments of any statutory sick pay to be recorded on the employer's end-of-year returns. The total of any statutory sick pay paid during the year is to be recorded on the employer's certificate in relation to each employee, and in relation to all employees. Paragraph (d) amends Regulation 30(6) so as to exclude from the certificate which the Collector of Taxes may issue to show the contributions remaining unpaid for the year any amount of statutory sick pay which the employer has deducted, under the Deduction Regulations, from the contributions he is liable to pay.

Regulation 12 amends Regulation 32 of Schedule 1 so as to exclude from the certificate which the Collector of Taxes may issue to show contributions due, on making an inspection under Regulation 32, any amount of statutory sick pay which the employer has deducted, under the Deduction Regulations, from the contributions he is liable to pay.

The remaining amendments to Schedule 1 are consequent upon the foregoing.

SI 1983/395
ISBN 0-11-036395-7



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