

1987 No. 413

SOCIAL SECURITY

**The Social Security (Contributions) Amendment (No. 2)
Regulations 1987**

<i>Made</i> - - - -	<i>12th March 1987</i>
<i>Laid before Parliament</i>	<i>16th March 1987</i>
<i>Coming into force</i> -	<i>6th April 1987</i>

The Secretary of State for Social Services, with the concurrence of the Inland Revenue insofar as their concurrence is required, in exercise of the powers conferred upon him by sections 3(2) and (3), 4(2)(b), (6), (6A) and (6D), 13(4) and (5B) and 168(1) of, and paragraphs 1(1C), 5(1)(a) and (b) and 6(1)(b) and (c) of Schedule 1 and Schedule 20 to, the Social Security Act 1975(a), section 5(1) of the Social Security Pensions Act 1975(b), sections 9(4) and (5) and 47 of the Social Security and Housing Benefits Act 1982(c) and sections 74(5) and 84(1) of, and paragraphs 3 and 4 of Schedule 4 to, the Social Security Act 1986(d) and of all other powers enabling him in that behalf, by this instrument, which contains only regulations made under the sections of the Social Security Act 1986 specified above and provisions consequent on sections 41, 46(8)(b), 68 and 69 of, and paragraphs 1, 10 and 14 of Schedule 4 and paragraph 2(1) of Schedule 8, to that Act, and which is made before the end of a period of 12 months from their commencement, makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Contributions) Amendment (No. 2) Regulations 1987 and shall come into force on 6th April 1987.

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

Amendment of regulation 2 of the principal Regulations

2. In regulation 2 of the principal Regulations (earnings periods) for the words “regulation 3, 4, 5 or 5A” there shall be substituted the words “regulation 3, 4, 5, 5A or 6B”.

(a) 1975 c.14; section 4(2) was amended by the Social Security and Housing Benefits Act 1982 (c.24), Schedule 5 and section 4(2)(a) was amended by the Education (School-leaving Dates) Act 1976 (c.5) section 2(4); sections 4(6), (6A) and (6D) were substituted by the Social Security Act 1985 (c.53) section 7(2), and section 4(6) was further amended by the Social Security Act 1986 (c.50), Schedule 10 paragraph 104; section 13(4) was amended by the Social Security Act 1986, Schedule 8 paragraph 2(3); section 13(5B) was inserted by the Social Security Act 1986, Schedule 8 paragraph 2(5); paragraph 1(1C) of Schedule 1 was inserted by the Social Security Act 1985, Schedule 5 paragraph 13(b); see definitions of “prescribe” and “regulations” in Schedule 20.

(b) 1975 c.60.

(c) 1982 c.24; section 9(5) was amended by the Social Security Act 1985 (c.53) section 19; see definition of “regulations” in section 47.

(d) 1986 c.50; see definition of “regulations” in section 84(1).

(e) S.I. 1979/591; the relevant amending instruments are S.I. 1980/1975, 1981/82, 1982/206, 1033, 1983/10, 395, 1984/77, 1985/396, 1398 and 1411.

Insertion of regulation 6B in the principal Regulations

3. After regulation 6A of the principal Regulations (earnings periods for directors) there shall be inserted the following regulation:-

“Earnings period for statutory maternity pay and statutory sick pay paid by the Secretary of State

- 6B.**—(1) In this regulation the expression “week”-
(a) in paragraph (2)(a), and
(b) in paragraph (2)(b) where it first occurs,
has the meaning assigned to it in section 50(1) of the Social Security Act 1986.
- (2) Where the Secretary of State makes a payment of statutory maternity pay under Regulations made under section 46(8)(b) of the Social Security Act 1986-
(a) a payment of statutory maternity pay for any week shall not be aggregated with any other earnings; and
(b) the earnings period for a payment of statutory maternity pay for any week, shall be a week.
- (3) Where the Secretary of State makes a payment of statutory sick pay under Regulations made under section 1(5) of the Social Security and Housing Benefits Act 1982(a) the earnings period for that payment shall be a period of the length of the period in respect of which the payment is made or a week, whichever is longer.”.

Amendment of regulation 8 of the principal Regulations

4. In regulation 8 of the principal Regulations (equivalent amounts)-
(a) after paragraph (2) there shall be inserted the following paragraph-
 “(2A) The amounts determined in accordance with sub-paragraphs (b) and (c) of the last preceding paragraph, if not whole pounds, shall be rounded up to the next whole pound.”;
(b) in paragraph (3) for the words “Each of the calculations prescribed in sub-paragraphs (b) and (d)” there shall be substituted the words “The calculation prescribed in sub-paragraph (d)”.

Amendment of regulation 8A of the principal Regulations

5. In regulation 8A of the principal Regulations (equivalent earnings brackets for earners paid otherwise than weekly)-
(a) after paragraph (3) there shall be inserted the following paragraph-
 “(3A) The amounts determined in accordance with sub-paragraphs (b) and (c) of the last preceding paragraph, if not whole pounds, shall be rounded up to the next whole pound.”;
(b) in paragraph (4) for the words “Each of the calculations prescribed in sub-paragraphs (b) and (d)” there shall be substituted the words “The calculation prescribed in sub-paragraph (d)”.

Amendment of regulation 19 of the principal Regulations

6. In regulation 19 of the principal Regulations (payments to be disregarded) paragraph (3) shall be omitted.

Amendment of regulation 28 of the principal Regulations

7. In sub-paragraphs (b), (c) and (d) of paragraph (1) of regulation 28 of the principal Regulations (precluded Class 3 contributions) for the words “contributions paid or credited” there shall be substituted the words “earnings upon which primary Class 1 contributions have been paid, credited earnings, or Class 2 or Class 3 contributions paid or credited”.

(a) 1982 c.24; section 1(5) was added by the Social Security Act 1986, section 68.

Amendment of regulation 36 of the principal Regulations

8. In regulation 36 of the principal Regulations (crediting of Class 3 contributions) for the words from "Class 1 contributions" where they first occur to the words "or credited to, him" there shall be substituted the words "earnings upon which primary Class 1 contributions have been paid, credited earnings, or Class 2 or Class 3 contributions paid by, or credited to, him (or any or all of such earnings and contributions)".

Amendment of regulation 38 of the principal Regulations

9. In regulation 38 of the principal Regulations (treatment for purpose of contributory benefit of late paid contributions under the Act)—

- (a) in paragraph (4) the words "or, in the case of entitlement to death grant, the death which gave rise to the claim for that grant," shall be omitted;
- (b) in paragraph (6) for the words "unemployment benefit, sickness benefit or maternity allowance" there shall be substituted the words "unemployment benefit or sickness benefit";
- (c) after paragraph (6) there shall be added the following paragraph—

“(7) For the purpose of entitlement to maternity allowance, any such contribution as is specified in the said paragraph (1) shall, for the purpose of determining whether the contribution condition for such allowance is satisfied, be treated—

 - (a) if paid before the beginning of the period for which a maternity allowance is payable—as paid on the due date;
 - (b) if paid after the beginning of the period for which a maternity allowance is payable—as not paid.”.

Amendment of regulation 39 of the principal Regulations

10. In regulation 39(a) of the principal Regulations (treatment for the purposes of any contributory benefit of late paid or unpaid primary Class 1 contributions where there was no consent, connivance or negligence by the primary contributor) for the words "maternity grant or maternity allowance" there shall be substituted the words "or maternity grant, and for the purpose of the contribution condition of entitlement to maternity allowance".

Amendments of Schedule 1 to the principal Regulations

11.—(1) In regulation 2(1):—

- (a) after the definition of "Collector" there shall be inserted—

““Compensation of Employers Regulations” means regulation 2 of the Statutory Sick Pay (Compensation of Employers) and Miscellaneous Provisions Regulations 1983(a), regulation 4 of the Statutory Sick Pay (Additional Compensation of Employers and Consequential Amendments) Regulations 1985(b) and regulation 4 of the Statutory Maternity Pay (Compensation of Employers) Regulations 1987(c);”;
- (b) after the definition of "national insurance number" there shall be inserted—

““statutory maternity pay” means any sum treated as remuneration by virtue of paragraph 10 of Schedule 4 to the Social Security Act 1986;”.

(2) In regulation 6(1) after the words "statutory sick pay" there shall be inserted the words "or statutory maternity pay".

(3) In regulation 13(6)(b) there shall be added the following heads:—

- “(v) any statutory maternity pay;
- (vi) any earnings in respect of which primary Class 1 contributions are payable (other than earnings in respect of which primary Class 1 contributions are payable at the reduced rate);

(a) S.I. 1983/376.
(b) S.I. 1985/1411.
(c) S.I. 1987/91.

(vii) the earnings, if any, recorded under head (vi) above, in respect of which primary Class 1 contributions are payable at the contracted-out percentage;”.

(4) In regulation 25(a) for the words from “under each” to “contracted-out percentage;” there shall be substituted the words “in respect of the year to which the certificate relates—

(i) under each and in respect of each of the category letters—

(aa) the amount of primary Class 1 contributions paid by the employee, and
(bb) the amount, if any, of the contributions recorded under head (aa) above paid at the contracted-out percentage;

(ii) the amount of any earnings in respect of which primary Class 1 contributions were payable (other than earnings in respect of which primary Class 1 contributions were payable at the reduced rate);

(iii) the amount of the earnings, if any, recorded under head (ii) above, in respect of which primary Class 1 contributions were payable at the contracted-out percentage;”.

(5) In regulation 26(1) for the words from “regulation 2” to “Regulations 1985” there shall be substituted the words “the Compensation of Employers Regulations”.

(6) In regulation 27:—

(a) in sub-paragraph (1)(b) after the words “statutory sick pay” there shall be inserted the words “and showing separately the calculations for, and the amount of, any statutory maternity pay”;

(b) in paragraph (2) for the words from “regulation 2” to the end of the paragraph there shall be substituted the words “the Compensation of Employers Regulations”.

(7) In regulation 30—:

(a) in paragraph (1)(d) for the word “year.” there shall be substituted the words “year, and”;

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

“(e) the total amount of any statutory maternity pay paid during the year, and

(f) the total amount for the year shown under head (vi) of regulation 13(6)(b) of these Regulations rounded down to the next whole pound if not already whole pounds, and

(g) the total amount for the year shown under head (vii) of the said regulation 13(6)(b) rounded down to the next whole pound if not already whole pounds.”;

(c) in paragraph (2)(e) for the words “Regulations 1985.” there shall be substituted the words “Regulations 1985; and”;

(d) after paragraph (2)(e) there shall be added the following sub-paragraphs—

“(f) the total amount of any statutory maternity pay paid during that year to—

(i) each employee,

(ii) all his employees; and

(g) in respect of statutory maternity pay paid during that year to all his employees, the total of amounts determined under regulation 3 of the Statutory Maternity Pay (Compensation of Employers) Regulations 1987(a) and deducted by virtue of regulation 4 of those Regulations.”;

(e) in paragraph (6) for the words from “regulation 2” to “Regulations 1985” there shall be substituted the words “the Compensation of Employers Regulations”.

(8) In regulation 30A(2):—

(a) in sub-paragraph (e) the word “and” shall be omitted;

(b) after sub-paragraph (f) the following sub-paragraphs shall be added—

- “(g) the total amount of any earnings in respect of which primary Class 1 contributions were payable (other than earnings in respect of which primary Class 1 contributions were payable at the reduced rate), and
(h) the total amount of any earnings, if any, recorded under sub-paragraph (g) above, in respect of which primary contributions were payable at the contracted-out percentage.”.

(9) In regulation 32(2)(a) for the words from “regulation 2” to the Regulations 1985” there shall be substituted the words “the Compensation of Employers Regulations”.

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

John Major

12th March 1987

Minister of State, Department of Health & Social Security

The Commissioners of Inland Revenue hereby concur.
By Order of the Commissioners of Inland Revenue.

A. J. G. Isaac
B. Pollard

12th March 1987

Two of the Commissioners of Inland Revenue

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Social Security (Contributions) Regulations 1979 ("the principal Regulations"). They are either made under provisions in the Social Security Act 1986, ("the 1986 Act"), or in consequence of provisions contained in that Act. As they are made before the end of a period of 12 months from the coming into force of the provisions under or in consequence of which they are made, they are exempted by section 61(5)(b) of the 1986 Act from the requirement under section 10(1) of the Social Security Act 1980 (c.30) to refer proposals to the Social Security Advisory Committee and are made without reference to that Committee.

Regulations 2 and 3 make separate provisions for earnings periods in respect of statutory maternity pay and statutory sick pay paid by the Secretary of State.

Regulation 2 amends regulation 2 of the principal Regulations consequent on the insertion of regulation 6B.

Regulation 3 inserts regulation 6B into the principal Regulations. Paragraphs (1) and (2) of regulation 6B provide that a payment of statutory maternity pay for any week ("week" in this context having the meaning given to it by section 50(1) of the Social Security Act 1986), paid by the Secretary of State, is not to be aggregated with any other earnings and that the earnings period for each such payment is to be a tax week. Paragraph (3) of regulation 6B provides that the earnings period for a payment of statutory sick pay paid by the Secretary of State is to be a period which is the same length as the period in respect of which the payment was made, or a week, whichever is longer.

Regulations 4 to 10 make amendments to the principal Regulations consequent on the 1986 Act.

Regulations 4 and 5 respectively amend regulations 8 and 8A of the principal Regulations by providing that the equivalent limits and earnings brackets for earners paid monthly or in multiples of a month shall be rounded up to the next whole pound.

Regulation 6 amends regulation 19 of the principal Regulations by deleting paragraph (3) in consequence of the repeal of section 92 of the Social Security Act 1975 (c.14) (benefit foregone for unabated sick pay) by section 69 of the 1986 Act.

Regulation 7 amends regulation 28 of the principal Regulations in consequence of the amending by the 1986 Act of the basis from which earnings factors are derived.

Regulation 8 amends regulation 36 of the principal Regulations in consequence of the amending by the 1986 Act of the basis from which earnings factors are derived.

Regulation 9(a) amends regulation 38(4) of the principal Regulations by deleting the reference to death grant, that benefit having been abolished by section 41 of the 1986 Act. Regulation 9(b) amends paragraph (6) of, and adds a new paragraph (7) to, regulation 38 of the principal Regulations, in consequence of the contribution conditions for maternity allowance having been amended by paragraph 14 of Schedule 4 to the 1986 Act.

Regulation 10 amends regulation 39(a) of the principal Regulations in consequence of the contribution conditions for maternity allowance having been amended by paragraph 14 of Schedule 4 to the 1986 Act.

Regulation 11 amends Schedule 1 to the principal Regulations by prescribing the records which the employer is required to keep of statutory maternity pay and of earnings paid by him which are relevant for the purpose of calculating earnings factors; the amendments also take into account the provisions of the Statutory Maternity Pay (Compensation of Employers) Regulations 1987 (S.I. 1987/91).

Regulation 11(1) inserts into regulation 2(1) of Schedule 1 definitions of Compensation of Employers Regulations and statutory maternity pay.

Regulation 11(2) amends regulation 6(1) by requiring the employer to prepare or maintain a deductions working sheet on making any payment of statutory maternity pay.

Regulation 11(3) amends regulation 13(6) by making provision for the recording of particulars of any payment of statutory maternity pay, particulars of earnings in respect of which primary Class 1 contributions are payable (other than reduced rate contributions) and particulars of such of those earnings as are earnings in respect of which contracted-out contributions are payable.

Regulation 11(4) amends regulation 25 by making provision for the entering on an employee's certificate of tax deducted of the amounts of earnings in respect of which primary Class 1 contributions were payable (other than reduced rate contributions) and the amount of such of those earnings as were earnings in respect of which contracted-out contributions were payable.

Regulation 11(5) amends regulation 26(1) consequent on regulation 4 of the Statutory Maternity Pay (Compensation of Employers) Regulations 1987.

Regulation 11(6)(a) amends regulation 27 by requiring the employer to provide the Collector of Taxes with particulars of the calculations for, and amount of, any statutory maternity pay in a case where the employer has failed to pay any contributions under regulation 26(1) of Schedule 1. Regulation 11(6)(b) amends regulation 27(2) consequent on regulation 4 of the Statutory Maternity Pay (Compensation of Employers) Regulations 1987.

Regulations 11(7)(a) and (b) amend regulation 30(1) by requiring the employer to include on his end-of-year returns particulars of any statutory maternity pay, particulars of earnings in respect of which primary Class 1 contributions were payable (other than reduced rate contributions) and particulars of such of those earnings as were earnings in respect of which contracted-out contributions were payable.

Regulations 11(7)(c) and (d) amend regulation 30(2) by requiring the employer to include on his certificate the total of statutory maternity pay paid during the year in relation to each employee and in relation to all employees, and the amount deducted by the employer under head (ii) of regulation 4 of the Statutory Maternity Pay (Compensation of Employers) Regulations 1987.

Regulation 11(7)(e) takes account of the Statutory Maternity Pay (Compensation of Employers) Regulations 1987.

Regulation 11(8) amends regulation 30A(2) by requiring the inclusion on the special return by an employer at the end of a voyage period of particulars of earnings in respect of which primary Class 1 contributions were payable (other than reduced rate contributions) and particulars of such of those earnings as were earnings in respect of which contracted-out contributions were payable.

Regulation 11(9) amends regulation 32 to take into account the provisions of the Statutory Maternity Pay (Compensation of Employers) Regulations 1987.