

1988 No. 860

SOCIAL SECURITY

**The Social Security (Contributions) Amendment (No. 3)
Regulations 1988**

<i>Made</i> - - - -	<i>10th May 1988</i>
<i>Laid before Parliament</i>	<i>11th May 1988</i>
<i>Coming into force</i> -	<i>12th May 1988</i>

The Secretary of State for Social Services, in exercise of the powers conferred upon him by sections 3(2) and (3) of, and Schedule 20(a) to, the Social Security Act 1975(b) and of all other powers enabling him in that behalf, after agreement by the Social Security Advisory Committee that proposals to make these Regulations should not be referred to it(c), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Contributions) Amendment (No. 3) Regulations 1988 and shall come into force on 12 May 1988.

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

Amendment of regulation 19 of the principal Regulations

2. In sub-paragraph (d) of paragraph (1) of regulation 19 of the principal Regulations (payments to be disregarded), after the words “in kind” there shall be inserted the words “(other than a payment to which regulation 19C of these Regulations applies)”.

Insertion of regulation 19C in the principal Regulations

3. After regulation 19B of the principal Regulations there shall be inserted the following regulation:

“Payments in kind not to be disregarded

19C.—(1) A payment in kind shall not by virtue of regulation 19(1)(d) of these Regulations be excluded from the computation of a person’s earnings in respect of any employed earner’s employment so far as it consists of the conferment of a beneficial interest in any security falling within paragraph (2) of this regulation or in any derivative instrument falling within paragraph (3) of this regulation.

(2) In this regulation “security” means debentures, including debenture stock, loan stock, bonds, certificates of deposit and other instruments creating or acknowledging indebtedness issued by or on behalf of a government, local authority,

(a) See the definitions of “prescribe” and “regulations”.
(b) 1975 c.14.
(c) See section 61(1)(b) of the Social Security Act 1986 (c.50).
(d) S.I. 1979/591; the relevant amending instrument is S.I. 1987/2111.

public authority, body corporate or any other person, but does not include shares and stock in the share capital of a company.

(3) In this regulation "derivative instrument" means—

- (a) a warrant or other instrument entitling the holder to subscribe for securities falling within paragraph (2) of this regulation;
- (b) a certificate or other instrument which confers—
 - (i) property rights in respect of any security falling within paragraph (2) of this regulation or of any derivative instrument falling within sub-paragraph (a), (c), (d) or (e) of this paragraph; or
 - (ii) any right to acquire, dispose of, underwrite or convert a security falling within paragraph (2) of this regulation or a derivative instrument falling within sub-paragraph (a), (c), (d) or (e) of this paragraph, being a right to which the holder would be entitled if he held any such security or derivative instrument to which the certificate or instrument relates; or
 - (iii) a contractual right (other than an option) to acquire, otherwise than by subscription, any security falling within paragraph (2) of this regulation or any derivative instrument falling within sub-paragraph (a), (c), (d) or (e) of this paragraph;

not being a certificate or other instrument in relation to units in an authorised unit trust scheme or a recognised scheme within the meaning of the Financial Services Act 1986(a);

- (c) an option to acquire or dispose of—
 - (i) a security falling within paragraph (2) of this regulation or a derivative instrument falling within sub-paragraph (a), (b), (d) or (e) of this paragraph;
 - (ii) an option to acquire or dispose of a security or derivative instrument falling within paragraph (i) of this sub-paragraph;
- (d) rights under a contract for the sale of any security falling within paragraph (2) of this regulation or of any derivative instrument falling within sub-paragraph (a), (b), (c) or (e) of this paragraph under which delivery is to be made at a future date agreed upon when the contract is made and at a price agreed upon when the contract is made;
- (e) rights under a contract for differences or under any other contract, the purpose or pretended purpose of which is to secure a profit or avoid a loss by reference to fluctuations in the value or price of a security falling within paragraph (2) of this regulation or a derivative instrument falling within sub-paragraph (a), (b), (c) or (d) of this paragraph or by reference to fluctuations in an index or other factor relating to such securities or derivative instruments designated for that purpose in the contract.

(4) So far as a payment in kind consisting of the conferment of a beneficial interest falls by virtue of paragraph (1) of this regulation to be taken into account in the computation of a person's earnings, the amount of his earnings comprised in that payment shall be calculated or estimated at the price which that interest might reasonably be expected to fetch if sold in the open market on the day on which it is conferred."

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

10th May 1988

Michael Portillo
Parliamentary Under-Secretary of State,
Department of Health and Social Security

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Social Security (Contributions) Regulations 1979 ("the principal Regulations").

Regulation 3 inserts a new regulation 19C in the principal Regulations, which provides that for the purposes of earnings-related contributions payments to employed earners in the form of a wide range of securities and derivative instruments are not to be disregarded in the computation of their earnings.

Regulation 2 makes a minor amendment to regulation 19 of the principal Regulations, to give effect to the new provisions.

The new regulation 19C of the principal Regulations includes provision for calculation of the value of the payments not to be disregarded.