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STATUTORY INSTRUMENTS

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**1991 No. 2505**

**SOCIAL SECURITY**

**The Social Security (Contributions)  
Amendment (No. 6) Regulations 1991**

<i>Made</i>	- - - -	<i>4th November 1991</i>
<i>Laid before Parliament</i>		<i>6th November 1991</i>
<i>Coming into force</i>	- -	<i>7th November 1991</i>

The Secretary of State for Social Security, in exercise of powers conferred by sections 3(2) and (3) and 166(3) of, and Schedule 20 to, the Social Security Act 1975<sup>(1)</sup> 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<sup>(2)</sup>, hereby makes the following Regulations:

**Citation, commencement and interpretation**

**1. –**

(1) These Regulations may be cited as the Social Security (Contributions) Amendment (No. 6) Regulations 1991 and shall come into force on 7th November 1991.

(2) In these Regulations “the principal Regulations” means the Social Security (Contributions) Regulations 1979<sup>(3)</sup>.

**Amendment of regulation 18 of the principal Regulations**

**2. –**

(1) Regulation 18 of the principal Regulations (calculation of earnings) shall be amended in accordance with the following paragraphs of this regulation.

(2) At the beginning of the regulation there shall be inserted the paragraph number “(1)”.

(3) At the end of the regulation there shall be added the following paragraphs–

“(2) Except where paragraph (4) or (6) of this regulation applies, the amount of earnings which is comprised in any payment by way of the conferment of any beneficial interest in any asset specified in Schedule 1A to these Regulations, and which falls to be taken

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(1) 1975 c. 14. Schedule 20 is cited because of the meaning ascribed to the words “prescribe” and “regulations”.

(2) See the Social Security Act 1986 (c. 50), section 61(1)(b) and (10). The Social Security Act 1989 (c. 24), Schedule 8, paragraph 12(4) added a definition of “regulations” to section 61(10) of the Social Security Act 1986.

(3) S.I. 1979/591; relevant amending instruments are S.I. 1988/860 and 992.

into account in the computation of a person's earnings, shall, for the purposes of earnings-related contributions, be calculated or estimated at a price which that beneficial interest might reasonably be expected to fetch if sold in the open market on the day on which it is conferred.

(3) For the purposes of paragraph (2) of this regulation, where any asset is not quoted on a recognised stock exchange within the meaning of section 841 of the Income and Corporation Taxes Act 1988<sup>(4)</sup>, it shall be assumed that, in the open market which is postulated, there is available to any prospective purchaser of the beneficial interest in the asset in question all the information which a prudent prospective purchaser of the interest might reasonably require if he were proposing to purchase it from a willing vendor by private treaty and at arm's length.

- (a) an amount which is the lower of the two prices shown in the quotations for the shares or securities in The Stock Exchange Daily Official List on the date of that payment plus one-quarter of the difference between those two figures; or
- (b) an amount which is halfway between the highest and lowest prices at which bargains, other than bargains done at special prices, were recorded in the shares or securities for the date of that payment,

except that in any case in which the relevant amounts could be ascertained in accordance with both sub-paragraphs (a) and (b) of this paragraph it shall be calculated or estimated by reference to the lower of those amounts; and for the purposes of this paragraph if the London trading floor is closed on the date of the relevant payment, the prices shown in the quotations and the prices at which bargains were recorded shall be ascertained by reference to the latest previous date or earliest subsequent date on which it is open, whichever affords the lower market value.

(5) Paragraph (4) of this regulation shall not apply to shares or securities for which The Stock Exchange provides a more active market elsewhere than on the London trading floor.

(6) The amount of earnings which is comprised in any payment by way of the conferment of a beneficial interest in any units in any unit trust scheme within the meaning of section 75(8) of the Financial Services Act 1986<sup>(5)</sup> having a published selling price and which falls to be taken into account in the computation of a person's earnings, shall, for the purposes of earnings-related contributions, be calculated or estimated by reference to the selling price on the date of that payment or if none were published on that date, on the latest previous date on which such prices were published before the date on which that payment was made."

### **Amendment of regulation 19 of the principal Regulations**

3. –

(1) Regulation 19 of the principal Regulations (payments to be disregarded in the computation of earnings) shall be amended in accordance with the following paragraphs of this regulation.

(2) In paragraph (1)(d)<sup>(6)</sup> there shall be inserted before the words "any payment in kind" the words "subject to paragraph (5) of this regulation,"; and the words "(other than a payment to which regulation 19C of these Regulations applies)," shall be omitted.

(3) Paragraph (1)(j) shall be omitted.

(4) After paragraph (1)(k)<sup>(7)</sup> there shall be added the following sub-paragraphs–

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(4) 1988 c. 1.

(5) 1986 c. 60.

(6) Paragraph (1)(d) was amended by regulation 2 of S.I. 1988/860.

(7) Paragraph (1)(k) was inserted by regulation 2 of S.I. 1988/992.

- “(l) a payment by way of shares (which shall include a payment by way of or derived from shares appropriated under a profit sharing scheme to which the provisions of section 186 of the Income and Corporation Taxes Act 1988 (approved profit sharing schemes) apply) where such shares form part of the ordinary share capital of—
- (i) the secondary contributor; or
  - (ii) a company which has control of that secondary contributor; or
  - (iii) a company which either is, or has control of, a body corporate which is a member of a consortium owning either that secondary contributor or a body corporate having control of that secondary contributor;
- (m) a payment by way of an option to acquire any shares specified in sub-paragraph (1) of this paragraph;
- (n) a payment by way of any benefit which by virtue of section 68(1) of the Finance Act 1988<sup>(8)</sup> (priority share allocations for directors or employees) is not treated as an emolument of the employment chargeable to tax under Schedule E.”

At the end of the regulation there shall be added the following paragraphs

“(5) Payments under paragraph (1)(d) of this regulation shall not include any payment by way of the conferment of any beneficial interest in—

- (a) any asset falling within Schedule 1A to these Regulations; or
- (b) any contract the effecting and carrying out of which constitutes long term business falling within Class I (life and annuity business), Class III (linked long term business) or Class VI (capital redemption business) specified in Schedule 1 to the Insurance Companies Act 1982<sup>(9)</sup>.

(6) For the purposes of paragraph (5)(b) of this regulation where the provisions of a contract of insurance are such that the effecting and carrying out of the contract constitutes—

- (a) both long term business within the meaning of the Insurance Companies Act 1982 and general business within the meaning of that Act; or
- (b) by virtue of section 1(3) of that Act long term business notwithstanding the inclusion of subsidiary general business provisions, the effecting and carrying out of such contract shall be treated as constituting long term business.

(7) In paragraph (1)(l) of this regulation—

- (a) “body corporate” includes—
  - (i) a body corporate constituted under the law of a country or territory outside the United Kingdom; and
  - (ii) an unincorporated association wherever constituted, but does not include a partnership, a local authority within the meaning of section 842A of the Income and Corporation Taxes Act 1988<sup>(10)</sup> or a local authority association within the meaning of section 519 of that Act;
- (b) a body corporate is a member of a consortium owning another body corporate if the first-mentioned body corporate is one of a number of bodies corporate which between them beneficially own not less than three-quarters of the other body corporate’s ordinary share capital and each of which beneficially owns not less than one-twentieth of that capital;
- (c) “company” means any body corporate having a share capital;

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<sup>(8)</sup> 1988 c. 39. Section 68(1) was amended by the Finance Act 1989 (c. 26), section 66(1) and (2).

<sup>(9)</sup> 1982 c. 50.

<sup>(10)</sup> Section 842A was inserted by the Finance Act 1990 (c. 29), section 127(1).

- (d) “control” in relation to a body corporate means the power of a person to secure—
  - (i) by means of the holding of shares or the possession of voting power in or in relation to that or any other body corporate, or
  - (ii) by virtue of any powers conferred by the articles of association or other document regulating that or any other body corporate,that the affairs of the first-mentioned body corporate are conducted in accordance with the wishes of that person;
- (e) “ordinary share capital” in relation to a company means all the issued share capital (by whatever name called) of the company, other than capital the holders of which have a right to a dividend at a fixed rate but have no other right to share in the profits of the company;
- (f) “shares” includes stock.”

#### **Revocation of regulation 19C of the principal Regulations**

4. Regulation 19C of the principal Regulations (payments in kind which are not to be disregarded)(11) is hereby revoked.

#### **Insertion of Schedule 1A into the principal Regulations**

5. After Schedule 1 to the principal Regulations (provisions of the Income Tax (Employments) Regulations 1973 as they apply to earnings-related contributions) there shall be inserted Schedule 1A as set out in the Schedule to these Regulations.

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

4th November 1991 Department of Social  
Security

*Henley*  
Parliamentary Under-Secretary of State,

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(11) Regulation 19C was inserted by regulation 3 of S.I. [1988/860](#).

## SCHEDULE

Regulation 5

To be inserted after Schedule 1 to the principal Regulations—

### “SCHEDULE 1A

Regulations 18(2) and 19(5)

## PART I

### ASSETS NOT TO BE DISREGARDED AS PAYMENTS UNDER REGULATION 19(1)(d)

1. Shares and stock in the share capital of a company.
2. Debentures, including debenture stock, loan stock, bonds, certificates of deposit and other instruments creating or acknowledging indebtedness, not being instruments falling within paragraph 3 of this Schedule.
3. Loan stock, bonds and other instruments creating or acknowledging indebtedness issued by or on behalf of a government, local authority or public authority.
4. Warrants or other instruments entitling the holder to subscribe for assets falling within paragraph 1, 2 or 3 of this Schedule.
5. Certificates or other instruments which confer—
  - (a) property rights in respect of any asset falling within paragraph 1, 2, 3 or 4 of this Schedule;
  - (b) any right to acquire, dispose of, underwrite or convert an asset, being a right to which the holder would be entitled if he held any such asset to which the certificate or instrument relates; or
  - (c) a contractual right (other than an option) to acquire any such asset otherwise than by subscription.
6. Units in a collective investment scheme, including shares in or securities of an open-ended investment company.
7. Options to acquire or dispose of—
  - (a) an asset falling within any other paragraph of this Schedule;
  - (b) currency of the United Kingdom or of any other country or territory;
  - (c) gold, silver, palladium or platinum; or
  - (d) an option to acquire or dispose of an asset falling within this paragraph by virtue of sub-paragraph (a), (b) or (c) of this paragraph.
8. A contract for the sale of a commodity or property of any other description under which delivery is to be made at a future date and at a price agreed upon when the contract is made.
9. A contract for differences or 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 property of any description or in an index or other factor designated for that purpose in the contract.

## PART II

### INTERPRETATION OF PART I OF THIS SCHEDULE

10. In paragraph 1 of this Schedule “company” includes—

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

- (a) any body corporate whether constituted under the law of, or of any part of, the United Kingdom or of any other country or territory and also any unincorporated body constituted under the law of a country or territory outside the United Kingdom; and
- (b) any body incorporated under the law of, or of any part of, the United Kingdom relating to a building society within the meaning of section 119(1) of the Building Societies Act 1986<sup>(12)</sup> or an industrial and provident society registered or deemed to be registered under the Industrial and Provident Societies Act 1965<sup>(13)</sup> or under the Industrial and Provident Societies Act (Northern Ireland) 1969<sup>(14)</sup>.

**11.** In paragraph 3 of this Schedule—

- (a) “government” means the government of the United Kingdom, of Northern Ireland, or of any country or territory outside the United Kingdom;
- (b) “local authority” means a local authority in the United Kingdom or elsewhere and in respect of a local authority in the United Kingdom it has the meaning assigned to it in section 842A of the Income and Corporation Taxes Act 1988<sup>(15)</sup>;
- (c) “public authority” means any international organisation the members of which include the United Kingdom or another member State.

**12.** For the purposes of paragraph 4 of this Schedule it is immaterial whether the assets are for the time being in existence or identifiable.

**13.** In paragraph 6 of this Schedule—

- (a) “collective investment scheme” has the meaning assigned to it in section 75(1) of the Financial Services Act 1986<sup>(16)</sup>;
- (b) “open-ended investment company” has the meaning assigned to it in section 75(8) of that Act.

**14.** For the purposes of paragraph 8 of this Schedule, a price shall be taken to have been agreed upon when a contract is made—

- (a) notwithstanding that it is left to be determined by reference to the price at which a contract is to be entered into on a market or exchange or could be entered into at a time and place specified in the contract; or
- (b) in a case where the contract is expressed to be by reference to a standard lot and quality, notwithstanding that provision is made for a variation in the price to take account of any variation in quantity or quality on delivery.”

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<sup>(12)</sup> 1986 c. 53.

<sup>(13)</sup> 1965 c. 12.

<sup>(14)</sup> 1969 c. 24 (N.I.).

<sup>(15)</sup> 1988 c. 1. Section 842A was inserted by the Finance Act 1990 (c. 29), section 127(1).

<sup>(16)</sup> 1986 c. 60.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

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

Regulation 2 extends regulation 18 (calculation of earnings) of the principal Regulations. The additions provide for computing, by reference to the open market value of the interest, the amount of earnings comprised in any payment in the form of a beneficial interest in any asset specified in Schedule 1A to the principal Regulations. For any payment in the form of a beneficial interest in any asset having a price listed in The Stock Exchange Daily Official List or in a unit trust having a published price the value is to be determined by reference to the appropriate listed or published price, except in certain circumstances.

Regulation 3 amends regulation 19 (payments to be disregarded in the computation of earnings for the purposes of earnings-related contributions) of the principal Regulations.

Paragraph (4) of regulation 3 adds further disregards in the calculation of earnings to regulation 19(1) of the principal Regulations. These are of: payments in ordinary shares (including payments in or derived from shares appropriated under profit sharing schemes within section 186 of the Income and Corporation Taxes Act 1988) of the secondary contributor or in companies controlling the secondary contributor; payments in options to acquire such ordinary shares and payments in the form of benefits exempt from tax by virtue of section 68(1) of the Finance Act 1988 (benefits from priority share allocations).

Paragraph (5) of regulation 3 adds to regulation 19 of the principal Regulations provisions limiting the application of paragraph (1)(d). These limitations are that that sub-paragraph shall not include any beneficial interest either in any asset specified in Schedule 1A to the principal Regulations or under any contract of insurance constituting Class I (life and annuity business), Class III (linked long term business) and Class VI (capital redemption business) under Schedule 1 to the Insurance Companies Act 1982. Contracts constituting both long term business and general business are to be treated as constituting long term business for this purpose.

Regulation 5 inserts Schedule 1A to the principal Regulations.

Consequential revocations are made of regulation 19(1)(j) and regulation 19C of the principal Regulations by regulations 3(3) and 4 respectively.