
 S T A T U T O R Y I N S T R U M E N T S

2000 No. 2744**SOCIAL SECURITY**
**The Social Security (Contributions) (Amendment No. 10)
Regulations 2000**

<i>Made</i> - - - -	<i>9th October 2000</i>
<i>Laid before Parliament</i>	<i>9th October 2000</i>
<i>Coming into force</i>	<i>10th October 2000</i>

The Treasury, with the concurrence of the Secretary of State in so far as required, in exercise of the powers conferred upon them by sections 3(2) and (3) and 175(3) to (5) of, and paragraph 8(1)(ca) and (q) and (1A) of Schedule 1 to, the Social Security Contributions and Benefits Act 1992(a), and the Commissioners of Inland Revenue, in exercise of the powers conferred upon them by section 175(3) to (5) of, and paragraphs 3B(11) and 6(1) and (2) of Schedule 1 to, that Act(b) and section 133(1) of the Finance Act 1999(c), and of all other powers respectively enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Social Security (Contributions) (Amendment No. 10) Regulations 2000 and shall come into force on 10th October 2000.

Amendments to the Social Security (Contributions) Regulations 1979

2. Amend the Social Security (Contributions) Regulations 1979(d) in accordance with regulations 3 to 12.

3. In regulation 19 (payments to be disregarded) after paragraph (1)(zu)(e) add—

“(zv) a payment by way of the discharge of any liability for secondary Class 1 contributions which is transferred from the secondary contributor to the employed earner by an election made jointly by them for the purposes of paragraph 3B(1) of Schedule 1 to the Social Security Contributions and Benefits Act 1992.”.

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- (a) 1992 c. 4. Section 3(2) was amended by paragraph 3 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) (“the Transfer Act”). Section 175(4) was amended by paragraph 29(4) of Schedule 3 to the Transfer Act. Paragraph 8(1) was amended, and paragraph 8(A) inserted, by paragraph 39(2) and (3) of Schedule 3 to the Transfer Act, and paragraph 8(1)(ca) was inserted by section 77(4) of the Child Support, Pensions and Social Security Act 2000 (c. 19).
- (b) Paragraph 3B was inserted by section 77(2) of the Child Support, Pensions and Social Security Act 2000. Paragraph 6(1) and (2) was amended by paragraph 77(8) and (9) of Schedule 7, and Schedule 8, to the Social Security Act 1998 (c. 14), and paragraph 6(1) was further amended by paragraph 35(2) of Schedule 3 to the Transfer Act.
- (c) 1999 c. 16.
- (d) S.I. 1979/591; relevant amending instruments are S.I. 1981/82, 1991/1632, 1992/97 and 1440, 1993/821, 1996/195, 1999/567, 827 and 1965, 2000/761, 1149 and 2207.
- (e) Paragraph (1)(zu) was added by S.I. 2000/761, regulation 3.

4. For the heading of regulation 46A(a) substitute—

“Other methods of collection and recovery of earnings-related contributions”.

5. After regulation 46A insert—

“Transfer of liability from secondary contributor to employed earner: share option gains

46B. Schedule 1ZA to these Regulations contains provisions which have effect with respect to elections made jointly by a secondary contributor and an employed earner that the liability of the secondary contributor in respect of share option gains shall be transferred to the employed earner.”.

- 6.—(1) Amend Regulation 6 in Schedule 1 (deduction of earnings-related contributions)(b) in accordance with the following provisions of this regulation.

(2) In paragraph (2) at the beginning insert “Subject to paragraph (3) of this Regulation,”.

(3) After paragraph (2) add—

“(3) Paragraph (2) of this Regulation does not apply to secondary Class 1 contributions in respect of which an election has been made jointly by the secondary contributor and the employed earner for the purposes of paragraph 3B(1) of Schedule 1 to the Social Security Contributions and Benefits Act 1992 if the election provides for the collection of the amount in respect of which liability is transferred.”.

7. In Schedule 1 after Regulation 13 (calculation of deduction) insert—

“Records where liability transferred from secondary contributor to employed earner: share option gains

13ZA.—(1) Where an election has been made for the purposes of paragraph 3B(1) of Schedule 1 to the Social Security Contributions and Benefits Act 1992, the secondary contributor shall maintain records containing—

- (a) a copy of any such election;
- (b) a copy of the notice of approval issued by the Commissioners of Inland Revenue under paragraph 3B(1)(b) of that Schedule; and
- (c) the information set out—
 - (i) in paragraph (2) of this Regulation in respect of the company in respect of whose shares the share option to which the election relates is to be exercisable;
 - (ii) in paragraph (3) of this Regulation in respect of the employed earner.

(2) The information referred to in paragraph (1)(c)(i) of this Regulation is the name and address of the company.

(3) The information referred to in paragraph (1)(c)(ii) of this Regulation is—

- (a) the name of the employed earner; and
- (b) the national insurance number allocated to the employed earner.”.

8. In Schedule 1 in Regulation 26A(3) (level below which an employer may choose to make payments to the Collector quarterly)(c) for the definition of “N” substitute—

“N is the amount which would be payable to the Collector under the Social Security Contributions and Benefits Act 1992 and the Main Regulations disregarding—

(a) any amount of secondary Class 1 contributions in respect of which liability has been transferred to the employed earner by virtue of an election made jointly by the employed earner and the secondary contributor for the purposes of paragraph 3B(1) of Schedule 1 to the Social Security Contributions and Benefits Act 1992 (transfer of liability to be borne by earner); and

(a) Regulation 46A was inserted by S.I. 2000/2207, regulation 8.

(b) There are amendments to Regulation 6 which are not relevant for the purposes of this instrument.

(c) Paragraph (3) of Regulation 26A was substituted by S.I. 2000/1149, regulation 2.

(b) any adjustment to the amount so payable to the Collector under regulation 7(3) of the Tax Credits (Payments by Employers) Regulations 1999 (funding of payment by relevant employer or relevant subsequent employer of tax credit)(a);”.

9. In Schedule 1 after Regulation 28D(b) (remission of interest for official error) insert—

“Application of Regulations 26, 26B, 28, 28A, 28B, 28C and 28D where liability transferred from secondary contributor to employed earner: share option gains

28E.—(1) This Regulation applies where—

- (a) secondary Class 1 contributions are payable in respect of a gain which is treated by section 4(4)(a)(c) of the Social Security Contributions and Benefits Act 1992 as remuneration derived from an employed earner’s employment; and
- (b) an amount or proportion (as the case may be) of the liability of the secondary contributor to those contributions is transferred to the employed earner by an election made jointly by them for the purposes of paragraph 3B(1) of Schedule 1 to that Act.

(2) Regulations 26, 26B(d), 28(e), 28A(f), 28B(g), 28C(h) and 28D shall apply to the employed earner to the extent of the liability transferred by the election and, to that extent, those Regulations shall not apply to the employer.

(3) For the purposes of paragraph (2) of this Regulation—

- (a) any reference in Regulations 26, 26B, 28, 28A, 28B and 28D to an employer, and
- (b) the reference in Regulation 28C to a secondary contributor,

shall be construed as a reference to the employed earner to whom liability is transferred by the election.”.

10. In Schedule 1 after Regulation 30 (return by employer at end of year) insert—

“Additional return by employer at end of year where liability transferred to employed earner: share option gains

30ZA.—(1) This Regulation applies where—

- (a) secondary Class 1 contributions are payable in respect of a gain which is treated by section 4(4)(a) of the Social Security Contributions and Benefits Act 1992 as remuneration derived from an employed earner’s employment; and
- (b) an amount or proportion (as the case may be) of the liability of the secondary contributor for those contributions is transferred to the employed earner by an election made jointly by them for the purposes of paragraph 3B(1) of Schedule 1 to that Act.

(2) Not later than 92 days after the end of the year the employer shall deliver to the Inspector, in respect of each employed earner to whom any liability is transferred by the election, written particulars of the matters set out in paragraph (3) of this Regulation.

(3) The matters set out in this paragraph are—

- (a) the amount of the contributions referred to in paragraph (1)(a) of this Regulation;
- (b) the amount of the transferred liability; and
- (c) the date on which payment of the amount of the transferred liability was made to the Collector.”.

(a) S.I. 1999/3219.

(b) Regulation 28D was substituted by S.I. 1999/1965, regulation 2, and amended by S.I. 2000/2207, regulation 33.

(c) Section 4(4) was substituted by section 50(1) of the Social Security Act 1998.

(d) Regulations 26, 26A and 26B were substituted for Regulation 26 by S.I. 1991/1632, regulation 2(3). Regulations 26 and 26A were amended by S.I. 1996/195, regulation 13(3) and (4).

(e) Regulation 28 was substituted by S.I. 1999/567, regulation 11(5) and amended by S.I. 2000/2207, regulation 29.

(f) Regulation 28A was inserted by S.I. 1993/821, regulation 2, and amended by S.I. 1999/567, regulation 11(6), and 2000/2207, regulation 30.

(g) Regulation 28B was substituted by S.I. 1999/567, regulation 11(7), and amended by S.I. 2000/2207, regulation 31.

(h) Regulation 28C was substituted by S.I. 1999/567, regulation 11(8), and amended by S.I. 2000/2207, regulation 32.

11. In Schedule 1 in Regulation 32(a) (inspection of employer's records) after paragraph (6) add—

“(7) Where an election has been made jointly by the secondary contributor and the employed earner for the purposes of paragraph 3B(1) of Schedule 1 to the Social Security Contributions and Benefits Act 1992, paragraphs (1) to (1B) of this Regulation shall apply to the records which the secondary contributor is obliged by Regulation 13ZA to maintain and, for the purposes of that paragraph, those records shall be retained by him throughout the period for which the election is in force and for six years after the end of that period.”.

12. After Schedule 1 insert the following Schedule—

“SCHEDULE 1ZA

Regulation 46B

ELECTIONS ABOUT SHARE OPTION GAINS

1.—(1) An election for the purposes of paragraph 3B(1) of Schedule 1 to the Social Security Contributions and Benefits Act 1992 must contain—

- (a) details of the share options to which it relates, or of the period within which the share options to which it relates are intended to be granted;
- (b) a statement that the election relates to any gain on which the employed earner is liable to pay secondary Class 1 contributions under section 4(4)(a) of the Social Security Contributions and Benefits Act 1992 and an explanation of the effect of that paragraph;
- (c) the amount or proportion (as the case may be) of the liability for secondary Class 1 contributions to be transferred;
- (d) a statement that its purpose is to transfer the liability for the secondary Class 1 contributions referred to in paragraph (c) from the secondary contributor to the employed earner;
- (e) a statement as to the method by which the secondary contributor will secure that the liability for amounts of contributions, transferred under the election, is met;
- (f) a statement as to the circumstances in which it shall cease to have effect;
- (g) a declaration by the employed earner that he agrees to be bound by its terms; and
- (h) evidence sufficient to show that the secondary contributor agrees to be bound by its terms.

(2) The declaration referred to in sub-paragraph (1)(g) must either be signed by the employed earner or, if it is made by electronic communications, made by him in such electronic form and by such means of electronic communications as may be authorised by the Commissioners of Inland Revenue.

2.—(1) An election to which this Schedule applies must be made either in writing or in such electronic form and by such means of electronic communications as may be authorised by the Commissioners of Inland Revenue.

(2) An election to which this Schedule applies may be contained in two documents, one made by the employed earner and the other by the secondary contributor, in which case—

- (a) the document made by the employed earner must contain the matters listed in paragraph 1(1)(a) to (g); and
- (b) the document made by the secondary contributor must contain the matters listed in paragraph 1(1)(a) to (f) and (h).

3.—(1) Where an election to which this Schedule applies has been made, the secondary contributor shall notify the employed earner to whom any of his liabilities are transferred by the election of—

- (a) any transferred liability that arises;
- (b) the amount of any transferred liability that arises; and

(a) Regulation 32 has been amended. Relevant amendments are those made by S.I. 1981/82, regulation 8(a), 1991/1632, regulation 2(7), 1992/97, regulation 20(2), 1992/1440, regulation 15, 1999/567, regulation 11(11), and 2000/2207, regulation 35(4).

(c) the contents of any notice of withdrawal by the Inland Revenue of any approval that relates to the election.

(2) The secondary contributor shall notify the employed earner of the matters set out in sub-paragraph (1)(a) and (b) as soon as reasonably practicable.

(3) The secondary contributor shall notify the employed earner of the matters set out in sub-paragraph (1)(c) within 14 days of receipt of the notice of withdrawal in question.

4.—(1) In this Schedule “electronic communications” has the meaning given by section 132(10) of the Finance Act 1999.

(2) In this Schedule, unless the context otherwise requires—

- (a) a reference to a numbered paragraph is a reference to the paragraph of this Schedule bearing that number;
- (b) a reference in a paragraph to a numbered sub-paragraph is a reference to the sub-paragraph in that paragraph bearing that number; and
- (c) a reference in a sub-paragraph to a lettered paragraph is a reference to the paragraph in that sub-paragraph bearing that letter.”.

3rd October 2000

Jim Dowd
Bob Ainsworth
Two of the Lords Commissioners of Her Majesty’s Treasury

The Secretary of State hereby concurs.

5th October 2000

Jeff Rooker
Minister of State, Department of Social Security

9th October 2000

Tim Flesher
Ann Chant
Two of the Commissioners of Inland Revenue

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Contributions) Regulations 1979 (S.I. 1979/591) (“the principal Regulations”).

The amendments made by these Regulations are consequent on the insertion of paragraph 3B (“paragraph 3B”) into Schedule 1 to the Social Security Contributions and Benefits Act 1992 (c. 4) (“the 1992 Act”). Paragraph 3B is inserted by section 77 of the Child Support, Pensions and Social Security Act 2000 (c. 19). It provides for a joint election by an employed earner and the secondary contributor that liability for secondary Class 1 contributions in respect of share option gains is to be transferred to the employed earner.

Regulation 1 provides for citation and commencement, and regulation 2 introduces the amendments.

Regulation 3 amends regulation 19(1) of the principal Regulations (payments to be disregarded) by adding a new sub-paragraph (zv). The new sub-paragraph relates to payments made for the benefit of an earner by way of the discharge of any liability for secondary Class 1 contributions which is transferred from the secondary contributor to the employed earner by an election. Such payments are to be disregarded in computing the amount of the employed earner’s earnings for the purposes of earnings-related contributions.

Regulation 4 amends the heading of regulation 46A of the principal Regulations (inserted by regulation 8 of S.I. 2000/2207).

Regulation 5 inserts a new regulation 46B in the principal Regulations, which introduces a new Schedule 1ZA in the principal Regulations (“Schedule 1ZA”).

Regulation 6 amends Regulation 6 in Schedule 1 to the principal Regulations to remove the obligation on employers to make deductions of secondary Class 1 contributions where an election transferring the liability for those contributions has been made.

Regulation 7 inserts a new Regulation 13ZA in Schedule 1 to the principal Regulations which imposes requirements on the secondary contributor to maintain certain records where an election has been made.

Regulation 8 amends the definition of “N” in the formula in Regulation 26A(3) in Schedule 1 to the principal Regulations to make it clear that in determining whether the amount which the secondary contributor is to pay to the Collector is less than £1,500 per month the amount of any secondary Class 1 contributions, liability for which has been transferred to the employed earner, is to be disregarded.

Regulation 9 inserts a new Regulation 28E in Schedule 1 to the principal Regulations which provides for certain Regulations of that Schedule to apply to the employed earner rather than the secondary contributor where an election has been made.

Regulation 10 inserts a new Regulation 30ZA in Schedule 1 to the principal Regulations which imposes a requirement on an employer to make an additional return at the end of the year where an election has been made.

Regulation 11 amends Regulation 32 of Schedule 1 to the principal Regulations (inspection of records) so that it applies to the records to be maintained by the secondary contributor under Regulation 13ZA of Schedule 1 to the principal Regulations.

Regulation 12 inserts Schedule 1ZA into the principal Regulations. Paragraph 1 of that Schedule prescribes the matters to be contained in an election to which that Schedule applies. Paragraph 2(1) provides that an election shall be made either in writing or in such electronic form and by such means of electronic communications as may be authorised by the Commissioners of Inland Revenue. Paragraph 2(2) provides that an election may be made jointly (as required by the provisions of paragraph 3B) if it is made in two separate documents

provided that that made by the employed earner contains the matters set out in paragraph 1(1)(a) to (g) of the Schedule and that made by the secondary contributor contains the matters set out in paragraph 1(1)(a) to (f) and (h) of the Schedule. Paragraph 3 of the Schedule imposes requirements on the secondary contributor to notify the employed earner of certain matters where an election has been made. Paragraph 4 of the Schedule provides for interpretation.

S T A T U T O R Y I N S T R U M E N T S

2000 No. 2744**SOCIAL SECURITY****The Social Security (Contributions) (Amendment No. 10)
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£2.00

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Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of
Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.
E1803 10/2000 550756 19585

ISBN 0-11-018695-8



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