

2004 No. 2246

SOCIAL SECURITY

**The Social Security (Contributions) (Amendment No. 5)
Regulations 2004**

<i>Made</i> - - - -	<i>1st September 2004</i>
<i>Laid before Parliament</i>	<i>1st September 2004</i>
<i>Coming into force</i> - -	<i>22nd September 2004</i>

The Commissioners of Inland Revenue, in exercise of the powers conferred upon them by paragraph 3(3B), (5) and (6) of Schedule 1 to the Social Security Contributions and Benefits Act 1992(a) and paragraph 3(3B), (5) and (6) of Schedule 1 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992(b), make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Social Security (Contributions) (Amendment No. 5) Regulations 2004 and shall come into force on 22nd September 2004.

Amendment of the Social Security (Contributions) Regulations 2001

2.—(1) Paragraph 7 of Schedule 4 to the Social Security (Contributions) Regulations 2001 (recovery of Class 1 contributions: calculation of amount of deduction) (c) shall be amended as follows.

(2) For sub-paragraph (9) substitute—

“(9) Sub-paragraph (11) applies where—

- (a) an employee receives non-monetary earnings comprising, or derived from, relevant securities; or
- (b) during the post-cessation period a former employee receives non-monetary earnings—
 - (i) comprising, or derived from, relevant securities; and
 - (ii) in connection with the former employment.

(a) 1992 c. 4. Paragraph 3 has been amended. Relevant amendments are those made by section 55 of the Social Security Act 1998 (c. 14), paragraph 33 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), paragraph 13(3) of Schedule 1 to the National Insurance Contributions Act 2002 (c. 19) and section 1(3) and (5) of, and Schedule 2 to, the National Insurance Contributions and Statutory Payments Act 2004 (c. 3: “the 2004 Act”).

(b) 1992 c. 7. Paragraph 3 has been amended. Relevant amendments are those made by Article 52(b) of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1510 (N.I. 10)), paragraph 32 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) and section 2(3) and (5) of, and Schedule 2 to, the 2004 Act. The functions of the Department of Health and Social Services for Northern Ireland were transferred to the Department for Social Development by Article 8(b) of, and Part II of Schedule 6 to, the Departments (Transfer and Assignment of Functions) Order (Northern Ireland) 1999 (S.R. 1999 No. 481).

(c) S.I. 2001/1004. Relevant amendments are those made by S.I. 2002/2929 and 2004/770.

Here “the post-cessation period” means the period beginning with the day on which the employment ceased and ending with the last day of the next tax year.”.

(3) For sub-paragraphs (11) and (12) substitute—

“(11) Where this sub-paragraph applies, the employer or former employer may—

- (a) retain such of the relevant securities as is necessary to enable him to recover the whole or any part of the primary Class 1 contributions in respect of those securities; and
- (b) sell those securities.

This sub-paragraph is subject to sub-paragraphs (12) and (12A).

(11A) In sub-paragraphs (9), (11), (12) and (12A) “relevant securities” means securities in respect of which an amount is chargeable to income tax as employment income.

(12) The employer or former employer shall not retain or sell relevant securities without the prior written consent of the employee or former employee.

(12A) An employer or former employer who has retained relevant securities in accordance with sub-paragraph (11) shall account to the employee or former employee in respect of so much of the proceeds of sale as is not required to enable the employer or former employer to recover the primary Class 1 contributions in respect of those securities.”.

1st September 2004

Ann Chant
Dave Hartnett
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 2001 (S.I. 2001/1004).

Regulation 1 provides for the citation and commencement of this instrument.

Regulation 2 amends paragraph 7 of Schedule 4 to the 2001 Regulations. It replaces sub-paragraphs (9), (11) and (12). The existing sub-paragraph (9) is replaced by a new sub-paragraph, whilst sub-paragraphs (11) and (12) are replaced by four new sub-paragraphs ((11), (11A), (12) and (12A)).

The amendments reflect the extension of the recovery mechanism provided for in paragraph 3 of Schedule 1 to each of the Social Security Contributions and Benefits Act 1992 and the Social Security Contributions and Benefits (Northern Ireland) Act 1992 by sections 1 and 2 of the National Insurance and Statutory Payments Act 2004 (c. 3). They enable an employer or former employer, with the prior written consent of the employee or former employee, to retain and sell employment-related securities, or securities derived from the exercise of an employment-related securities option, in order to discharge the liability for primary Class 1 contributions on earnings comprising, or derived from, employment-related securities.

These Regulations do not impose new costs on business.

STATUTORY INSTRUMENTS

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