

2024 No. 306

SOCIAL SECURITY

**The Social Security (Contributions) (Amendment No. 3)
Regulations 2024**

Made - - - - *at 4.21 p.m. on 7th March 2024*

Laid before Parliament *11th March 2024*

Coming into force - - *6th April 2024*

The Commissioners for His Majesty’s Revenue and Customs make the following Regulations in exercise of the powers conferred by section 175(4) of, and paragraphs 2 and 6(1) of Schedule 1 to the Social Security Contributions and Benefits Act 1992(a) and by section 171(4) and (10) of, and paragraphs 2 and 6(1) of Schedule 1 to, the Social Security Contributions and Benefits (Northern Ireland) Act 1992(b) and now exercisable by them(c).

Citation and commencement

1. These Regulations may be cited as the Social Security (Contributions) (Amendment No. 3) Regulations 2024 and come into force on 6th April 2024 immediately after the coming into force of the Income Tax (Pay As You Earn) (Amendment) Regulations 2024(d).

Amendment of the Social Security (Contributions) Regulations 2001

2.—(1) The Social Security (Contributions) Regulations 2001(e) are amended as follows.

(2) In regulation 1(2) (citation, commencement and interpretation)—

(a) after the definition of “the Administration Act”, insert—

““advance payment” for the purposes of regulation 7 and paragraph 21AE of Schedule 4 means a payment of earnings that—

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- (a) 1992 c. 4 (“the 1992 Act”). Section 175(4) was amended by paragraph 29 of Schedule 3 to the Social Security (Transfer of Functions, etc.) Act 1999 (c. 2) (“the Transfer Act”). Paragraph 2 was amended by paragraph 32 of Schedule 3 to the Transfer Act. Paragraph 6(1) was amended by paragraph 77(8) of Schedule 7 to the Social Security Act 1998 (c. 14), paragraph 35(2) of Schedule 3 to the Transfer Act and paragraph 185(a) and (b) of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (“ITEPA”).
- (b) 1992 c. 7. Section 171(10) was substituted by paragraph 28(3) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) (“the Transfer Order”). Paragraph 2 was amended by paragraph 31 of Schedule 3 to the Transfer Order. Paragraph 6(1) was amended by paragraph 58(8) of Schedule 6 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)), paragraph 34(2) of Schedule 3 to the Transfer Order and paragraph 204(a) and (b) of Schedule 6 to ITEPA.
- (c) The functions of the Commissioners of Inland Revenue were transferred to the Commissioners for His Majesty’s Revenue and Customs by section 5(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act provides that, in so far as it is appropriate in consequence of section 5, a reference to the Commissioners of Inland Revenue, however expressed, is to be read as a reference to the Commissioners for His Majesty’s Revenue and Customs.
- (d) S.I. 2024/305.
- (e) S.I. 2001/1004; relevant amending instruments are S.I. 2012/821 and S.I. 2015/478.

- (a) is not made at a regular interval^(a),
 - (b) is for an amount that would otherwise be included in the payment at the next regular interval that follows the making of the payment of earnings, and
 - (c) does not exceed the amount that, at the time that payment of earnings is made, reasonably represents completed service in respect of which no other payment of earnings has been made;”,
- (b) after the definition of “company”, insert—
- ““completed service” means work undertaken or obligations performed by the earner in accordance with the earner’s contract with the employer;”,
- (c) after the definition of “readily convertible asset”, insert—
- ““reduced regular interval payment” means a payment of earnings made at a regular interval that has been reduced by reference to advance payments made to the earner;”.
- (3) In regulation 7 (treatment of earnings paid otherwise than at regular intervals)—
- (a) in regulation (3) at the beginning insert, “Subject to paragraph (3A)”, and
 - (b) after paragraph (3) insert—
- “(3A) Paragraph (3) does not apply in a case falling within paragraph (1)(a) where—
- (a) the regular interval at which payment of earnings would normally fall to be made is no shorter than a week and no longer than a month,
 - (b) an advance payment is made to the earner, and
 - (c) a reduced regular interval payment is made to the earner.”.
- (4) In Schedule 4 (provisions derived from the Income Tax Acts and the Income Tax (Pay As You Earn) Regulations 2003), after paragraph 21AD^(b) (benefits and expenses – returns under regulations 85 to 87 of the PAYE Regulations) insert—

“Employees paid advance payments of earnings

21AE.—(1) Sub-paragraph (2) applies where an employer—

- (a) normally makes a payment of earnings to an employee at regular intervals of no shorter than a week and no longer than a month,
- (b) makes an advance payment^(c) to the employee, and
- (c) makes a reduced regular interval payment to the employee.

(2) Where this paragraph applies—

- (a) the requirements of paragraphs 6(1)(a)^(d) (deduction of earnings-related contributions), 7(13)^(e) (calculation of deduction), 21A (real time returns of information about payments of earnings) and Schedule 4A^(f) (real time returns) do not apply to advance payments in the period beginning with the making of the advance payment and ending with the making of the reduced regular interval payment, and
- (b) the reduced regular interval payment and advance payments made in respect of it must be treated for the purposes of paragraphs 6(1)(a), 7(13), 21A and Schedule 4A as if they were a single payment of earnings made at the time the reduced regular interval payment is made.

(a) “Regular interval” is defined in regulation 1(2) of S.I. 2001/1004.
 (b) Paragraph 21AD was inserted by S.I. 2013/622.
 (c) “Advance payment” is defined in regulation 1(2) of S.I. 2001/1004.
 (d) Paragraph 6(1) relevant amending instruments are S.I. 2004/770, S.I. 2013/622 and S.I. 2015/478.
 (e) Paragraph 7(13) relevant amending instruments are S.I. 2004/770 and S.I. 2015/478.
 (f) Paragraph 21A and Schedule 4A were inserted by S.I. 2012/821; there are other amending instruments but none is relevant.

(3) In this paragraph “regular interval” has the meaning given in regulation 1(2) of these Regulations.”.

*Justin Holliday
Myrtle Lloyd*

At 4.21 p.m. on 7th March 2024
Customs

Two of the Commissioners for His Majesty’s Revenue and

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004) (“the 2001 Regulations”).

Regulation 2(3) inserts a new paragraph (3A) into regulation 7 of the 2001 Regulations to allow an advance payment of earnings made in one tax year to be treated as if it were a payment of earnings made at regular interval; despite the regular interval date falling in another tax year, resulting in the payment being treated as made in another tax year. Regular interval is defined in regulation 1(2) of the 2001 Regulations and only includes intervals in accordance with an express or implied agreement between the employed earner and the secondary contributor, as to the intervals at which payments of earnings normally fall to be made, being intervals of substantially equal length.

Regulation 2(4) inserts new paragraph 21AE into Schedule 4 to the 2001 Regulations to determine how an employer should treat certain advance payment of earnings for the purposes of paragraphs 6(1)(a), 7(13) and 21A of Schedule 4 and Schedule 4A. Paragraph 6(1)(a) requires an employer to prepare a deductions working sheet for an employee when making a payment of earnings. Paragraph 7(13) requires an employer to record details about every payment of earnings made to the employee in a deductions working sheet. Paragraph 21A sets out requirements for real time returns of information, including the time by which the employer must deliver the information to His Majesty’s Revenue and Customs.

Paragraph 21AE provides that, in respect of both the deductions working sheet and returns to HMRC, the employer must treat certain advance payments and the reduced regular interval payment that follows them as a single payment, made on the date that the reduced regular interval payment is made.

A Tax Information and Impact Note has not been prepared in relation to these changes as they contain no substantive changes to NICs policy.

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