STATUTORY INSTRUMENTS

2018 No. 120

SOCIAL SECURITY

The Social Security (Contributions) (Amendment) Regulations 2018

Made - - - -	*31st January 2018*
Laid before Parliament	*1st February 2018*
Coming into force - -	*6th April 2018*

These Regulations are made by the Treasury in exercise of the powers conferred by sections 3(2) and (3), 4(6), 10(9)(a) and 175(3) and (4) of the Social Security Contributions and Benefits Act 1992(**1**) and sections 3(2) and (3), 4(6), 10(9)(a) and 171(3), (4) and (10) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**2**) and now exercisable by them.

The Secretary of State and the Department for Communities concur in the making of regulations 3 to 7 of these Regulations.

Citation and commencement

1. These Regulations may be cited as the Social Security (Contributions) (Amendment) Regulations 2018 and come into force on 6th April 2018.

(**1**) 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"), so that the power to make regulations became exercisable by the Treasury with the concurrence of the Secretary of State. Section 4(6) was substituted by section 74(3) of the Child Support, Pensions and Social Security Act 2000 (c. 19) ("CSPSSA 2000") and amended by paragraph 172(4) of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c. 1) ("ITEPA 2003"). Section 10(9)(a) was substituted by section 74(2) of CSPSSA 2000 and amended by paragraph 174(12) of Schedule 6 to ITEPA 2003. Section 175(4) was amended by paragraph 29(4) of Schedule 3 to the Transfer Act.

(**2**) 1992 c. 7. Section 3(2) was amended by paragraph 4 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) ("the 1999 Order"), so that the power to make regulations became exercisable by the Treasury with the concurrence of the Department of Health and Social Services. Section 4(6) was substituted by section 78(3) of CSPSSA 2000 and amended by paragraph 193(4) of Schedule 6 to ITEPA 2003. Section 10(9)(a) was substituted by section 78(2) of CSPSSA 2000 and amended by paragraph 195(12) of Schedule 6 to ITEPA 2003. Section 171(10) was substituted by paragraph 28(3) of Schedule 3 to the 1999 Order. The functions of the Department of Health and Social Services under the Social Security Contributions and Benefits (Northern Ireland) Act 1992 ("SSCB(NI)A 1992") were transferred to the Department for Social Development by article 8(b) of, and Part 2 of Schedule 6 to, the Departments (Transfer and Assignment of Functions) Order (Northern Ireland) 1999 (S.R. (NI) 1999 No. 481). The Department for Social Development was renamed as the Department for Communities by section 1(7) of the Departments Act (Northern Ireland) 2016 (c. 5 (N.I.)) and section 1(12) of that Act provided for existing functions to apply.

2. The Social Security (Contributions) Regulations 2001(**3**) are amended by Parts 1 to 3 of these Regulations.

PART 1

Optional remuneration arrangements: consequential amendments

3. In regulation 1 (citation, commencement and interpretation), after the definition of "official computer system" insert—

> ""optional remuneration arrangements" has the meaning given in section 69A of ITEPA 2003(**4**);".

4. In regulation 22A (amounts to be treated as earnings in connection with the use of qualifying vehicles other than cycles), after paragraph (2) insert—

> "(2A) But the amount in paragraph (2) is taken to be RME (without the subtraction of QA) so far as the aggregate of relevant motoring expenditure is paid pursuant to optional remuneration arrangements.".

5.—(1) Schedule 2 (calculation of earnings for the purposes of earnings-related contributions in particular cases) is amended as follows.

(2) After paragraph 14(1) insert—

> "(1A) This paragraph is subject to paragraph 14A (valuation of non-cash vouchers provided under optional remuneration arrangements).".

(3) After paragraph 14 insert—

"Valuation of non-cash vouchers provided under optional remuneration arrangements

14A.—(1) This paragraph applies for calculating the amount of earnings comprised in any payment by way of a non-cash voucher which falls to be taken into account in calculating an employed earner's earnings, if this is made pursuant to optional remuneration arrangements.

(2) The amount of earnings is the relevant amount.

(3) To find the relevant amount, first determine which (if any) is the greater of—

(a) the chargeable expense (without taking account of the qualification in paragraph 14(3)); or

(b) the amount foregone.

(4) If the amount in sub-paragraph (3)(a) is greater than or equal to the amount foregone, the "relevant amount" is the chargeable expense (taking account of the qualification in paragraph 14(3)).

(5) Otherwise, "the relevant amount" is the difference between—

(a) the amount foregone; and

(b) any part of the chargeable expense that the employed earner makes good to the person incurring it.

(**3**) S.I. 2001/1004. Relevant amending instruments are S.I. 2002/307, 2004/770, 2005/778, 2006/883, 2011/1000, 2011/2700, 2013/622, 2016/352 and 2017/307.

(**4**) "ITEPA 2003" is defined as the Income Tax (Earnings and Pensions) Act 2003 by section 122(1) of the Social Security Contributions and Benefits Act 1992 and section 121(1) of the SSCB(NI)A 1992. These definitions were inserted by paragraphs 178 and 199 of Schedule 6 to ITEPA 2003 respectively. Section 69A was inserted by paragraph 1 of Schedule 2 to the Finance Act 2017 (c. 10) ("FA 2017").

(6) For the purposes of sub-paragraphs (3) to (5), assume that the amount in sub-paragraph (3)(a) is zero if the condition in sub-paragraph (7) is met.

(7) The condition is that the payment would be exempt from income tax but for section 228A(1) of ITEPA 2003(**5**).

(8) In this paragraph—

(a) "chargeable expense" has the meaning given in paragraph 14; and

(b) "amount foregone" means the amount foregone with respect to the benefit of the non-cash voucher for the purposes of the benefits code as mentioned in section 69B of ITEPA 2003(**6**).

(9) Where a payment by way of a non-cash voucher is made partly pursuant to optional remuneration arrangements and partly otherwise than pursuant to such arrangements, these Regulations are to apply with any modifications (including provision for just and reasonable apportionments) that may be required for ensuring that it is treated—

(a) in accordance with this paragraph so far as it is made pursuant to optional remuneration arrangements; and

(b) in accordance with any other treatment that is applicable so far as it is made otherwise than pursuant to such arrangements.".

6.—(1) Part 8 of Schedule 3 (travelling, relocation and other expenses and allowances of the employment) is amended as follows.

(2) Renumber paragraphs 7 and 7A as paragraphs 7(1) and 7A(1) respectively.

(3) After paragraph 7(1) insert—

"(2) Sub-paragraph (1) does not apply so far as the payment is made pursuant to optional remuneration arrangements.".

(4) After paragraph 7A(1) insert—

"(2) Sub-paragraph (1) does not apply so far as the payment of relevant motoring expenditure within the meaning of regulation 22A(3) is made pursuant to optional remuneration arrangements.".

(5) For paragraph 9(2) substitute—

"(2) Sub-paragraph (1) does not authorise the disregard of any amount by way of relevant motoring expenditure, within the meaning of paragraph (3) of regulation 22A—

(a) in excess of that permitted by the formula in paragraph (4) of that regulation; or

(b) so far as it is paid pursuant to optional remuneration arrangements.".

PART 2

Qualifying childcare vouchers: consequential amendments

7.—(1) Part 5 of Schedule 3 (certain non-cash vouchers to be disregarded as payments in kind) is amended as follows.

(2) In paragraph 6B, after sub-paragraph (b) insert—

"(ba) "eligible employee" has the meaning given in section 270AA of ITEPA 2003(**7**);".

(**5**) Section 228A was inserted by paragraph 49 of Schedule 2 to FA 2017.
(**6**) Section 69B was inserted by paragraph 1 of Schedule 2 to FA 2017.
(**7**) Section 270AA was inserted by section 63(4) of the Childcare Payments Act 2014 (c. 28).