STATUTORY INSTRUMENTS

2016 No. 1067

SOCIAL SECURITY

The Social Security (Contributions) (Amendment No. 4) Regulations 2016

Made - - - -	*4th November 2016*
Laid before Parliament	*7th November 2016*
Coming into force - -	*28th November 2016*

These Regulations are made by the Treasury and the Commissioners for Her Majesty's Revenue and Customs with the concurrence of the Secretary of State in relation to regulations 4 and 5 and the Department for Communities(**1**) in relation to regulation 5.

The powers exercised by the Treasury are those conferred by sections 3(2), (3), 10(9)(a) and 120(1) of the Social Security Contributions and Benefits Act 1992(**2**) and sections 3(2), (3) and 10(9)(a) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**3**) and now exercisable by them.

The powers exercised by the Commissioners for Her Majesty's Revenue and Customs are those conferred by paragraphs 6(1) and (2) of Schedule 1 to the Social Security Contributions and Benefits Act 1992(**4**) and paragraphs 6(1) and (2) of Schedule 1 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**5**) and now exercisable by them.

(**1**) The functions of the Department of Health and Social Services for Northern Ireland under the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) 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 subsequently renamed the Department for Communities, see section 1(7) of the Department Act (Northern Ireland) 2016 (c. 5 (N.I.)).

(**2**) 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 10(9)(a) was substituted by section 74(2) of the Child Support, Pensions and Social Security Act 2000 (c. 19) ("the 2000 Act"), and amended by paragraph 174(12) of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c. 1) ("ITEPA"), section 120(1) was amended by paragraph 26 of Schedule 3 to the Transfer Act, so that the power to make Regulations became exercisable by the Treasury with the concurrence of the Secretary of State, and by paragraph 70 of Schedule 7 to the Social Security Act 1998 (c. 14) ("the 1998 Act"), paragraph 8 of Schedule 7 to the Transfer Act and section 12(2) of the National Insurance Contributions Act 2014 (c. 7).

(**3**) 1992 c. 7; section 3(2) was amended by paragraph 4 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) 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 for Northern Ireland, section 10(9)(a) was substituted by section 78(2) of the 2000 Act and amended by paragraph 195(12) of Schedule 6 to ITEPA..

(**4**) Paragraphs 6(1) and (2) were amended by paragraph 77 of Schedule 7 to the 1998 Act and paragraph 185 of Schedule 6 to ITEPA, paragraph 6(1) was further amended by paragraph 35 of Schedule 3 to the Transfer Act, so that the power to make regulations became exercisable by the Inland Revenue.

(**5**) Paragraphs 6(1) and (2) were amended by paragraphs 58(8) and (9) of Schedule 6 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) and by paragraph 204 of Schedule 6 to ITEPA, paragraph 6(1) was further amended by paragraph 34 of Schedule 3 to the 1999 Order, so that the power to make regulations became exercisable by the Inland Revenue.

Citation and commencement

1. These Regulations may be cited as the Social Security (Contributions) (Amendment No. 4) Regulations 2016 and come into force on 28th November 2016.

Amendment of the Social Security (Contributions) Regulations 2001

2. The Social Security (Contributions) Regulations 2001(**6**) are amended as follows.

3. In regulation 40(2)(b)(**7**) (prescribed general earnings in respect of which Class 1A contributions not payable), for "4, 5" substitute "4 to 5".

4.—(1) Regulation 114(**8**) (application to employment in connection with continental shelf of Part I of the Act and so much of Part VI of the Act as relates to contributions) is amended as follows.

(2) In paragraph (5)—

(a) in sub-paragraph (c), for "regulation 5(1)(c) of the Merchant Shipping (Safe manning, Hours of Work and Watchkeeping) Regulations 1997" substitute "regulation 46(1)(c) of the Merchant Shipping (Standards of Training, Certification and Watchkeeping) Regulations 2015(**9**)";

(b) for Table 1, substitute—

"**Table 1**

Column (A): capacity in which the continental shelf worker is employed	*Column (B): description of the certificate*
Master or chief mate on a ship of 3000 gross tonnage or more.	A certificate which complies with regulation 6 of the Merchant Shipping Regulations.
Master on a ship of between 500 gross tonnage and 2999 gross tonnage not engaged on near-coastal voyages.	A certificate which complies with regulation 6 of the Merchant Shipping Regulations.
Chief mate on a ship of between 500 gross tonnage and 2999 gross tonnage.	A certificate which complies with regulation 6 of the Merchant Shipping Regulations.
Officer in charge of an engineering watch in a manned engine-room, or designated duty engineer officer in a periodically unmanned engine-room, on a ship powered by main propulsion machinery of 750 kilowatts propulsion power or more.	A certificate which complies with regulation 6 of the Merchant Shipping Regulations.
Chief engineer officer and second engineer officer on a ship powered by main propulsion machinery of between 750 and 3000 kilowatts propulsion power.	A certificate which complies with regulation 6 of the Merchant Shipping Regulations.
Rating forming part of a navigational watch on a ship of 500 gross tonnage or more (who is	A certificate which complies with regulation 14 of the Merchant Shipping Regulations.

(**6**) S.I. 2001/1004.
(**7**) Regulation 40 has been relevantly amended by S.I. 2003/2085.
(**8**) Regulation 114 was amended by S.I. 2014/572.
(**9**) S.I. 2015/782.

Column (A): capacity in which the continental shelf worker is employed	*Column (B): description of the certificate*
not under training and whose duties are skilled in nature).	
Rating forming part of an engine-room watch or designated to perform duties in a periodically unmanned engine-room on a ship powered by main propulsion machinery of 750 kilowatts propulsion power or more (who is not under training and whose duties are skilled in nature).	A certificate which complies with regulation 15 of the Merchant Shipping Regulations."

(c) in paragraph (6), for "the Merchant Shipping (Training and Certification) Regulations 1997" substitute "the Merchant Shipping (Standards of Training, Certification and Watchkeeping) Regulations 2015".

5. In paragraph 6 of Part 5 to Schedule 3 (certain non-cash vouchers to be disregarded as payments in kind), after sub-paragraph (d), insert—

"(da) section 323A(**10**) (trivial benefits provided by employers)".

6. In paragraph 3ZB of Part 8 of Schedule 3 (travel for necessary attendance: employment intermediaries)(**11**) after sub-paragraph (6) insert—

"(6A) Sub-paragraph (6B) applies if—

(a) the client or a relevant person provides the employment intermediary (whether before or after the worker begins to provide the services) with a fraudulent document which is intended to constitute evidence that, by virtue of sub-paragraph (3), this paragraph does not or will not apply in relation to the services,

(b) that paragraph is taken not to apply in relation to the services, and

(c) in consequence, the employment intermediary does not under these Regulations deduct and account for an amount that would have been deducted and accounted for if this paragraph had been taken to apply in relation to the services.

(6B) For the purpose of recovering the amount referred to in sub-paragraph (6A)(c) ("the unpaid contributions")—

(a) the worker is to be treated as having an employment with the client or relevant person who provided the document, the duties of which consist of the services, and

(b) the client or relevant person is under these Regulations to account for the unpaid contributions as if they arose in respect of earnings from that employment.

(6C) In sub-paragraphs (6A) and (6B) "relevant person" means a person, other than the client, the worker or a person connected with the employment intermediary, who—

(a) is resident, or has a place of business, in the United Kingdom, and

(b) is party to a contract with the employment intermediary or a person connected with the employment intermediary under or in consequence of which—

(i) the services are provided, or

(ii) the employment intermediary, or a person connected with the employment intermediary makes payments in respect of the services.".

(**10**) Section 323A was inserted into ITEPA by section 13 of the Finance Act 2016 (c. 24).
(**11**) Paragraph 3ZB was inserted by S.I. 2016/352.

7. After paragraph 29X of Part 3B of Schedule 4 (security for payment of Class 1 contributions: offences)(**12**) insert—

"Part 3C

CERTAIN DEBTS OF COMPANIES UNDER PARAGRAPH 3ZB OF PART 8 OF SCHEDULE 3 (TRAVEL EXPENSES OF WORKERS PROVIDING SERVICES THROUGH EMPLOYMENT INTERMEDIARIES)

Interpretation of Part 3C: "relevant contributions debt" and "relevant date"

29Y.—(1) In this Part "relevant contributions debt", in relation to a company means an amount within any of sub-paragraphs (2) to (5).

(2) An amount within this sub-paragraph is an amount that the company is to account for in accordance with paragraph 3ZB(6A) to (6C) (persons providing fraudulent documents)(**13**).

(3) An amount within this sub-paragraph is an amount which a company is to deduct and pay by virtue of paragraph 3ZB in circumstances where—

(a) a company is an employment intermediary,

(b) on the basis that paragraph 3ZB does not apply by virtue of sub-paragraph (3) of that paragraph the company has not deducted and paid the amount, but

(c) the company has not been provided by any other person with evidence from which it would be reasonable in all the circumstances to conclude that sub-paragraph (3) of that paragraph applied (and the mere assertion by a person that the manner in which the worker provided the services was not subject to (or to the right of) supervision, direction or control by any person is not such evidence).

(4) An amount within this sub-paragraph is an amount that the company is to deduct and pay in accordance with paragraph 3ZB in circumstances where sub-paragraph (4) of that paragraph applies (services provided under arrangements made by intermediaries).

(5) An amount within this sub-paragraph is any interest or penalty in respect of an amount within any of sub-paragraphs (2) to (4) for which the company is liable.

(6) In this paragraph "paragraph 3ZB" means paragraph 3ZB of Part 8 of Schedule 3 to these Regulations.

(7) In this Part "the relevant date" in relation to a relevant contributions debt means the date on which the first payment is due on which contributions are not accounted for.

Interpretation of Part 3C: general

29Z. In this Part—

"company" includes a limited liability partnership;

"director" has the meaning given by section 67 of ITEPA 2003;

"personal liability notice" has the meaning given by paragraph 29Z1(2);

"the specified amount" has the meaning given by paragraph 29Z1(2)(a).

(**12**) Paragraph 29X of Part 3B of Schedule 4 was inserted by S.I. 2012/821.
(**13**) Paragraphs 3ZB(6A) to (6C) are inserted into the Social Security (Contributions) Regulations 2001 by regulation 6 of these Regulations.