1991 No. 490

SOCIAL SECURITY

The Social Security (Contributions) (Amendment No. 6) Regulations (Northern Ireland) 1991

Made	*6th November 1991*
Coming into operation . .	*7th November 1991*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by section 3(2) and (3) of the Social Security (Northern Ireland) Act 1975(**a**) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (Contributions) (Amendment No. 6) Regulations (Northern Ireland) 1991 and shall come into operation on 7th November 1991.

(2) In these regulations "the principal regulations" means the Social Security (Contributions) Regulations (Northern Ireland) 1979(**b**).

Amendment of regulation 18 of the principal regulations

2. In regulation 18 of the principal regulations (calculation of earnings)—

(*a*) immediately before "For the purposes" there shall be inserted "—(1)";

(*b*) after paragraph (1) there shall be added the following paragraphs—

"(2) Except where paragraph (4) or (6) of this regulation applies, the amount of earnings which is comprised in any payment by way of the conferment of any beneficial interest in any asset specified in Schedule 1A to these regulations(**c**) and which falls to be taken into account in the computation of a person's earnings, shall for the purposes of earnings-related contributions be calculated or estimated at a price which that beneficial interest might reasonably be expected to fetch if sold in the open market on the day on which it is conferred.

(3) For the purposes of the last preceding paragraph, where any asset is not quoted on a recognised stock exchange within the meaning of section 841 of the Income and Corporation Taxes Act 1988(**d**), it shall be assumed that, in the open market which is postulated, there is available to any prospective purchaser of the beneficial interest in the asset in question all the information which a prudent prospective

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(**a**) 1975 c. 15
(**b**) S.R. 1979 No. 186; relevant amending regulations are S.R. 1988 No. 189
(**c**) Inserted by regulation 4 of these regulations
(**d**) 1988 c. 1

purchaser of the interest might reasonably require if he were proposing to purchase it from a willing vendor by private treaty and at arm's length.

(4) Subject to the next succeeding paragraph, the amount of earnings which is comprised in any payment by way of the conferment of any beneficial interest in any shares or securities listed in The Stock Exchange Daily Official List and which falls to be taken into account in the computation of a person's earnings, shall for the purposes of earnings-related contributions be calculated or estimated by reference to—

(*a*) an amount which is the lower of the two prices shown in the quotations for the shares or securities in The Stock Exchange Daily Official List on the date of that payment plus one-quarter of the difference between those two figures; or

(*b*) an amount which is halfway between the highest and lowest prices at which bargains, other than bargains done at special prices, were recorded in the shares or securities for the date of that payment,

except that in any case in which the relevant amounts could be ascertained in accordance with both sub-paragraphs (*a*) and (*b*) of this paragraph it shall be calculated or estimated by reference to the lower of those amounts; and for the purposes of this paragraph if the London trading floor is closed on the date of the relevant payment, the prices shown in the quotations and the prices at which bargains were recorded shall be ascertained by reference to the latest previous date or earliest subsequent date on which it is open, whichever affords the lower market value.

(5) The last preceding paragraph shall not apply to shares or securities for which The Stock Exchange provides a more active market elsewhere than on the London trading floor.

(6) The amount of earnings which is comprised in any payment by way of the conferment of a beneficial interest in any units in any unit trust scheme within the meaning of section 75(8) of the Financial Services Act 1986(**a**) having a published selling price and which falls to be taken into account in the computation of a person's earnings, shall for the purposes of earnings-related contributions be calculated or estimated by reference to the selling price on the date of that payment or, if none were published on that date, on the latest previous date on which such prices were published before the date on which that payment was made.''.

Amendment of regulation 19 of the principal regulations

3. In regulation 19 of the principal regulations (payments to be disregarded)—

(*a*) in paragraph (1)(*d*)—

(a) 1986 c. 60

(i) before "any payment in kind" there shall be inserted "subject to paragraph (5) of this regulation,",

(ii) "(other than a payment to which regulation 19C of these regulations applies)" shall be omitted;

(*b*) paragraph (1)(*i*) shall be omitted;

(*c*) after sub-paragraph (*j*)(**a**) of paragraph (1) there shall be added the following sub-paragraphs—

"(*k*) a payment by way of shares (which shall include a payment by way of or derived from shares appropriated under a profit sharing scheme to which the provisions of section 186 of the Income and Corporation Taxes Act 1988 (approved profit sharing schemes) apply) where such shares form part of the ordinary share capital of—

(i) the secondary contributor,

(ii) a company which has control of that secondary contributor, or

(iii) a company which either is, or has control of, a body corporate which is a member of a consortium owning either that secondary contributor or a body corporate having control of that secondary contributor;

(*l*) a payment by way of an option to acquire any shares specified in the last preceding sub-paragraph;

(*m*) a payment by way of any benefit which by virtue of section 68(1) of the Finance Act 1988(**b**) (priority share allocations for directors or employees) is not treated as an emolument of the employment chargeable to tax under Schedule E.";

(*d*) after paragraph (4) there shall be added the following paragraphs—

"(5) Payments under paragraph (1)(*d*) of this regulation shall not include any payment by way of the conferment of any beneficial interest in—

(*a*) any asset falling within Schedule 1A to these regulations; or

(*b*) any contract the effecting and carrying out of which constitutes long term business falling within Class I (life and annuity business), Class III (linked long term business) or Class VI (capital redemption business) specified in Schedule 1 to the Insurance Companies Act 1982(**c**).

(6) For the purposes of sub-paragraph (*b*) of the last preceding paragraph, where the provisions of a contract of insurance are such that the effecting and carrying out of the contract constitutes—

(*a*) both long term business within the meaning of the Insurance Companies Act 1982 and general business within the meaning of that Act; or

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(**a**) Added by regulation 2 of S.R. 1988 No. 204
(**b**) 1988 c. 39; section 68(1) was amended by section 66(2) of the Finance Act 1989 (c. 26)
(**c**) 1982 c. 50

(*b*) by virtue of section 1(3) of that Act long term business notwithstanding the inclusion of subsidiary general business provisions,

the effecting and carrying out of such contract shall be treated as constituting long term business.

(7) In paragraph (1)(*k*) of this regulation—

(*a*) ''body corporate'' includes—

(i) a body corporate constituted under the law of a country or territory outside the United Kingdom; and

(ii) an unincorporated association wherever constituted,

but does not include a partnership, a local authority within the meaning of section 842A of the Income and Corporation Taxes Act 1988(**a**) or a local authority association within the meaning of section 519 of that Act;

(*b*) a body corporate is a member of a consortium owning another body corporate if the first-mentioned body corporate is one of a number of bodies corporate which between them beneficially own not less than three-quarters of the other body corporate's ordinary share capital and each of which beneficially owns not less than one-twentieth of that capital;

(*c*) ''company'' means any body corporate having a share capital;

(*d*) ''control'', in relation to a body corporate, means the power of a person to secure—

(i) by means of the holding of shares or the possession of voting power in or in relation to that or any other body corporate, or

(ii) by virtue of any powers conferred by the articles of association or other document regulating that or any other body corporate,

that the affairs of the first-mentioned body corporate are conducted in accordance with the wishes of that person;

(*e*) ''ordinary share capital'', in relation to a company, means all the issued share capital (by whatever name called) of the company, other than capital the holders of which have a right to a dividend at a fixed rate but have no other right to share in the profits of the company;

(*f*) ''shares'' includes stock.''.

Insertion of Schedule 1A in the principal regulations

4. After Schedule 1 to the principal regulations (application of Income Tax (Employments) Regulations 1973 to earnings-related contributions) there shall be inserted Schedule 1A as set out in the Schedule to these regulations.

(**a**) Section 842A was inserted by section 127(1) of the Finance Act 1990 (c. 29)