

2017 No. 307

SOCIAL SECURITY

**The Social Security (Miscellaneous Amendments) Regulations
2017**

<i>Made</i>	- - - -	<i>8th March 2017</i>
<i>Laid before Parliament</i>		<i>9th March 2017</i>
<i>Coming into force</i>	- -	<i>6th April 2017</i>

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

The Secretary of State and the Department for Communities concur in the making of regulation 4 of these Regulations.

Citation and commencement

1. These Regulations may be cited as the Social Security (Miscellaneous Amendments) Regulations 2017 and come into force on 6th April 2017.

Amendment of the Social Security (Contributions) Regulations 2001

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

3. After regulation 40A (exception from liability to pay Class 1A contributions in respect of an amount representing an amount on which Class 1 or Class 1A contributions have already been paid pursuant to the Social Security Contributions (Limited Liability Partnership) Regulations 2014)(d) insert—

(a) 1992 c. 4. Section 2 was amended by paragraph 2 of Schedule 3 to the Social Security Contributions (Transfer of Functions) Act 1999 (c. 2) (“the 1999 Act”), paragraph 2 of Schedule 11 to the Welfare Reform and Pensions Act 1999 (c. 30), paragraph 171 of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (“ITEPA”) and sections 6 and 15 of the National Insurance Contributions Act 2015 (c. 5). Section 3(2) was amended by paragraph 3 of Schedule 3 to the 1999 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 amended by section 722 of, and paragraphs 169, 174(1) and (12) of Schedule 6 to ITEPA.

(b) 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 Transfer 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. The functions of the Department of Health and Social Services 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.)). Section 171(10) was substituted by paragraph 28(3) of Schedule 3 to the Transfer Order.

(c) S.I. 2001/2004.

(d) Regulation 40A was inserted by S.I. 2014/3159.

“Exception from liability to pay Class 1A contributions for tax year 2017-18 in respect of sporting testimonial payments

40B.—(1) Paragraph (2) applies to Class 1A contributions payable for the tax year 2017-18 where—

- (a) the whole or part of the general earnings in respect of which the Class 1A contribution is payable consists of a sporting testimonial payment, and
- (b) the person making the sporting testimonial payment is the controller of the independent sporting testimonial committee.

(2) Class 1A contributions shall not be payable by the secondary contributor^(a) in respect of the sporting testimonial payment for the tax year 2017-18.

(3) In this regulation—

- (a) “controller” means the person who controls the disbursement of any money raised by the independent sporting testimonial committee for or for the benefit of an individual who is or has been employed as a professional sports person,
- (b) “independent sporting testimonial committee” means a committee which acts independently of the secondary contributor in organising a sporting testimonial and making the sporting testimonial payment, and
- (c) “sporting testimonial” and “sporting testimonial payment” have the meaning given in section 226E of ITEPA 2003 (sporting testimonial payments)^(b).”.

4. In Part 6 of Schedule 3 (pension payments and pension contributions disregarded)^(c), after paragraph 12 (independent advice in respect of conversions and transfers of pension scheme benefits) insert—

“Payments and reimbursements of the cost of pensions advice

13.—(1) A payment or reimbursement of costs incurred, by or in respect of an employee or former or prospective employee, in obtaining relevant pensions advice, if Condition A or B is met.

(2) This paragraph does not apply in relation to a person in a tax year so far as the total amount of any payments and reimbursements under sub-paragraph (1) in the person’s case in that year exceeds £500.

(3) If in a tax year there is in relation to an individual more than one person who is an employer or former employer, sub-paragraphs (1) and (2) apply in relation to the individual as employee or former or prospective employee of any one of those persons separately from their application in relation to the individual as employee or former or prospective employee of any other of those persons.

(4) “Relevant pensions advice”, in relation to a person, means information or advice in connection with—

- (a) the person’s pension arrangements; or
- (b) the use of the person’s pension funds.

(5) Condition A is that the payment or reimbursement is provided under a scheme that is open—

- (a) to the employer’s employees generally; or
- (b) generally to the employer’s employees at a particular location.

(a) “Secondary contributor” is defined in section 7 of the Social Security Contributions and Benefits Act 1992 and in section 7 of the Social Security Contributions (Northern Ireland) Act 1992.
(b) Section 226E was inserted by section 12 of, and paragraph 1 of Schedule 2 to the Finance Act 2016 (c. 24).
(c) Part 6 was relevantly amended by S.Is. 2006/576 and 2015/543.

(6) Condition B is that the payment or reimbursement is provided under a scheme that is open generally to the employer's employees, or generally to those of the employer's employees at a particular location, who—

- (a) have reached the minimum qualifying age; or
- (b) meet the ill-health condition.

(7) The “minimum qualifying age”, in relation to an employee, means the employee's relevant pension age less 5 years.

(8) “Relevant pension age”, in relation to an employee, means—

- (a) where paragraph 22 or 23 of Schedule 36 to the Finance Act 2004(a) applies in relation to the employee and a registered pension scheme of which the employee is a member, the employee's protected pension age (see paragraphs 22(8) and 23(8) of Schedule 36 to the Finance Act 2004); or
- (b) in any other case, the employee's normal minimum pension age, as defined by section 279(1) of the Finance Act 2004.

(9) The “ill-health condition” is met by an employee if the employer is satisfied, on the basis of evidence provided by a registered medical practitioner, that the employee is (and will continue to be) incapable of carrying on his or her occupation because of physical or mental impairment.”.

Amendment of the Social Security (Categorisation of Earners) Regulations 1978

5.—(1) Part 3 of Schedule 1 (employment to be disregarded subject to the exceptions in column (B)) to the Social Security (Categorisation of Earners) Regulations 1978(b) is amended as follows.

(2) In column (A), at the end(c), insert—

“**14.** Employment by the International Finance Corporation(d) (“IFC”) of a person who is—

- (a) exempt from tax by virtue of article 3 of, and section 9 of article 6 of the Agreement establishing the IFC as set out in the Schedule to, the International Finance Corporation Order 1955(e), and
- (b) a member of a scheme established by or on behalf of the IFC which provides for a pension or any other benefit on cessation of the employment.

15. Employment by the Asian Infrastructure Investment Bank(f) (“AIIB”) of a person who is—

- (a) exempt from tax by virtue of regulation 18(2) of the Asian Infrastructure Investment Bank (Immunities and Privileges) Order 2015(g), and
- (b) a member of a scheme established by or on behalf of the AIIB which provides for a pension or any other benefit on cessation of the employment.”.

(a) 2004 c. 12. Paragraph 22 was amended by paragraphs 54 and 55 of Schedule 10 to the Finance Act 2005 (c. 7) (“the FA 2005”), paragraph 43 of Schedule 23 to the Finance Act 2006 (c. 25), paragraph 432 of Schedule 1 to the Corporation Tax Act 2010 (c. 4), and paragraph 7(1) of Schedule 5 to the Finance Act 2014 (c. 26) (“the FA 2014”). Paragraph 23 was amended by paragraph 55(5) of Schedule 10 to the FA 2005 and paragraph 7(2) of Schedule 5 to the FA 2014.

(b) S.I. 1978/1689. Part 3 of Schedule 1 was amended by S.Is. 1980/1713, 1984/350, 1994/726, 2005/3133 and 2006/1530.

(c) Paragraph 13 was inserted by S.I. 1994/726 and revoked by S.I. 2006/1530.

(d) The International Finance Corporation was established under an agreement dated 25th May 1955, particulars of which were laid before Parliament by Command of Her Majesty in January 1963 and December 1966 (Cm 1924 and Cm 3155).

(e) S.I. 1955/1954 (“the IFC Order”). Following the repeal of the International Finance Corporation Act 1955 (c. 5), the IFC Order continued to have effect, as if made under section 9 of the Overseas Development and Co-operation Act 1980 (c. 63) (“the 1980 Act”) by virtue of section 9(6) of that Act. Following the repeal of section 9 of the 1980 Act the IFC continues to have effect by virtue of section 17(2) of the Interpretation Act 1978 (c. 30), as if made under section 12 of the International Development Act 2002 (c. 1).

(f) The Asian Infrastructure Investment Bank was established under an agreement done in Beijing on 29th June 2015 particulars of which were laid before Parliament by Command of Her Majesty in September 2015 (Cm 9126).

(g) S.I. 2015/1884.

(3) In column (B), at the end, insert—

“14. None.

15. None.”.

Robert Syms
Andrew Griffiths

8th March 2017

Two of the Lords Commissioners of Her Majesty’s Treasury

The Secretary of State concurs as indicated in the preamble.
Signed by authority of the Secretary of State for Work and Pensions.

Richard Harrington
Minister of State

7th March 2017

Department for Work and Pensions

The Department for Communities concurs as indicated in the preamble.
Sealed with the Official Seal of the Department for Communities on date 3rd March 2017



3rd March 2017

Anne McCleary
A senior officer of the Department for Communities

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make a number of amendments to the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004) (“the Contributions Regulations”) and the Social Security (Categorisation of Earners) Regulations 1978 (S.I. 1978/1689) (“the Categorisation Regulations”).

Regulation 3 inserts new regulation 40B into the Contributions Regulations to exempt the secondary contributor from liability to pay Class 1A National Insurance contributions for the tax year 2017-18 in respect of sporting testimonial payments in circumstances where such payments are made by the controller of an independent sporting testimonial committee.

Regulation 4 amends Part 6 of Schedule 3 to the Contributions Regulations which lists categories of payments which are disregarded in the calculation of liability to Class 1 National Insurance contributions. A new paragraph 13 is inserted into Part 6 of the Schedule, which introduces a disregard for payments and reimbursements of costs incurred by or in respect of employees, former employees or prospective employees for the purpose of obtaining pensions advice. It is limited to £500 of costs per employment or former employment in a tax year. To be within the scope of the disregard, the payment or reimbursement must be made under a scheme that is open either to an employer’s employees generally; generally to its employees at a particular location; or to such employees from either of those groups who satisfy a qualifying age or ill-health condition set out in the new paragraph.

Regulation 5 inserts new paragraphs 14 and 15 into Part 3 of Schedule 1 to the Categorisation Regulations so as to exempt certain employees of the International Finance Corporation and the Asian Infrastructure Investment Bank from liability to pay primary Class 1 National Insurance contributions. In order to qualify for the exemption employees must: (a) already be exempt from tax on their employment income under an international agreement signed by the United Kingdom and brought into legal force by an Order in Council and (b) also be members of a scheme set up by their employer which provides for a pension or any other benefit once the employment has ceased.

A Tax Information and Impact Note covering the amendment made by regulation 3 (sporting testimonials) was published at <https://www.gov.uk/government/publications/income-tax-update-to-treatment-of-income-from-sporting-testimonials/income-tax-update-to-treatment-of-income-from-sporting-testimonials> on 16th March 2016 alongside the draft Finance Bill. It remains an accurate summary of the impacts that apply to this instrument.

A Tax Information and Impact Note covering the amendment made by regulation 4 (pensions advice disregard) was published on 5th December 2016 in respect of the introduction of a corresponding exemption for income tax purposes, and is available at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>. It remains an accurate summary of the impacts that apply to this instrument.

No impact assessment has been prepared for the amendment to the Categorisation Regulations (regulation 5) as it has no impact on business or civil society organisations.

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