

2020 No.

SOCIAL SECURITY

**The Social Security (Contributions) (Amendment No. X)
Regulations 2020**

<i>Made</i>	- - - -	<i>xxx March 2020</i>
<i>Laid before Parliament</i>		<i>xxx March 2020</i>
<i>Coming into force</i>		6th April 2020

These Regulations are made by the Commissioners for Her Majesty's Revenue and Customs in exercise of the powers conferred by section 175(3) and (4) and paragraph 6(1) and (2) of Schedule 1 to the Social Security Contributions and Benefits Act 1992(a) and section 171(3) and (4) and paragraph 6(1) and (2) of Schedule 1 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992(b) and now exercisable by them(c).

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Social Security (Contributions) (Amendment No. X) 2020 and come into force on 6th April 2020.

(2) Regulation 40D (as inserted by regulation 7) has effect in relation to sporting testimonials which are announced on or after 6th April 2020.

Amendments to the Social Security (Contributions) Regulations 2001

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

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

(a) after the definition of “contributory benefit”, insert—

““controller” means the person who controls the disbursement of any money raised by an independent sporting testimonial committee to or for the benefit of an individual who is or has been employed as a professional sports person;”,

(b) after the definition of “an income-based jobseeker’s allowance” insert—

““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;”,

(c) after the definition of “serving member of the armed forces”, insert—

““sporting testimonial” and “sporting testimonial payment” have the meanings given by section 226E of ITEPA 2003;”, and

(a) 1992 c. 4.
(b) 1992 c. 7.
(c)
(d) S.I. 2001/1004.

(d) after the definition of “tax month”, insert—

““termination award” means a payment or benefit received by an earner (or an earner’s spouse, civil partner, blood relative or dependent) in connection with the termination of the earner’s employment;”.

4. Regulation 40B (exception from liability) is revoked but will continue to have effect in relation to sporting testimonials which were announced before 6th April 2020.

5. In regulation 71(1) (due date for payment of a Class 1A contribution)—

- (a) after “regulation 72(2)”, for “or” substitute “;”, and
- (b) after “73(2)” insert “, 40C(2) or 40D(2)”.

6. In regulation 80 (return by employer), after paragraph (4) insert—

“(4A) This regulation is subject to regulations 40C(2) and 40D(2).”.

7. After regulation 40B (as omitted by regulation 4), insert—

“Special provisions for reporting, payment and collection of Class 1A contributions relating to termination payments

40C.—(1) This regulation applies to a person (“LP”) who is liable to pay Class 1A contributions in respect of a termination award in accordance with section 10(1A) and (3A) of the Contributions and Benefits Act.

(2) LP must—

- (a) on or before making the termination award, deliver to HMRC the information specified in Schedule 4A (real time returns), and
- (b) pay the Class 1A contributions to HMRC within the time limit specified in paragraph 10 of Schedule 4 (provisions derived from the income tax acts and the income tax (pay as you earn) regulations 2003) or, (if applicable), the time limit in paragraph 11 (payments of earnings-related contributions quarterly by employer) of that Schedule.

(3) Paragraphs 11ZA (payments to and recoveries from HMRC for each tax period by Real Time Information employers: returns under paragraph 21E(6) or 21EA(3)), 15 (specified amount of earnings-related contributions payable by the employer), 21E (returns under paragraphs 21A and 21D: amendments), 21EA (returns under paragraphs 21A and 21D), 21G (penalty: failure to comply with paragraph 21A or 21D) and 26 (retention by employer of contribution and election records) of Schedule 4 shall apply to LP with the following modifications—

- (a) references to “earnings” shall be read as references to termination awards;
- (b) references to “the employer” shall be read as references to LP; and
- (c) references to “earnings related contributions” shall be read as references to any Class 1A contributions that LP is liable to pay in respect of the termination award.

(4) Paragraphs (2) and (3) are subject to paragraph (6).

(5) Paragraph (6) applies where—

- (a) the termination award consists of the provision of a benefit that is provided to a person (“P”) by or on behalf of that person’s former employer, and
- (b) the asset is made available to P without any transfer of ownership of that asset,

(6) Where this paragraph applies—

- (a) LP must report and pay to HMRC any Class 1A contributions due in respect of the benefit referred to in paragraph (5) for a tax year in accordance with regulations 70 (payment of Class 1A contributions) and 71 (due date for payment of a class 1A contribution), and

- (b) regulation 55 (repayment of Class 1A contributions) and regulations 74 (employer failing to pay a Class 1A contribution) to 83A (requirement to give security or further security for amounts of Class 1A contributions) shall apply with regard to the reporting, repayment and payment of interest on such payments.

(7) Where a termination award consists of a cash benefit and one or more other benefits, the Class 1A liability shall be calculated by applying the threshold provided for in section 403(3) and (4) ITEPA against those benefits in the following order—

- (a) the cash benefit,
- (b) any benefit which consists of an asset where ownership has been transferred to P,
- (c) any other benefit which consists of an asset that has been made available to P without any transfer of ownership.

(8) Regulations 72 (provisions relating to a Class 1A contribution due on succession to business) and 73 (provisions relating to Class 1A contribution due on cessation of business) shall apply to LP as if LP was the employer referred to in paragraphs (1)(a) of those regulations.

Special provisions for reporting, payment and collection of Class 1A contributions relating to sporting testimonials

40D.—(1) This regulation applies to a controller of a sporting testimonial (“C”) who is liable to pay Class 1A contributions in respect of a sporting testimonial payment in accordance with section 10ZBA of the Contributions and Benefits Act.

(2) C must—

- (a) on or before making a sporting testimonial payment, deliver to HMRC the information specified in Schedule 4A (real time returns), and
- (b) pay the Class 1A contributions to HMRC within the time limit specified in paragraph 10 of Schedule 4 (payments derived from the income tax acts and the income tax (pay as you earn) regulations 2003).

(3) Paragraphs 11ZA (payments to and recoveries from HMRC for each tax period by Real Time Information employers: returns under paragraph 21E(6) or 21EA(3)), 15 (specified amount of earnings-related contributions payable by the employer), 21E (returns under paragraphs 21A and 21D: amendments), 21EA (returns under paragraphs 21A and 21D), 21G (penalty: failure to comply with paragraph 21A or 21D) and 26 (retention by employer of contribution and election records) of Schedule 4 shall apply to C with the following modifications—

- (a) references to “earnings” shall be read as references to sporting testimonial payments;
- (b) references to “the employer” shall be read as references to C; and
- (c) references to “earnings related contributions” shall be read as references to any Class 1A contributions that C is liable to pay in respect of sporting testimonial payments.

(4) Paragraphs (2) and (3) are subject to paragraph (6).

(5) Paragraph (6) applies where—

- (a) a sporting testimonial payment is made to an earner in a tax year other than the tax year in which the sporting testimonial took place, or
- (b) in the tax year in which the sporting testimonial payment is made, C is no longer making payments and deductions under the Income Tax (Pay As You Earn) Regulations 2003,

(6) Where this paragraph applies C must report and pay to HMRC any Class 1A contributions due in respect of the sporting testimonial referred to paragraph (5) in accordance with regulations 70 (payment of Class 1A contributions), 71 (due date for payment of a Class 1A contribution) and 74 (employer failing to pay a Class 1A

contribution) to 83A (requirement to give security or further security for amounts of Class 1A contributions).

(7) Regulations 55 (repayment of Class 1A contributions) and 77 (payment of interest on a repaid Class 1A contributions) shall apply to any repayments of Class 1A contributions under this regulation unless the overpayment has been recovered by C under paragraph 11ZA(3) of Schedule 4.

(8) Where a sporting testimonial payment consists of a cash benefit and one or more other benefits, the Class 1A liability shall be calculated by applying the threshold provided for in section 403(3) and (4) ITEPA against those benefits in the following order—

- (a) the cash benefit,
- (b) the benefit which consists of an asset where ownership has been transferred to P,
- (c) any other benefit which consists of an asset that has been made available to P without any transfer of ownership.”.

8. In Schedule 4A, after paragraph 12D(a), insert—

“**12E.** The amount of Class 1A contributions payable in respect of any sporting testimonial payments.

12F. The amount of Class 1A contributions payable in respect of any termination awards.”.

	<i>Name</i>
	<i>Name</i>
Date	Two of the Commissioners for Her Majesty’s Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulation make amendments to the Social Security (Contributions) Regulations 2001 (S.I. 2004/1004) (“the 2001 Regulations”) in order to implement the provisions of the National Insurance Contributions (Termination and Sporting Testimonials) Act 2019 (c.23). This Act made amendments to the Social Security Contributions and Benefits Act 1992 (c. 4) and the Social Security Contributions and Benefits (Northern Ireland) Act (c. 7) so as to provide that from 6th April 2020 onwards Class 1A contributions are chargeable on:

- (a) termination awards that exceed the £30,000 which count as employment income under section 403 of the Income Tax (Earnings and Pensions) Act 2003 (c.1) (“ITEPA 2003”) and
- (b) sporting testimonial payments which are treated as earnings under section 226E of ITEPA.

Regulation 1 provides for citation, commencement and interpretation.

Regulation 2 introduces the amendments.

Regulation 3 inserts new definitions into the 2001 Regulations relating to sporting testimonial payments.

Regulation 4 revokes regulation 40B with savings as it is now replaced by sections 10ZBA of the Social Security Contributions and Benefits Act 1992 and the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

Regulations 5 and 6 make consequential amendments to regulations 71 and 80.

(a) Paragraph 12D was inserted by S.I. 2013/622.

Regulation 7 inserts new regulations 40C and 40D. These new regulations make special provisions for reporting, paying and collecting Class 1A contributions due on termination awards and sporting testimonial payments.

Regulation 8 inserts two new paragraphs into Schedule 4A which deals with the information that must be provided to HMRC under the RTI system regarding termination awards and sporting testimonials. These items must be reported to HMRC under the RTI system with the exception of termination awards and sporting testimonials paid in the circumstances described in regulations 40C(5) and 40D(5).

[Impact assessment]