

## 1978 No. 401

**SOCIAL SECURITY****The Social Security (Categorisation of Earners) Regulations  
(Northern Ireland) 1978**

*Made* . . . . . 21st December 1978

*Coming into operation* . . . . . 13th February 1979

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 2(2), 4(4) and (5) of, and paragraph 6(1)(k) of Schedule 1 to, 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 (Categorisation of Earners) Regulations (Northern Ireland) 1978 and shall come into operation on 13th February 1979.

(2) In these regulations, unless the context otherwise requires—

“the Act” means the Social Security (Northern Ireland) Act 1975;

“the Department” means the Department of Health and Social Services for Northern Ireland;

“educational establishment” includes—

(a) a place where instruction is provided in any course or part of a course designed to lead to a certificate, diploma, degree or professional qualification; or

(b) a place where instruction is provided in any course or part of a course being the same as, or substantially similar to, any such course or part of a course as is referred to in (a) above, but which is not designed to lead to a certificate, diploma, degree or professional qualification;

“remuneration” in paragraph 6 of Schedule 3 to these regulations includes any payment in respect of stipend or salary and excludes—

(a) any payment disregarded or, as the case may be, deducted from the amount of a person’s earnings by virtue of regulations made under section 3(3) of the Act; or

(b) any specific and distinct payment made towards the maintenance or education of a dependant of the person receiving the payment;

and other expressions have the same meanings as in the Act.

(3) These regulations shall be construed and shall operate as they would fall to be construed and to operate by virtue of section 23(1) of the Interpretation Act 1978(b) if they were made after the commencement of that Act.

(a) 1975 c. 15

(b) 1978 c. 30

*Treatment of earners in one category of earners as falling within another category and disregard of employments*

2.—(1) For the purposes of the Act an earner in one category of earners shall be treated as falling within another category in accordance with the following provisions of this regulation.

(2) Subject to the provisions of paragraph (4) of this regulation, every earner shall, in respect of any employment described in any paragraph in column (A) of Part I of Schedule 1 to these regulations, be treated as falling within the category of an employed earner in so far as he is gainfully employed in such employment and is not a person specified in the corresponding paragraph in column (B) of that Part, notwithstanding that the employment is not under a contract of service, or in an office (including elective office) with emoluments chargeable to income tax under Schedule E.

(3) Subject to the provisions of paragraph (4) of this regulation, every earner shall, in respect of any employment described in paragraph 6 in column (A) of Part II of the said Schedule 1, be treated as falling within the category of a self-employed earner in so far as he is gainfully employed in such employment and is not a person specified in the corresponding paragraph in column (B) of that Part, notwithstanding that the employment is under a contract of service, or in an office (including elective office) with emoluments chargeable to income tax under Schedule E.

(4) Every employment described in any paragraph in column (A) of Part III of the said Schedule 1 shall, in relation to liability for contributions otherwise arising from employment of that description, be disregarded, except in so far as it is employment of a person specified in the corresponding paragraph in column (B) of that Part.

*Employments treated as continuing*

3. For the purposes of the Act with respect to the computation, collection and recovery of, and otherwise with respect to, contributions (other than Class 4 contributions which under section 9 of the Act are to be recovered by the Inland Revenue), the employment of a person shall be treated as continuing in the circumstances specified in Schedule 2 to these regulations.

*Special provisions with respect to persons declared by the Court of Appeal to be persons falling within a particular category of earners*

4.—(1) Where, under the provisions of the Act relating to references and appeals to the Court of Appeal in Northern Ireland<sup>(c)</sup>, the Court of Appeal in Northern Ireland decides any question whether in respect of any employment a person is an earner and, if so, as to the category of earners in which he is to be included, and that decision is inconsistent with some previous determination of a question by the Department<sup>(d)</sup>, then, if the Department is satisfied that contributions appropriate to another category of earners have been paid by or in respect of any person by reason of that determination or in the reasonable belief that that determination was applicable, it may, if it appears to it that it would be in the interests of the person by or in respect of whom such contributions have been paid, or of any claimant or beneficiary by virtue of that person's contributions, so to do, direct that that person shall be treated as though he had been included in the category of earners corresponding to the

(c) See section 94 of the Social Security (Northern Ireland) Act 1975

(d) See section 93 of the Social Security (Northern Ireland) Act 1975

contributions paid during the period for which contributions appropriate to that other category were so paid before the date on which the decision of the Court of Appeal in Northern Ireland was given, and, if such a direction is given, that person shall be deemed to have been included in that category accordingly for such period.

(2) Where the Department, on review under section 96(1) of the Act, has revised a determination of a question previously given by it, the provisions of this regulation shall apply with the necessary modifications in the same manner as they apply where the Court of Appeal in Northern Ireland has given a decision inconsistent with a determination previously given by the Department.

*Persons to be treated as secondary contributors*

5. For the purposes of section 4 of the Act (Class 1 contributions), in relation to any payment of earnings to or for the benefit of an employed earner in any employment described in any paragraph in column (A) of Schedule 3 to these regulations, the persons specified in the corresponding paragraph in column (B) of that Schedule shall be treated as the secondary Class 1 contributor in relation to that employed earner.

*Revocations and general savings*

6.—(1) The regulations specified in column 1 of Schedule 4 to these regulations are hereby revoked to the extent mentioned in column 3 of that Schedule.

(2) Anything whatsoever done under or by virtue of any regulation revoked by these regulations shall be deemed to have been done under or by virtue of the corresponding provision of these regulations, and anything whatsoever begun under any such regulation may be continued under these regulations as if begun thereunder.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 21st December 1978.

(L.S.)

*W. J. Sloane*

Senior Assistant Secretary

## SCHEDULE 1

## Regulation 2

## PART I

<p style="text-align: center;">Column (A)</p> <p style="text-align: center;"><i>Employments in respect of which, subject to the provisions of regulation 2 and to the exceptions in column (B) of this Part, earners are treated as falling within the category of employed earner</i></p>	<p style="text-align: center;">Column (B)</p> <p style="text-align: center;"><i>Persons excepted from the operation of column (A)</i></p>
<p>1. Employment as an office cleaner or in any similar capacity in any premises other than those used as a private dwelling-house.</p> <p>2. Employment (not being employment in respect of which a person is, under the provisions of paragraph 1, 3 or 5 of this Schedule, treated as falling within the category of an employed earner) in which the person employed renders, or is under obligation to render, personal service and is subject to supervision, direction or control, or to the right of supervision, direction or control, as to the manner of the rendering of such service and where the person employed is supplied by or through some third person (including, in the case of a body of persons unincorporate, a body of which the person employed is a member) and—</p> <p>(a) where earnings for such service are paid by or through, or on the basis of accounts submitted by, that third person or in accordance with arrangements made with that third person; or</p> <p>(b) where payments, other than to the person employed, are made by way of fees, commission or other payments of like nature which relate to the continued employment in that employment of the person employed.</p>	<p>1. None.</p> <p>2. Any person in employment described in paragraph 2 in column (A)—</p> <p>(a) where the service of the person employed is rendered in his own home or on other premises not under the control or management of the person to whom the person employed is supplied (except where such other premises are premises at which the person employed is required, by reason of the nature of the service, to render service); or</p> <p>(b) who is employed as an actor, singer, musician or other entertainer or as a fashion, photographic or artist's model; or</p> <p>(c) in a case where earnings are not paid by or through, or on the basis of accounts submitted by, that third person—</p> <p>(i) where the person employed has obtained that employment through a third person as part of that third person's activities in which persons seeking employment are introduced to persons requiring their services; and</p> <p>(ii) where as a result of such an introduction the person employed and the person to whom he has been introduced have entered into a contract with each other for the rendering of such service; and</p>

<p style="text-align: center;">Column (A)</p> <p style="text-align: center;"><i>Employments in respect of which, subject to the provisions of regulation 2 and to the exceptions in column (B) of this Part, earners are treated as falling within the category of employed earner</i></p>	<p style="text-align: center;">Column (B)</p> <p style="text-align: center;"><i>Persons excepted from the operation of column (A)</i></p>
<p>3. Employment of a person by his or her spouse for the purposes of the spouse's employment.</p> <p>4. Employment (not being employment described in paragraph 2 in column (A) of this Schedule) as a lecturer; teacher, instructor or in any similar capacity in an educational establishment by any person providing education being employment in which—</p> <p>(a) the person employed has agreed, prior to giving the instruction, to give it on at least four days in three consecutive months; and</p> <p>(b) the person employed gives the instruction in the presence of the persons to whom the instruction is given except where the employment is in the Open University; and</p> <p>(c) the earnings in respect of the employment are paid by, or on behalf of, the person providing the education.</p> <p>5. Employment as a minister of religion, not being employment under a contract of service or in an office with emoluments chargeable to income tax under Schedule E.</p>	<p>(iii) where only the person employed and the person to whom he has been introduced have a direct financial interest in the continued employment in that employment of the person employed.</p> <p>3. None.</p> <p>4. Any person in employment described in paragraph 4 in column (A) where the instruction is given as public lectures.</p> <p>5. Any person in employment described in paragraph 5 in column (A) whose remuneration in respect of that employment (disregarding any payment in kind) does not consist wholly or mainly of stipend or salary.</p>

## PART II

Column (A)	Column (B)
<p><i>Employments in respect of which, subject to the provisions of regulation 2 and to the exceptions in column (B) of this Part, earners are treated as falling within the category of self-employed earner</i></p> <p>6. Employment (not being employment described in paragraph 2 in column (A) of this Schedule) by any person responsible for the conduct or administration of any examination leading to any certificate, diploma, degree or professional qualification—</p> <p>(a) as an examiner, moderator or invigilator or in any similar capacity, or</p> <p>(b) in which the person employed is engaged to set questions or tests for any such examination, under a contract where the whole of the work to be performed is to be performed in less than twelve months.</p>	<p><i>Persons excepted from the operation of column (A)</i></p> <p>6. None.</p>

## PART III

<p style="text-align: center;">Column (A)</p> <p style="text-align: center;"><i>Employments which, subject to the exceptions, in column (B) of this Part, are to be disregarded</i></p>	<p style="text-align: center;">Column (B)</p> <p style="text-align: center;"><i>Employments excepted from the operation of column (A)</i></p>
<p>7. Employment by the father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, grand-daughter, stepson, stepdaughter, brother, sister, half-brother or half-sister of the person employed, in so far as the employment—</p> <p>(a) is employment in a private dwelling-house in which both the person employed and the employer reside; and</p> <p>(b) is not employment for the purposes of any trade or business carried on there by the employer.</p> <p>8. Employment (whether or not under a contract of service) of a person by his or her spouse otherwise than for the purposes of the spouse's employment.</p> <p>9. Any employment or employments as a self-employed earner (including any employment in respect of which a person is, under these regulations, treated as falling within the category of a self-employed earner) where the earner is not ordinarily employed in any such employment or employments.</p> <p>10. Employment for the purpose of any election or referendum authorised by enactment or instrument—</p> <p>(a) as a deputy returning officer; or</p> <p>(b) of any person by a returning officer, by a deputy returning officer, by a chief counting officer or by a counting officer.</p>	<p>7. None.</p> <p>8. None.</p> <p>9. None.</p> <p>10. Employment as a deputy returning officer by virtue of section 14A of the Electoral Law Act (Northern Ireland) 1962(e).</p>

SCHEDULE 2

Regulation 3

CIRCUMSTANCES IN WHICH EMPLOYMENT IS TREATED AS CONTINUING

Where a person is employed as a self-employed earner or in an employment in respect of which he is, under these regulations, treated as falling within the category of a self-employed earner, the employment shall in either case be treated as continuing unless and until he is no longer ordinarily employed in that employment.



## SCHEDULE 3

Regulation 5

## EMPLOYMENTS IN RESPECT OF WHICH PERSONS ARE TREATED AS SECONDARY CLASS 1 CONTRIBUTORS

Column (A) <i>Employments</i>	Column (B) <i>Persons treated as secondary Class 1 contributors</i>
<p>1. Employment as an office cleaner or in any similar capacity in any premises other than those used as a private dwelling-house.</p> <p>2. Employment, whether or not under a contract of service (not being employment described in paragraph 2 in column (B) of Schedule 1 to these regulations or an employment to which paragraph 1, 4 or 6 of this Schedule applies) in which the person employed renders, or is under an obligation to render, personal service and is subject to supervision, direction or control, or to the right of supervision, direction or control, as to the manner of the rendering of such service and where the person employed is supplied by or through some third person (including, in the case of a body of persons unincorporate, a body of which the person employed is a member) and—</p> <p>(a) where earnings for such service are paid by or through, or on the basis of accounts submitted by, that third person or in accordance with arrangements made with that third person; or</p> <p>(b) where payments, other than to the person employed, are made by way of fees, commission or other payments of like nature which relate to the continued employment in that employment of the person employed.</p>	<p>1. (a) Where the person employed is supplied by, or through the agency of, some third person and receives his remuneration from, or through the agency of, that third person, that third person;</p> <p>(b) in any other case, except where the employment is also one described in paragraph 4 in column (A) of this Schedule, the person with whom the person employed contracted to do the work.</p> <p>2. (a) Where the person employed is supplied by or through the agency of a body of persons unincorporate and the person employed is a member of that body, the other members of that body, and, in any other case, the third person by whom or through whose agency the person employed is supplied;</p> <p>(b) where the other members of the body or the third person specified in sub-paragraph (a) of this paragraph do not fulfil the conditions as to residence or presence in Northern Ireland prescribed in regulation 105(1)(b) of the Social Security (Contributions) Regulations (Northern Ireland) 1975(f), the person to whom the person employed is supplied (and in that case sub-paragraph (a) of this paragraph shall not apply).</p>

<p>Column (A)</p> <p><i>Employments</i></p>	<p>Column (B)</p> <p><i>Persons treated as secondary Class 1 contributors</i></p>
<p>3. Employment of a person by his or her spouse for the purposes of the spouse's employment.</p> <p>4. Employment (not being employment in respect of which a secondary contributor, in any particular case, is prescribed in paragraph 1(a) in column (B) of this Schedule, and not being employment described in paragraph 2 in column (A) of this Schedule) by a company, being a company within the meaning of the Companies Act (Northern Ireland) 1960(g) and in voluntary liquidation but carrying on business under a liquidator.</p> <p>5. Employment (not being employment described in paragraph 4 in column (B) of Schedule 1 to these regulations or an employment to which paragraph 2 of this Schedule applies) as a lecturer, teacher, instructor or in any similar capacity in an educational establishment by any person providing education being employment in which—</p> <ul style="list-style-type: none"> <li>(a) the person employed has agreed, prior to giving the instruction, to give it on at least four days in three consecutive months; and</li> <li>(b) the person employed gives the instruction in the presence of the persons to whom the instruction is given except where the employment is in the Open University; and</li> <li>(c) the earnings in respect of the employment are paid by, or on behalf of, the person providing the education.</li> </ul> <p>6. Employment as a minister of religion not being employment—</p> <ul style="list-style-type: none"> <li>(a) under a contract of service; or</li> <li>(b) described in paragraph 5 in column (B) of Schedule 1 to these regulations.</li> </ul>	<p>3. The spouse.</p> <p>4. The person who at the time of the employment holds the office of liquidator.</p> <p>5. The person providing the education.</p> <p>6. (a) Where the remuneration in respect of the employment is paid from one fund, the person responsible for the administration of that fund;</p> <p>(b) where the remuneration in respect of the employment is paid from more than one fund and—</p>

<p>Column (A)</p> <p><i>Employments</i></p>	<p>Column (B)</p> <p><i>Persons treated as secondary Class 1 contributors</i></p>
	<p>(i) remuneration is also paid from one of those funds to other ministers of religion, the person responsible for the administration of that fund;</p> <p>(ii) remuneration is also paid from two or more of those funds to other ministers of religion, the person responsible for the administration of the fund from which remuneration is paid to the greatest number of ministers of religion who carry out their duties in Northern Ireland;</p> <p>(iii) no person falls to be treated as secondary contributor by virtue of sub-paragraph (b)(i) or (ii) of this paragraph, the person responsible for the administration of the fund from which the minister of religion first receives a payment of remuneration in the tax year.</p>

## SCHEDULE 4

Regulation 6(1)

## REVOCATIONS

<i>Column 1</i> <i>Regulations revoked</i>	<i>Column 2</i> <i>References</i>	<i>Column 3</i> <i>Extent of Revocation</i>
The Social Security (Categorisation of Earners) (Northern Ireland) Regulations 1975	S.I.R. 1975 No. 27 (I, p. 139)	The whole regulations
The Social Security (Categorisation of Earners) Amendment (Northern Ireland) Regulations 1975	S.R. 1975 No. 55 (I, p. 251)	The whole regulations
The Social Security (Categorisation of Earners) Amendment Regulations (Northern Ireland) 1976	S.I.R. 1976 No. 112 (I, p. 472)	The whole regulations
The Social Security (Categorisation of Earners) (Amendment) Regulations (Northern Ireland) 1977	S.R. 1977 No. 193 (II, p. 1095)	The whole regulations
The Social Security (Categorisation of Earners and Contributions) (Amendment) Regulations (Northern Ireland) 1977	S.R. 1977 No. 349 (II, p. 1821)	Regulations 1(2)(a) and 2 to 7 inclusive
The Social Security (Categorisation of Earners) (Amendment) Regulations (Northern Ireland) 1978	S.R. 1978 No. 308	The whole regulations

## EXPLANATORY NOTE

*(This note is not part of the regulations but is intended to indicate their general purport.)*

These regulations are made for the purpose only of consolidating the regulations hereby revoked and listed in Schedule 4.

They provide for persons in employments of prescribed descriptions to be treated for the purposes of the Social Security (Northern Ireland) Act 1975 as falling within another category of earners. The regulations also provide for other employments of prescribed descriptions to be disregarded (regulation 2 and Schedule 1).

Provision is also made for the circumstances in which employment as a self-employed earner is treated as continuing (regulation 3 and Schedule 2).

Provision is also made for the special categorisation of a person following a decision of the Court of Appeal or a revised decision of the Department of Health and Social Services so as to enable the original determination concerning that person's category to stand where this would be in the interests of the person concerned (regulation 4).

The regulations also provide for prescribed persons to be treated for the purposes of the Social Security (Northern Ireland) Act 1975 as the secondary Class 1 contributor in respect of persons in specified employments (regulation 5 and Schedule 3).

No amendments other than those of a minor or consequential nature have been made.

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**1978 No. 402****Medicines (Radioactive Substances) Order 1978**

This Order has been made by the Secretaries of State respectively concerned with health in England, in Wales and in Scotland and the Department of Health and Social Services for Northern Ireland, acting jointly, in exercise of powers conferred by section 104(1) of the Medicines Act 1968.

In pursuance of paragraph 11 of Schedule 4 to that Act this Order has been registered as a Northern Ireland Statutory Rule under the Statutory Rules Act (Northern Ireland) 1958. It is printed in full in the volume of United Kingdom Statutory Instruments for 1978 and has been numbered 1004 in that series.