

1985 No. 61

SOCIAL SECURITY

**The Social Security (Contributions) (Amendment No. 2)
Regulations (Northern Ireland) 1985**

Made 26th March 1985

Coming into operation 6th April 1985

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 7A(6), 8(2D), 11 and 124(1) of, and paragraph 1(1)(a) of Schedule 1 to, the Social Security (Northern Ireland) Act 1975(a) and Article 6(1) of the Social Security Pensions (Northern Ireland) Order 1975(b) 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. 2) Regulations (Northern Ireland) 1985 and shall come into operation on 6th April 1985.

(2) In these regulations “the principal regulations” means the Social Security (Contributions) Regulations (Northern Ireland) 1979(c).

Amendment of regulation 1(2) of the principal regulations

2. In regulation 1(2) of the principal regulations (interpretation) after the definition of “contribution week” there shall be inserted the following definition—

“ “contribution year” has the meaning assigned to it in section 7A(1), or as the case may require, section 8(2B) of the Act;”.

Insertion of regulation 12A in the principal regulations

3. After regulation 12 of the principal regulations(d) (aggregation of earnings paid in respect of different employed earner’s employments by different persons and apportionment of contribution liability) there shall be inserted the following regulation—

“Aggregation of earnings paid after pensionable age

12A. Notwithstanding the provisions of regulation 12 of these regulations, a payment of earnings to which regulation 20 of these regulations applies shall not be aggregated with any other earnings.”.

Amendment of regulation 17 of the principal regulations

4. At the beginning of regulation 17(1) of the principal regulations (annual maximum) there shall be inserted “Subject to the provisions of section 7A of the Act and of regulations 43B, 43C and 43D of these regulations,”.

(a) 1975 c. 15; section 7A(6) was inserted by Article 11 of the Health and Social Security (Northern Ireland) Order 1984 (S.I. 1984/1158 (N.I. 8)); and section 8(2D) was inserted by Article 12 of that Order

(b) S.I. 1975/1503 (N.I. 15); Article 6(1) was amended by Article 15 of, and paragraph 4 of Schedule 5 to, the Health and Social Security (Northern Ireland) Order 1984

(c) S.R. 1979 No. 186

(d) Regulation 12 was amended by S.R. 1984 No. 43

Substitution of regulation 20 of the principal regulations

5. For regulation 20 of the principal regulations (exception of persons over pensionable age from Class 1 liability) there shall be substituted the following regulation—

“Liability for Class 1 contributions in respect of earnings normally paid after pensionable age

20. Where in the year in which an earner attains pensionable age a payment of earnings is made to or for his benefit before the date he reaches pensionable age, and those earnings would normally fall to be paid in a year following that year, he shall be excepted from liability for primary Class 1 contributions payable in respect of those earnings.”.

Insertion of regulation 20A in the principal regulations

6. After regulation 20 of the principal regulations there shall be inserted the following regulation—

“Liability for Class 1 contributions of persons over pensionable age

20A. Where earnings are paid to or for the benefit of an earner after he attains pensionable age and those earnings would normally fall to be paid before the date on which he reaches pensionable age, the provisions of Article 6(1) of the Pensions Order shall not operate to except him from liability for primary Class 1 contributions in respect of those earnings.”.

Insertion of regulations 43A, 43B, 43C and 43D in the principal regulations

7. After regulation 43 of the principal regulations (payment of contributions after death of contributor) there shall be inserted the following regulations—

“Class 2 and Class 3 contributions paid after 5th April 1985 in respect of a period before 6th April 1983

43A.—(1) This regulation applies to any—

- (a) Class 2 contribution payable in respect of a week falling in a year before 6th April 1983, and
- (b) Class 3 contribution payable in respect of a year before 6th April 1983.

(2) Where a contribution to which this regulation applies is paid the amount of such a contribution shall be computed by reference to the weekly rate of or, as the case may be, the amount of such a contribution applicable in the contribution year.

Class 2 contributions paid late in accordance with a payment undertaking

43B.—(1) Subject to the provisions of regulation 43A of these regulations, this regulation applies to any Class 2 contribution which—

- (a) the earner has failed to pay on or by the due date and thereafter is payable in accordance with the provisions of an undertaking to pay such a contribution entered into after that date, and
 - (b) would when paid fall to be computed in accordance with the provisions of section 7A(3) of the Act.
- (2) In the case of a contribution to which this regulation applies—
- (a) which is paid in accordance with the provisions of an undertaking entered into in the contribution year or the year immediately following that year the amount of such a contribution shall be computed by reference to the weekly rate applicable in the contribution year,

- (b) which is paid in accordance with the provisions of an undertaking entered into in any year other than a year specified in sub-paragraph (a) of this paragraph the amount of such a contribution shall be computed by reference to the weekly rate applicable in the year in which the undertaking was entered into,
- (c) which is not paid in accordance with the provisions of the undertaking the amount of such a contribution shall be computed by reference to the weekly rate of such a contribution applicable—
 - (i) where the contribution is paid in pursuance of a further undertaking entered into in a later year, in the year in which the further undertaking is entered into, or
 - (ii) where the contribution is paid otherwise than in accordance with a further undertaking, when payment of the contribution is actually made.

(3) In this regulation “undertaking” means an arrangement between the Department and an earner whereby the Department has agreed to accept payment of arrears of Class 2 contributions by instalments.

Class 2 and Class 3 contributions paid within a month from notification of amount of arrears

43C.—(1) Subject to the provisions of regulation 43A of these regulations, this regulation applies to any Class 2 or Class 3 contribution—

- (a) which would when paid fall to be computed in accordance with the provisions of section 7A(3) or, as the case may be, section 8(2C) of the Act, and
 - (b) the amount whereof has been notified to the contributor by the Department in the last month of a year.
- (2) Where a contribution to which this regulation applies is paid—
- (a) within one calendar month from the date of such notification, and
 - (b) in the year following that in which the said amount was so notified,

the amount of such a contribution shall be computed by reference to the weekly rate or, as the case may be, amount of such a contribution calculated in accordance with the provisions of section 7A or, as the case may be, section 8 of the Act as if the contribution had been paid in the year in which the said amount was notified.

Class 2 and Class 3 contributions paid late through ignorance or error

43D.—(1) Subject to the provisions of regulation 43A of these regulations, this regulation applies to any Class 2 or Class 3 contribution which would when paid fall to be computed at a rate or, as the case may be, an amount other than that applicable in the contribution year in accordance with the provisions of section 7A(3) or, as the case may be, section 8(2C) of the Act.

(2) Where—

- (a) it is shown to the satisfaction of the Department that, by reason of ignorance or error on the part of the earner, not being ignorance or error due to any failure on his part to exercise due care and diligence, he has failed to pay a Class 2 contribution to which this regulation applies for any period on or by the due date, and
- (b) payment of the said contribution is made in a year later than that in which the said period commenced,

the amount of such a contribution shall be computed by reference to the weekly rate of such a contribution calculated in accordance with the provisions of section

7A of the Act as if the contribution had been paid in the year in which the said period commenced.

(3) (a) Where a Class 3 contribution would otherwise fall to be computed in accordance with section 8(2C) of the Act, but it is shown to the satisfaction of the Department that the contributor has not paid the said contribution before the end of the second year following the contribution year by reason of ignorance or error on the part of the earner, not being ignorance or error due to any failure on his part to exercise due care and diligence, the amount of such a contribution shall be computed by reference to the amount of such a contribution applicable in the contribution year;

(b) where—

- (i) a Class 3 contribution would when paid fall to be computed in accordance with section 8(2C) of the Act, and
- (ii) such a contribution remains unpaid for a period commencing at any time after the end of the second year following the contribution year, and
- (iii) it is shown to the satisfaction of the Department that the contributor has not, during the said period only, paid such a contribution by reason of ignorance or error not being ignorance or error due to any failure on the contributor's part to exercise due care and diligence,

the amount of such a contribution shall be computed by reference to the amount of such a contribution calculated in accordance with the provisions of section 8 of the Act as if the contribution had been paid in the year in which the said period commenced.”

Amendment of regulation 66 of the principal regulations

8. In regulation 66(1) of the principal regulations (annual maximum of Class 4 contributions) before “53 times the amount” there shall be inserted “, subject to the provisions of section 7A of the Act and regulations 43B, 43C and 43D of these regulations,”

Amendment of regulation 96 of the principal regulations

9. In regulation 96 of the principal regulations (modification in relation to share fishermen of Part I of the Act and so much of Part IV thereof as relates to contributions) after paragraph (g) there shall be inserted the following paragraph—

“(h) for the purposes of the provisions of section 7A of the Act and for the purposes of those provisions as modified by regulations 43B, 43C and 43D of these regulations, where an earner was a share fisherman when liability for Class 2 contributions arose, any reference in the said section 7A to an ordinary contribution, or any reference in the said regulations 43B, 43C and 43D to the weekly applicable rate of a contribution, shall be a reference to the rate of Class 2 contributions prescribed for a share fisherman.”

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 26th March 1985.

(L.S.)

A. N. Burns

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations further amend the Social Security (Contributions) Regulations (Northern Ireland) 1979 ("the principal regulations"). They correspond to provision contained in regulations made by the Secretary of State for Social Services in relation to Great Britain — the Social Security (Contributions) Amendment (No. 2) Regulations 1985, the Social Security (Contributions) Amendment (No. 3) Regulations 1985, the Social Security (Contributions) Amendment (No. 4) Regulations 1985 and the Social Security (Contributions) Amendment (No. 5) Regulations 1985 — and accordingly, by virtue of section 10(2) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1980 (c. 30) are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee.

Regulation 2 inserts a definition of "contribution year" into regulation 1(2) of the principal regulations.

Regulation 3 inserts regulation 12A into the principal regulations. The new regulation provides for the non-aggregation of earnings to which regulation 20 (liability for Class 1 contributions in respect of earnings normally paid after pensionable age) of the principal regulations (as substituted by regulation 5 of these regulations) applies, that is to say earnings which are not paid in the tax year in which they would normally be paid.

Regulation 4 amends regulation 17 of the principal regulations. The amendment provides that the application of regulation 17 (annual maximum for Class 1 and Class 2 contributions) shall be subject to the provisions of section 7A of the Social Security (Northern Ireland) Act 1975 ("the Act") and regulations 43B, 43C and 43D of the principal regulations (as inserted by regulation 7 of these regulations).

Regulation 5 substitutes a new regulation 20 in the principal regulations. The new regulation makes provision for a case in which a payment of earnings is made to or for the benefit of an employed earner in the tax year he attains pensionable age, but before he attains such age, and that payment would normally be made in a tax year after the tax year in which the employed earner attains pensionable age. In such a case the employed earner is excepted from liability for primary Class 1 contributions in respect of the payment.

Regulation 6 inserts regulation 20A into the principal regulations. The new regulation provides that the provisions of Article 6(1) of the Social Security Pensions (Northern Ireland) Order 1975 to except an employed earner from liability for primary Class 1 contributions shall not operate in relation to a payment of earnings made to an employed earner, where that payment was made to or for the benefit of the employed earner after he attains pensionable age, but would normally fall to be paid before he reaches such age.

Regulation 7 inserts regulations 43A, 43B, 43C and 43D into the principal regulations:

- new regulation 43A provides that the amount of a Class 2 contribution payable in respect of a week falling in a tax year before 6th April 1983 and the amount of a Class 3 contribution payable in respect of a year before such date, shall be computed by reference to the rate or amount applicable in the year in respect of which payment is made;

- new regulation 43B makes provision for the weekly rate of a late paid Class 2 contribution which would when paid fall to be computed in accordance with the provisions of section 7A(3) of the Act and which is paid under an arrangement whereby the Department has agreed to accept payment of arrears of Class 2 contributions by instalments;
- new regulation 43C makes further provision for the weekly rate of a Class 2 contribution, or amount of a Class 3 contribution, to be used in the computation of the amount payable where such a contribution would when paid fall to be computed in accordance with the provisions of section 7A(3) or, as the case may be, section 8(2C) of the Act. Where the amount of such a contribution has been notified to the contributor by the Department in the last month of a tax year, and the contribution is paid in the tax year following the notification and within one calendar month from the date of that notification, the computation is made by reference to the weekly rate for Class 2 contributions or, the amount of Class 3 contributions, in accordance with the provisions of section 7A or, as the case may be, section 8 of the Act as if payment had been made in the year of notification;
- new regulation 43D provides for the weekly rate of a late paid Class 2 contribution or amount of a Class 3 contribution which would when paid fall to be computed in accordance with the provisions of section 7A (3) or, as the case may be, section 8(2C) of the Act, where the Department is satisfied that payment has been delayed due to ignorance or error on the part of the contributor and that ignorance or error was not due to the contributor's failure to exercise due care and diligence.

Regulation 8 amends regulation 66 of the principal regulations. The amendment makes similar provision to that in regulation 4 in relation to the annual maximum prescribed in regulation 66 for Class 4 contributions.

Regulation 9 inserts a new regulation 96(h) into the principal regulations. This provides that where liability for a Class 2 contribution at the share fisherman rate prescribed in regulation 96(c) of the principal regulations arises in a year, and the weekly rate of the said contribution later falls to be computed in accordance with the provisions of section 7A of the Act or regulations 43B, 43C or 43D of the principal regulations, any reference in those provisions to an "ordinary contribution" or, as the case may be, "weekly applicable rate" shall be a reference to the rate of a Class 2 contribution for share fishermen prescribed in regulation 96(c) of the principal regulations.

Sections 7A(6) and 8(2D) of the Act are two of the enabling provisions under which these regulations are made. They are brought into operation on 6th April 1985 by the Health and Social Security (1984 Order) (Commencement No. 1) Order (Northern Ireland) 1984 (S.R. 1984 No. 300 (C. 7)).

1985 No. 62

Road Races (Circuit of Ireland Rally) Order (Northern Ireland) 1985

This Order, being of a temporary character, is not printed at length in this volume.