

1992 No. 280

SOCIAL SECURITY

**The Social Security (Contributions) (Amendment No. 6)
Regulations (Northern Ireland) 1992**

Made 18th June 1992

Coming into operation 10th July 1992

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by paragraphs 5(1)(a) and (b) and 6(1)(ggg) of Schedule 1 to the Social Security (Northern Ireland) Act 1975(a) and of all other powers enabling it in that behalf, and with the concurrence of the Inland Revenue in so far as their concurrence is required, 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) 1992 and shall come into operation on 10th July 1992.

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

Amendment of regulation 33A of the principal regulations

2. For paragraph (1) of regulation 33A of the principal regulations (repayment of Class 1A contributions) there shall be substituted the following paragraph—

“(1) Subject to the provisions of regulations 31 and 35 of these regulations and paragraphs (2) and (3) of this regulation, where, in a case prescribed in the next succeeding paragraph, the Department is satisfied, in the light of information of a kind mentioned in section 4A(6)(a), (b) or (c) of the Act(c), that too much has been paid in respect of a Class 1A contribution, the Department shall repay to the person paying that contribution the amount of that part of that contribution which has been overpaid, unless that amount does not exceed £0.50.”.

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- (a) 1975 c. 15; paragraph 5(1)(a) was amended by Article 4(3)(a) of the Social Security (Contributions) (Northern Ireland) Order 1991 (S.I. 1991/2294 (N.I. 22)); paragraph 6(1) (ggg) was inserted by Article 4(5)(c) of that Order
- (b) S.R. 1979 No. 186; relevant amending regulations are S.R. 1981 No. 30, S.R. 1982 Nos. 69 and 267, S.R. 1983 No. 64, S.R. 1984 No. 43, S.R. 1985 No. 59, S.R. 1987 No. 143, S.R. 1990 No. 110, S.R. 1991 Nos. 106 and 310 and S.R. 1992 No. 41
- (c) Section 4A was inserted by Article 3(5) of the Social Security (Contributions) (Northern Ireland) Order 1991

Amendment of Schedule 1 to the principal regulations

3.—(1) Schedule 1 to the principal regulations (application of Income Tax (Employments) Regulations 1973 to earnings-related contributions) shall be amended in accordance with paragraphs (2) to (13) of this regulation.

(2) In Regulation 13(6) (calculation of deduction)—

(a) for “and the provisions of Regulation 13A(b)” there shall be substituted “and to Regulations 13A(b) and 26D(4)(a)”;

(b) in sub-paragraph (b)—

(i) in head (vi) after “payable” there shall be inserted “, other than earnings from non-contracted-out employment in respect of which primary Class 1 contributions are payable at the reduced rate”,

(ii) after head (vii) there shall be added the following head—

“(viii) the earnings, if any, recorded under head (vi) of this sub-paragraph, above the lower earnings limit, in respect of which primary Class 1 contributions are payable at the reduced rate;”;

(c) for sub-paragraph (c) there shall be substituted the following sub-paragraph—

“(c) when the employment is contracted-out employment—

(i) the amount of that part of the contributions recorded under head (iv) of the last preceding sub-paragraph which was payable at the contracted-out percentage on earnings above the lower earnings limit,

(ii) the amount of that part of the contributions recorded under head (iv) of the last preceding sub-paragraph which was payable on earnings above the lower earnings limit, if primary Class 1 contributions are payable at the reduced rate.”.

(3) In Regulation 13A (recording of Class 1A contributions) for “Not” there shall be substituted “Subject to Regulation 26D(4), not”;

(4) In Regulation 25 (certificate of contributions paid) for paragraph (a) there shall be substituted the following paragraph—

“(a) is required to give the employee a certificate in accordance with Regulation 25 of the Income Tax Regulations (certificate of tax deducted), the employer shall enter thereon in respect of the year to which the certificate relates—

(i) the amount of any earnings in respect of which primary Class 1 contributions were payable, other than earnings from non-contracted-out employment in respect of which primary Class 1 contributions were payable at the reduced rate,

- (ii) the amount of the earnings, if any, recorded under sub-paragraph (i) of this paragraph, in respect of which primary Class 1 contributions were payable at the contracted-out percentage,
- (iii) the amount of the earnings, if any, recorded under sub-paragraph (i) of this paragraph, above the lower earnings limit, in respect of which primary Class 1 contributions were payable at the reduced rate,
- (iv) the amount of primary Class 1 contributions paid by the employee,
- (v) the amount, if any, of the contributions recorded under sub-paragraph (iv) of this paragraph paid at the contracted-out percentage on earnings above the lower earnings limit,
- (vi) the amount, if any, of the contributions recorded under sub-paragraph (iv) of this paragraph paid on earnings above the lower earnings limit, if primary Class 1 contributions were payable at the reduced rate,

and shall enter each of the amounts under sub-paragraphs (iv), (v) and (vi) of this paragraph under the appropriate category letter indicated by the Department;”.

(5) In Regulation 26A(3) (payment of earnings-related contributions quarterly by employer) for “£400” there shall be substituted “£450”.

(6) In Regulation 26C(1) (payment of Class 1A contributions) for “Subject to paragraph (2) of this Regulation” there shall be substituted “Subject to the provisions of paragraph (2) of this Regulation and to Regulation 26D(5)”.

(7) After Regulation 26C there shall be inserted the following Regulation—

“Payment of Class 1A contributions on succession to, or cessation of, business

26D.—(1) The provisions of paragraphs (4), (5) and (6) of this Regulation shall apply in relation to the payment of Class 1A contributions—

- (a) in the circumstances specified in paragraph (2)(a) of this Regulation, in respect of the employees described in paragraph (3)(a) of this Regulation; and
- (b) in the circumstances specified in paragraph (2)(b) of this Regulation, in respect of the employees described in paragraph (3)(b) of this Regulation.

(2) For the purposes of—

- (a) paragraph (1)(a) of this Regulation, the circumstances are that there is a change in the employer who is liable to pay emoluments to, or for the benefit of, all the persons who are employed in a business in respect of their employment in that business;

- (b) paragraph (1)(b) of this Regulation, the circumstances are that an employer ceases to carry on business and upon that cessation no other person becomes liable to pay emoluments to, or for the benefit of, any employee in respect of his employment in that business.
- (3) For the purposes of—
- (a) paragraph (1)(a) of this Regulation, the employees are those who ceased to be employed in the business referred to in sub-paragraph (a) of the last preceding paragraph before the change of employer referred to in that sub-paragraph occurred;
- (b) paragraph (1)(b) of this Regulation, the employees are all those who were employed in the business referred to in paragraph (2)(b) of this Regulation at any time in the relevant final year or the year immediately preceding the relevant final year.
- (4) Not later than 12 days after the end of the relevant final income tax month, the employer shall record on the deductions working sheet for the relevant final year, for each employee in respect of whom he is liable to pay a Class 1A contribution referred to in paragraph (1) of this Regulation in respect of that year, the following particulars in addition to any particulars required under Regulation 13(6) or 13A(b), namely—
- (a) the appropriate category letter indicated by the Department for recording the amount of the Class 1A contributions payable by an employer; and
- (b) the amount of the Class 1A contribution which the employer has calculated as being payable by him in accordance with section 4A(4) of the Act for that year in respect of the employee and car in question.
- (5) Not later than 14 days after the end of the relevant final income tax month, the employer shall pay to the Collector—
- (a) any Class 1A contribution referred to in paragraph (1) of this Regulation in respect of the relevant final year; and
- (b) where the relevant final income tax month is the month beginning on 6th April or 6th May, any Class 1A contribution referred to in paragraph (1) of this Regulation in respect of the year immediately preceding the relevant final year.
- (6) The employer shall include the amount of any Class 1A contribution which is payable in accordance with paragraph (5)(a) of this Regulation in the return required by Regulation 30(1) for the relevant final year, by showing that amount in the particulars required under paragraph (1)(i) of that Regulation(a) and by including that amount in the particulars required under paragraph (2)(h) and (i) of that Regulation.
- (7) In this Regulation, unless the context otherwise requires—
- (a) “business” includes any trade, concern or undertaking;
- (b) “employer” means—

(a) Substituted by paragraph (11)(a) of this regulation

- (i) where the circumstances are those specified in sub-paragraph (a) of paragraph (2) of this Regulation, the employer before the change referred to in that sub-paragraph,
- (ii) where the circumstances are those specified in sub-paragraph (b) of paragraph (2) of this Regulation, the employer referred to in that sub-paragraph;
- (c) "relevant final income tax month" means the income tax month in which the employer has made any payments of emoluments which, by reason of either—
 - (i) the change of employer referred to in paragraph (2)(a) of this Regulation, or
 - (ii) the cessation of business referred to in paragraph (2)(b) of this Regulation,

were, in respect of the employment of all those persons who were employed by him in that income tax month, the final payments of emoluments to be made by him in the year in which those payments were made;

- (d) "relevant final year" means the year in which the relevant final income tax month occurs."

(8) In paragraphs (2A) and (3)(b) of Regulation 27 (employer failing to pay earnings-related contributions or Class 1A contributions) after "Regulation 26C(1) or (2)" there shall be inserted in each of those paragraphs "or 26D(5)".

- (9) In Regulation 27B (specified amount of Class 1A contributions)—
 - (a) in paragraph (1)—

- (i) "14 days following" shall be omitted,

- (ii) after "Regulation 26C(1) or (2)" there shall be inserted "or 26D(5)",

- (iii) for "preceding year" there shall be substituted "year in question";

- (b) in paragraph (2) for the words from "that year" to the end of the paragraph there shall be substituted "the year in question in accordance with Regulation 26C(1) or (2) or 26D(5)";

- (c) in paragraph (3) for "Regulation 26C(1) or (2) in respect of that year" there shall be substituted "Regulation 26C(1) or (2) or 26D(5) in respect of the year in question";

- (d) in paragraph (5) after "Regulation 26C(1) or (2)" there shall be inserted "or 26D(5)";

- (e) in paragraph (7) for "preceding year" there shall be substituted "year in question".

(10) In Regulation 28(1)(b) (recovery of earnings-related contributions or Class 1A contributions) after "Regulation 26C(1) or (2)" there shall be inserted "or 26D(5)".

- (11) In Regulation 30 (return by employer at end of year)—

(a) in paragraph (1)—

(i) for head (ii) of sub-paragraph (c) there shall be substituted the following head—

“(ii) the total amounts for the year shown under each of the heads (i) and (ii) severally of Regulation 13(6)(c), and”;

(ii) for sub-paragraphs (g) and (h) there shall be substituted the following sub-paragraphs—

“(g) the total amounts for the year shown under each of the heads (vii) and (viii) severally of Regulation 13(6)(b) rounded down to the next whole pound if not already whole pounds, and

(h) the amount of any Class 1A contribution payable in respect of the year immediately preceding the year to which the return relates, shown in the return under the appropriate category letter and separately from the total amounts under head (iii) of Regulation 13(6)(b) and from any amount under the next succeeding sub-paragraph, and

(i) in the case of an employer to whom Regulation 26D(5)(a) applies, the amount of any Class 1A contribution payable in respect of the year to which the return relates, shown in the return under the appropriate category letter and separately from the total amounts under head (iii) of Regulation 13(6)(b) and from any amount under the last preceding sub-paragraph.”;

(b) in paragraph (6)—

(i) for “that year, the Collector” there shall be substituted “the year in question, or, in the case of an employer to whom Regulation 26D(5)(a) applies, in respect of the year in question, the Collector”;

(ii) in sub-paragraph (a) for “unpaid for that year” there shall be substituted “unpaid for the year in question”;

(iii) in sub-paragraph (b) for “preceding that year” there shall be substituted “preceding the year in question and, in the case of an employer to whom Regulation 26D(5)(a) applies, in respect of the year in question”.

(12) In Regulation 30A(2) (special return by employer at end of voyage period)—

(a) for head (ii) of sub-paragraph (f) there shall be substituted the following heads—

“(ii) the amounts of that part of the contributions shown under the last preceding sub-paragraph which were payable on earnings above the lower earnings limit, if primary Class 1 contributions were payable at the reduced rate; and

(iii) the number notified by the Occupational Pensions Board on the relevant contracting-out certificate as the employer’s number;”;

(b) in sub-paragraph (g) for “payable; and” there shall be substituted “payable, other than earnings from non-contracted-out employment in

- respect of which primary Class 1 contributions were payable at the reduced rate;”;
- (c) in sub-paragraph (h) for “percentage.” there shall be substituted “percentage; and”;
- (d) after sub-paragraph (h) there shall be added the following sub-paragraph—
- “(i) the total amount of earnings, if any, shown under sub-paragraph (g) of this paragraph, above the lower earnings limit, in respect of which primary Class 1 contributions were payable at the reduced rate.”.
- (13) In Regulation 32 (inspection of employer’s records)—
- (a) in paragraph (1) for “the employer’s premises” there shall be substituted “such time as that officer may reasonably require, at the prescribed place”;
- (b) after paragraph (1) there shall be inserted the following paragraphs—
- “(1A) In the last preceding paragraph “the prescribed place” means—
- (a) such place in Northern Ireland as the employer and the authorised officer may agree upon;
- (b) in default of such agreement, the place in Northern Ireland at which the documents and records referred to in paragraph (1)(a) or (aa) of this Regulation are normally kept; or
- (c) in default of such agreement and if there is no such place as is referred to in the last preceding sub-paragraph, the employer’s principal place of business in Northern Ireland.
- (1B) The authorised officer may—
- (a) take copies of, or make extracts from, any documents produced to him for inspection in accordance with paragraph (1) of this Regulation;
- (b) if it appears to him to be necessary to do so, at a reasonable time and for a reasonable period, remove any document so produced, and, if he does so, shall provide a receipt for any documents so removed; and where a lien is claimed on a document produced in accordance with paragraph (1) of this Regulation, the removal of the document under this sub-paragraph shall not be regarded as breaking the lien, and where a document removed in accordance with sub-paragraph (b) of this paragraph is reasonably required for the proper conduct of a business, the authorised officer shall, within 7 days, provide a copy of the document, free of charge, to the person by whom it was produced or caused to be produced.”.

Revocations

4. The following regulations are hereby revoked—

- (a) regulation 4(6)(c) of the Social Security (Contributions) (Amendment No. 3) Regulations (Northern Ireland) 1983(a);
- (b) regulation 12(5) of the Social Security (Contributions) (Amendment No. 2) Regulations (Northern Ireland) 1987(b);
- (c) regulation 4(3) of the Social Security (Contributions) (Amendment No. 3) Regulations (Northern Ireland) 1991(c);
- (d) regulation 10(4) and (11)(b) of the Social Security (Contributions) (Amendment) Regulations (Northern Ireland) 1992(d).

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 18th June 1992.

(L.S.)

A. N. Burns

Assistant Secretary

The Commissioners of Inland Revenue hereby concur.

T. J. Painter

C. W. Corlett

22nd June 1992

Two of the Commissioners
of Inland Revenue

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- (a) S.R. 1983 No. 64
(b) S.R. 1987 No. 143
(c) S.R. 1991 No. 106
(d) S.R. 1992 No. 41

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 make in relation to Northern Ireland only provision corresponding to provision contained in regulations made by the Secretary of State for Social Security in relation to Great Britain 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 amends regulation 33A(1) of the principal regulations to clarify a reference to the person who has made an overpayment of a Class 1A contribution.

Regulation 3 amends Schedule 1 to the principal regulations.

Regulation 3(2), (4), (11) and (12) respectively amends Regulations 13(6), 25(a), 30 and 30A(2) in Schedule 1. These amendments remove

certain requirements on employers to record earnings from non-contracted-out employment on which primary Class 1 contributions are payable at the married women's reduced rate. In the case of contracted-out employment, the amendments require the recording of earnings above the lower earnings limit on which primary Class 1 contributions are payable at the reduced rate and the amount of those contributions.

Regulation 3(5) amends Regulation 26A(3) in Schedule 1 to increase from £400 to £450 the amount which determines whether the option for quarterly payment of earnings-related contributions is available to an employer.

Regulation 3(7) inserts a new Regulation 26D into Schedule 1. The inserted Regulation requires that, on a cessation of business, an employer shall pay any Class 1A contribution in respect of the current year within 14 days after the income tax month in which he makes the final payment of earnings to his employees; and that, on a change of employer, the employer before the change shall similarly pay any Class 1A contribution in respect of any employee whose employment ceased before the change occurred. It also requires the recording of those contributions on the deductions working sheets and the annual return for that year.

Regulation 3(2), (3), (6), (8), (9), (10) and (11) respectively makes minor consequential amendments to Regulations 13(6), 13A, 26C(1), 27, 27B, 28(1) and 30 in Schedule 1 relating to the inserted Regulation 26D.

Regulation 3(9) also amends Regulation 27B to allow the Collector of Taxes, immediately after the date when payment is required under the Regulations in Schedule 1, to use the procedure for estimating the amount of unpaid Class 1A contributions which he considers an employer is liable to pay.

Regulation 3(13) amends Regulation 32 in Schedule 1 to make further provisions for the inspection of the employer's records and for the taking of copies, or the removal, of any documents produced for inspection.

Regulation 4 contains revocations.