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STATUTORY RULES OF NORTHERN IRELAND

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**1999 No. 117**

**The Social Security (Contributions), Statutory Maternity Pay and Statutory Sick Pay (Miscellaneous Amendments) Regulations (Northern Ireland) 1999**

**Amendment of Schedule 1 to the principal Regulations**

**10.**—(1) Schedule 1 to the principal Regulations (application of Income Tax (Employments) Regulations 1973<sup>(1)</sup> to earnings-related contributions and Class 1A contributions) shall be amended in accordance with paragraphs (2) to (12) of this regulation.

(2) In the heading<sup>(2)</sup> for “AND CLASS 1A CONTRIBUTIONS” there shall be substituted “, CLASS 1A CONTRIBUTIONS AND CLASS 1B CONTRIBUTIONS”.

(3) In Regulation 13 (calculation of deduction)—

(a) in paragraph (1) for “section 4(3) of the Act” there shall be substituted “section 6(3)(a) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (liability for Class 1 contributions)”;

(b) in paragraph (2A)(b)—

(i) in head (ii) for “Article 14 of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977” there shall be substituted “section 112<sup>(3)</sup> of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (certain sums to be earnings)”;

(ii) in head (iii)<sup>(4)</sup> the words from “except where,” to “apply” shall be omitted;

(c) in paragraph (3A)<sup>(5)</sup>—

(i) for “the provisions of the preceding paragraph” there shall be substituted “paragraphs (2A), (3C) and (3F)”;

(ii) for “that paragraph” in both places where it occurs there shall be substituted “those paragraphs”;

(d) after paragraph (3A) there shall be inserted the following paragraphs—

“(3B) Paragraph (3C) of this Regulation applies where an employer makes a payment consisting of solely non-monetary earnings, or a combination of monetary and non-monetary earnings, to—

(a) an employee;

(b) an ex-employee,

and at the time of the payment of those earnings there are no, or insufficient, monetary earnings from which the employer could deduct the amount of earnings-

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(1) S.I. 1973/334; this and its subsequent amending instruments were consolidated as S.I. 1993/744

(2) Heading was amended by S.R. 1992 No. 41

(3) Section 112 was amended by Schedule 1 to the Employment Rights (Northern Ireland) Order 1996 (S.I. 1996/1919 (N.I. 16))

(4) Head (iii) was amended by S.R. 1982 No. 267

(5) Paragraph (3A) was amended by S.R. 1984 No. 43

related contributions which the employee or ex-employee, as the case may be, is liable to pay under section 6(3)(a) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992; and for the purposes of this paragraph “ex-employee” means a person who—

- (i) ceases to be employed by the employer in a particular year (“the cessation year”), and
- (ii) receives such earnings from the employer after the cessation of employment but in the cessation year.

(3C) Where, in the circumstances specified in paragraph (3B) of this Regulation, the employer does not deduct from the earnings referred to in that paragraph the full amount of earnings-related contributions which by virtue of these Regulations he is entitled to deduct, he may, subject to the provisions of paragraph (3A) of this Regulation, recover the amount so underdeducted by deduction from any subsequent payment of monetary earnings to that employee or ex-employee, as the case may be, during the same year.

(3D) Paragraph (3F) of this Regulation applies where—

- (a) a person (“the ex-employee”) ceases in a particular year (“the cessation year”) to be employed by a particular employer (“the employer”); and
- (b) the ex-employee receives from the employer in the cessation year, after the cessation of employment, earnings in the form of—
  - (i) a beneficial interest in shares;
  - (ii) a conditional interest in shares or a beneficial interest in convertible shares treated as earnings by virtue of regulation 17AB of the Main Regulations (further provision as to payments to be treated as earnings);
  - (iii) any gain on which the ex-employee is chargeable to tax by virtue of section 135 of the Income and Corporation Taxes Act 1988 (gains by directors and employees from share options); and
- (c) at the time of the payment of those earnings there are no, or insufficient, monetary earnings from which the employer could deduct the amount of earnings-related contributions which the employee is liable to pay under section 6(3)(a) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

(3E) For the purposes of paragraph (3D) of this Regulation—

- (a) “conditional shares” means shares within the meaning given for the purposes of sections 140A and 140B(6) of the Income and Corporation Taxes Act 1988 (conditional acquisition of shares and consideration for shares conditionally acquired) in section 140C of that Act (cases where interest to be treated as only conditional) and, by virtue of section 140A(9) of that Act, includes securities issued by a company;
- (b) “convertible shares” means shares which are convertible within the meaning of section 140D of the Income and Corporation Taxes Act 1988.

(3F) Where, in the circumstances specified in paragraph (3D) of this Regulation, the employer has not deducted from the earnings referred to in sub-paragraph (b) of that paragraph the full amount of earnings-related contributions which by virtue of these Regulations he is entitled to deduct, he may, without prejudice to the provisions of paragraph (3C) of this Regulation and subject to the provisions of paragraph (3G)(b) of

this Regulation, recover the amount so underdeducted by deduction from the proceeds of sale of some, or all, of—

- (a) the shares referred to in sub-paragraph (b)(i) and (ii) of paragraph (3D) of this Regulation;
- (b) the shares which form the subject matter of the option referred to in sub-paragraph (b)(iii) of that paragraph.

(3G) For the purposes of paragraph (3F) of this Regulation—

- (a) the whole of the amount underdeducted may be recovered from the proceeds of sale of some, or all, of the shares referred to in that paragraph; and
- (b) the employee's prior written consent to that sale and the recovery of all or part of the underdeduction from the proceeds thereof, shall be required.”.

(4) In the cross-heading to Part IV(7) for “AND CLASS 1A CONTRIBUTIONS” there shall be substituted “, CLASS 1A CONTRIBUTIONS AND CLASS 1B CONTRIBUTIONS”.

(5) In Regulation 26C(8) (payment of Class 1A contributions)—

- (a) in the shoulder note after “Class 1A contributions” there shall be added “and Class 1B contributions”;
- (b) after paragraph (1) there shall be inserted the following paragraph—

“(1A) A person who is liable to pay a Class 1B contribution (“the employer”) shall pay that contribution to the Collector not later than 19th October in the year immediately following the end of the year in respect of which that contribution is payable.”;

- (c) in paragraph (3) after “Class 1A contributions” there shall be inserted “or Class 1B contributions”.

(6) For Regulation 28(9) (recovery of earnings-related contributions or Class 1A contributions) there shall be substituted the following Regulation—

**“Recovery of earnings-related contributions, Class 1A contributions or Class 1B contributions**

**28.—**(1) The provisions of the Income Tax Acts and of any regulations under section 203 of the Income and Corporation Taxes Act 1988(10) (pay as you earn) relating to the recovery of tax and shall apply to the recovery of—

- (a) any amount of earnings-related contributions which an employer is liable to pay to the Collector for any income tax period in accordance with Regulation 26(11) or 26A(12), or which he is deemed to be liable to pay to the Collector for any income tax period under Regulation 27A(13);
- (b) any amount of Class 1A contributions which an employer is liable to pay to the Collector in respect of any year in accordance with Regulation 26C(1) or 26D(5)(14), or which he is deemed to be liable to pay to the Collector in respect of any year under Regulation 27B(15); or

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(7) Cross-heading was amended by S.R. 1992 No. 41

(8) Regulation 26C was inserted by S.R. 1992 No. 41 and amended by S.R. 1992 No. 280 and S.R. 1996 No. 433

(9) Regulation 28 was substituted by S.R. 1992 No. 41 and amended by S.R. 1992 No. 280 and S.R. 1996 No. 433

(10) 1988 c. 1; section 203 was amended by section 128 of, and paragraph 4 of Schedule 3 to, the Finance Act 1988 (c. 39), section 45(3) of the Finance Act 1989 (c. 26), paragraph 38 of Schedule 19 to the Finance Act 1994 (c. 9) and section 119 of the Finance Act 1998

(11) Regulation 26 was substituted by S.R. 1991 No. 310 and amended by S.R. 1996 No. 30

(12) Regulation 26A was substituted by S.R. 1991 No. 310 and amended by S.R. 1995 No. 91 and S.R. 1996 No. 30

(13) Regulation 27A was inserted by S.R. 1985 No. 59 and amended by S.R. 1990 No. 110, S.R. 1991 No. 310 and S.R. 1995 No. 91

(14) Regulation 26D was inserted by S.R. 1992 No. 280 and amended by S.R. 1997 No. 163

(15) Regulation 27B was inserted by S.R. 1992 No. 41 and amended by S.R. 1992 No. 280, S.R. 1995 No. 91 and S.R. 1996 No. 433

(c) any amount of Class 1B contributions which an employer is liable to pay to the Collector in respect of any year in accordance with Regulation 26C(1A),  
as if each of those amounts had been charged to tax by way of an assessment on the employer under Schedule E:

Provided that, in the application to any proceedings taken by virtue of this Regulation of any such provisions limiting the amount which is recoverable in those proceedings, there shall be disregarded any amount of tax which may by virtue of paragraphs (2) to (4) of this Regulation be included as part of the cause of action or matter of complaint in those proceedings.

- (2) Proceedings may be brought for the recovery of the total amount of—
- (a) earnings-related contributions which the employer is liable to pay to the Collector for any income tax period;
  - (b) Class 1A contributions which the employer is liable to pay to the Collector in respect of any year;
  - (c) Class 1B contributions which the employer is liable to pay to the Collector in respect of any year;
  - (d) a combination of those classes of contributions as specified in sub-paragraphs (a), (b) and (c) of this paragraph; or
  - (e) any of the contributions as specified in sub-paragraph (a), (b), (c) or (d) of this paragraph in addition to any tax which the employer is liable to pay to the Collector for any income tax period,

without specifying the respective amounts of those contributions and of tax or distinguishing the amounts which the employer is liable to pay in respect of each employee and without specifying the employees in question.

- (3) For the purposes of—
- (a) proceedings under section 66 of the Taxes Management Act 1970<sup>(16)</sup> (including proceedings under that section as applied by the provisions of this Regulation);
  - (b) summary proceedings,

the total amount of contributions, in addition to any tax which the employer is liable to pay to the Collector for any income tax period, referred to in paragraph (2) of this Regulation shall, subject to the provisions of the proviso to paragraph (1) of this Regulation, be one cause of action or one matter of complaint.

- (4) Nothing in paragraph (2) or (3) of this Regulation shall prevent the bringing of separate proceedings for the recovery of each of the several amounts of—
- (a) earnings-related contributions which the employer is liable to pay for any income tax period in respect of each of his several employees;
  - (b) Class 1A contributions which the employer is liable to pay in respect of any year in respect of each of his several employees;
  - (c) Class 1B contributions which the employer is liable to pay in respect of any year in respect of each of his several employees; or
  - (d) tax which the employer is liable to pay for any income tax period in respect of each of his several employees.”.

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<sup>(16)</sup> 1970 c. 9; section 66 was amended by Part II of Schedule 1 to the County Courts (Northern Ireland) Order 1980 (S.I. 1980/397 (N.I. 3)), paragraph 36 of Schedule 2 to the County Courts Act 1984 (c. 28), section 57(2) of the Finance Act 1984 (c. 43) and S.I. 1991/724

(7) In Regulation 28A(17) (interest on overdue earnings-related contributions or Class 1A contributions)—

(a) in the shoulder note for “*or Class 1A contributions*” there shall be substituted “, *Class 1A contributions or Class 1B contributions*”;

(b) for paragraph (1) there shall be substituted the following paragraph—

“(1) Subject to Regulation 28D(18), where, in relation to the year ended 5th April 1993 or any subsequent year, an employer has not—

(a) within 14 days of the end of the year paid an earnings-related contribution which he is liable to pay in respect of that year or a Class 1A contribution which he is liable to pay in that year;

(b) by 19th October next following the year in respect of which it was due paid a Class 1B contribution,

any contribution not so paid shall carry interest at the rate applicable under paragraph 6(3)(a) of Schedule 1 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992(19) for the purpose of paragraph 6(3) of Schedule 1 to the Social Security Contributions and Benefits Act 1992(20) from the reckonable date until payment.”;

(c) in paragraph (2) for “or a Class 1A contribution” there shall be substituted “, a Class 1A contribution or a Class 1B contribution”;

(d) for paragraph (3) there shall be substituted the following paragraph—

“(3) For the purposes of this Regulation—

(a) “employer” means, in relation to a Class 1B contribution, the person liable to pay such a contribution in accordance with section 10A(21) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (Class 1B contributions);

(b) “the reckonable date” means, in relation to—

(i) an earnings-related contribution, the 14th day after the end of the year in respect of which it was due;

(ii) a Class 1A contribution, the 14th day after the end of the year in which it was due to be paid;

(iii) a Class 1B contribution, the 19th October next following the year in respect of which it was due.”.

(8) For Regulation 28B(22) (payment of interest on repaid earnings-related contributions or Class 1A contributions) there shall be substituted the following Regulation—

**“Payment of interest on repaid earnings-related contributions, Class 1A contributions or Class 1B contributions**

**28B.**—(1) Where an earnings-related contribution or a Class 1A contribution paid by an employer in respect of the year ended 5th April 1993 or any subsequent year not later than the year ended 5th April 1999 is repaid to him and that repayment is made after the relevant date, any such repaid contribution shall carry interest at the rate applicable under paragraph

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(17) Regulation 28A was inserted by [S.R. 1993 No. 130](#)

(18) Regulation 28D was inserted by [S.R. 1993 No. 130](#)

(19) [1992 c. 7](#)

(20) [1992 c. 4](#)

(21) Section 10A was inserted by Article 50 of the Social Security (Northern Ireland) Order 1998 ([S.I. 1998/1506 \(N.I. 10\)](#))

(22) Regulation 28B was inserted by [S.R. 1993 No. 130](#)

6(3)(a) of Schedule 1 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992 for the purpose of paragraph 6(3) of Schedule 1 to the Social Security Contributions and Benefits Act 1992 from the relevant date until the order for the repayment is issued.

(2) For the purposes of paragraph (1) of this Regulation “the relevant date” is—

- (a) in the case of an earnings-related contribution or a Class 1A contribution overpaid more than 12 months after the end of the year in respect of which the payment was made, the last day of the year in which it was paid;
- (b) in any other case, the last day of the year after the year in respect of which the contribution in question was paid.

(3) Where an earnings-related contribution, a Class 1A contribution or a Class 1B contribution paid by an employer in respect of the year ended 5th April 2000 or any subsequent year is repaid to him and that repayment is made after the relevant date, any such repaid contribution shall carry interest at the rate applicable under paragraph 6(3)(a) of Schedule 1 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992 for the purpose of paragraph 6(3) of Schedule 1 to the Social Security Contributions and Benefits Act 1992 from the relevant date until the order for the repayment is issued.

(4) For the purposes of paragraph (3) of this Regulation “the relevant date” is—

- (a) in the case of—
  - (i) an earnings-related contribution, the 14th day after the end of the year in respect of which that contribution was paid;
  - (ii) a Class 1A contribution, the 14th day after the end of the year in which that contribution was due to be paid, or
  - (iii) a Class 1B contribution, the 19th October next following the year in respect of which that contribution was paid; or
- (b) the date on which the earnings-related contribution, Class 1A contribution or Class 1B contribution was paid if that date is later than the date referred to in sub-paragraph (a) of this paragraph.”.

(9) For Regulation 28C(23) (repayment of interest) there shall be substituted the following Regulation—

**“Repayment of interest**

**28C.** Where a secondary contributor or a person liable to pay a Class 1A contribution or a Class 1B contribution has paid interest on an earnings-related contribution, a Class 1A contribution or a Class 1B contribution, that interest shall be repaid to him where—

- (a) the interest paid is found not to have been due to be paid, although the contribution in respect of which it was paid was due to be paid;
- (b) the earnings-related contribution, Class 1A contribution or Class 1B contribution in respect of which interest was paid is returned or repaid to him in accordance with the provisions of regulation 32 or 33A of the Main Regulations.”.

(10) In Regulation 28D (remission of interest)—

- (a) in paragraph (2)(a) for “or a Class 1A contribution” there shall be substituted “, a Class 1A contribution or a Class 1B contribution”;
- (b) after paragraph (2)(b) there shall be added the following sub-paragraph—

“(c) an appeal against a determination as to the amount of income tax in respect of which the person liable to pay a Class 1B contribution is accountable in accordance with a PAYE settlement agreement has been brought but not finally determined.”;

(c) after paragraph (3)(c)(ii) there shall be added the following head—

“(iii) paragraph (2)(c) of this Regulation, “the first relevant date” means the date on which the appeal against the determination as to the amount of income tax payable to the Collector is submitted to the Commissioners of Inland Revenue and “the second relevant date” means the date 14 days after that appeal is finally disposed of.”.

(11) In Regulation 30(6)(24) (return by employer at end of year) “paragraphs (1) and (2) of” shall be omitted.

(12) In Regulation 32 (inspection of employer’s records)—

(a) in paragraphs (1)(aa) and (2)(aa)(25) after “Class 1A contributions” there shall be inserted “or Class 1B contributions”;

(b) in paragraph (2)(b)(26) for “or Class 1A contributions, or both” there shall be substituted “, Class 1A contributions or Class 1B contributions, or a combination”;

(c) in paragraph (4) “paragraph (1) and (2) of” shall be omitted;

(d) in paragraph (5)(27) after “Class 1A contribution” there shall be inserted “or Class 1B contribution”;

(e) after paragraph (5) there shall be added the following paragraph—

“(6) For the purposes of this Regulation “employer” means, in relation to a Class 1B contribution, the person liable to pay such a contribution in accordance with section 10A of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (Class 1B contributions).”.

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(24) Paragraph (6) was substituted by S.R. 1992 No. 41 and amended by S.R. 1992 No. 280

(25) Paragraphs (1)(aa) and (2)(aa) were inserted by S.R. 1992 No. 41

(26) Sub-paragraph (b) was amended by S.R. 1992 No. 41

(27) Paragraph (5) was added by S.R. 1981 No. 30 and amended by S.R. 1984 No. 43, S.R. 1992 No. 41 and S.R. 1996 No. 433