

1978 No. 95

SOCIAL SECURITY

**The Social Security (Contributions) (Amendment) Regulations
(Northern Ireland) 1978**

Made 30th March 1978

Coming into operation 6th April 1978

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by paragraphs 5(1) and 6(1)(h) and (m) 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 relates to regulations 4, 5 and 6 of these regulations, hereby makes the following regulations:

Citation, interpretation and commencement

1. These regulations which may be cited as the Social Security (Contributions) (Amendment) Regulations (Northern Ireland) 1978 shall be read as one with the Social Security (Contributions) Regulations (Northern Ireland) 1975(b), as amended(c), (hereinafter referred to as "the principal regulations") and shall come into operation on 6th April 1978.

Amendment of regulation 1(2) of the principal regulations

2. In regulation 1(2) of the principal regulations (interpretation) there shall be inserted the following definitions:

(a) after the definition of contracted-out percentage—

“‘contracted-out rate’ means, in relation to Class 1 contributions payable in respect of earnings paid to or for the benefit of an earner in contracted-out employment, the percentages for the time being applying in Article 29 of the Pensions Order for the calculation of the amount of those contributions;”;

(b) after the definition of non-contracted-out employment—

“‘non-contracted-out rate’ means, in relation to Class 1 contributions payable in respect of earnings paid to or for the benefit of an earner in non-contracted-out employment, the percentages for the time being specified in section 4(6) of the Act for the calculation of the amount of those contributions;”.

Insertion of new regulation 28A in the principal regulations

3. After regulation 28 of the principal regulations (return of contributions) there shall be inserted the following—

*“Return of Class 1 contributions paid at the non-contracted-out rate
instead of at the contracted-out rate*

28A.—(1) Subject to the provisions of paragraphs (2) and (3) of this regulation and without prejudice to the provisions of Regulation 26(3) in Part IV of Schedule 2 to these regulations (payment of earnings-related

(a) 1975 c. 15

(b) S.R. 1975 No. 319 (II, p. 1492)

(c) The relevant amending regulations are S.R. 1976 No. 35 (I, p. 136) and S.R. 1977 No. 93

contributions by employer) where a secondary contributor has paid an amount on account of contributions at the non-contracted-out rate in respect of any employed earner's employment which amount he would have been liable to pay but for that employment being or, as the case may be, becoming contracted-out employment, the Department shall, on application of the secondary contributor, return to him the amount so paid after deducting the amount of Class 1 contributions payable at the contracted-out rate in respect of that employment.

(2) Any amount falling to be returned under the provisions of the last preceding paragraph which has been paid by the secondary contributor on behalf of an earner and recovered from him shall be returned to the earner, or with his consent in writing, to the secondary contributor.

(3) An application under paragraph (1) of this regulation shall be made in such manner as the Department shall approve, and within the period of 6 years from the end of the year in which the contracting-out certificate in respect of the employment was issued or, if the Department is satisfied that the secondary contributor had good cause for not making the application within the said period, within such longer period as the Department may allow."

Amendment of Regulation 13 in Parts II and III of Schedule 2 to the principal regulations

4. In Regulation 13 in Parts II and III of Schedule 2 to the principal regulations—

(a) after paragraph (2A)(b)(ii) there shall be added the following—

“or

(iii) the underdeduction occurred as a result of the cancellation, variation or surrender of the contracting-out certificate issued in respect of the employment in respect of which the payment of emoluments is made, or

(iv) the underdeduction occurred as a result of the employment in respect of which the payment of emoluments is made not being treated or ceasing to be treated under Article 3(1) of the Social Security Pensions (1975 Order) (Commencement No. 11) Order (Northern Ireland) 1977(d) as contracted-out employment.”;

(b) for sub-paragraph (a) of paragraph (3A) there shall be substituted the following—

“(a) the amount which by virtue of the provisions of that paragraph may be deducted from any payment, or from any payments which fall to be aggregated, shall—

(i) in a case to which only sub-paragraph (b)(iv) refers, be an amount in addition to, but not in excess of one half of, the amount deductible therefrom under the other provisions of these Regulations;

(ii) in any other case, be an amount in addition to but not in excess of the amount deductible therefrom under the other provisions of these Regulations; and”.

Substitution of Regulation 26(3) in Part IV of Schedule 2 to the principal regulations

5. For Regulation 26(3) in Part IV of Schedule 2 to the principal regulations there shall be substituted the following—

“(3)(a) If the employer has paid to the Collector on account of earnings-related contributions under this Regulation an amount which he was not liable so to pay, the amounts which he is liable so to pay subsequently, in respect of other payments of emoluments made by him during the same year, shall be reduced by the amount so overpaid, so however that if there was a corresponding overdeduction from any payment of emoluments to an employee the provisions of this paragraph shall apply only in so far as the employer has accounted to the Collector therefor;

(b) this paragraph applies only where—

- (i) the overdeduction occurred by reason of an error made by the employer in good faith; or
- (ii) the overdeduction occurred as a result of the employment in respect of which the payment on account of earnings-related contributions is made being or, as the case may be, becoming contracted-out employment.”

Amendment of Regulation 37 in Part V of Schedule 2 to the principal regulations

6. In Regulation 37 in Part V of Schedule 2 to the principal regulations—

(a) for paragraph (4A) there shall be substituted the following—

“(4A)(a) If the employer on making any payment of emoluments to a seaman does not deduct therefrom 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 the next succeeding paragraph of this Regulation, recover the amount so underdeducted by deduction from any subsequent payment of emoluments to that employee during the same year;

(b) this paragraph applies only where—

- (i) the underdeduction occurred by reason of an error made by the employer in good faith; or
- (ii) the emoluments in respect of which the underdeduction occurred are deemed to be earnings by virtue of regulations made under Article 14 of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977(e); or
- (iii) the underdeduction occurred as a result of the cancellation, variation or surrender of the contracting-out certificate issued in respect of the employment in respect of which the payment of emoluments is made; or
- (iv) the underdeduction occurred as a result of the employment in respect of which the payment of emoluments is made not being treated or ceasing to be treated under Article 3(1) of the Social Security Pensions (1975 Order) (Commencement No. 11) Order (Northern Ireland) 1977 as contracted-out employment.”;

(b) for sub-paragraph (a) of paragraph (5A) there shall be substituted the following—

“(a) the amount which by virtue of the provisions of that paragraph may be deducted from any payment, shall—

- (i) in a case to which only sub-paragraph (b)(iv) refers, be an amount in addition to, but not in excess of one half of, the amount deductible therefrom under the other provisions of these Regulations;
- (ii) in any other case, be an amount in addition to but not in excess of the amount deductible therefrom under the other provisions of these Regulations; and”.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 23rd March 1978.

(L.S.)

C. G. Oakes
Senior Assistant Secretary

The Commissioners of Inland Revenue hereby concur.

By Order of the Commissioners of Inland Revenue.

J. D. Taylor Thompson
Secretary

30th March 1978

EXPLANATORY NOTE

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

These regulations further amend the Social Security (Contributions) Regulations (Northern Ireland) 1975 ("the principal regulations").

They make provision for Class 1 contributions wrongly paid at the non-contracted-out rate in respect of an employment which is contracted-out to be returned after deduction of contributions at the contracted-out rate.

The regulations extend the provisions of Regulation 13 in Parts II and III of Schedule 2 to the principal regulations which prescribe the circumstances in which an employer may deduct from subsequent earnings the amount of any Class 1 contributions underdeducted to cases in which he has paid Class 1 contributions at the contracted-out rate and the employment ceases to be contracted-out; they also prescribe the amount to be deducted from any payment in such cases. The regulations make similar provision in Regulation 37 in Part V of Schedule 2 in relation to seamen.

The regulations also make provision for the amount of earnings-related contributions payable to the Collector of Taxes in respect of subsequent earnings to be reduced where Class 1 contributions have been wrongly paid at the non-contracted-out rate in respect of an employment which is contracted-out.

The regulations also make provision for deduction of earnings-related contributions from subsequent earnings of a seaman in respect of any awards under the Industrial Relations (Northern Ireland) Orders 1976 deemed to be earnings for social security purposes.

The other amendments are of a minor nature.