

## 1990 No. 90

## SOCIAL SECURITY

**The Social Security (Refunds) (Repayment of Contractual Maternity Pay) Regulations (Northern Ireland) 1990**

*Made* . . . . . 9th March 1990

*Coming into operation* . . . . . 31st March 1990

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by paragraph 6(1)(gg) and (m) 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 (Refunds) (Repayment of Contractual Maternity Pay) Regulations (Northern Ireland) 1990 and shall come into operation on 31st March 1990.

(2) In these regulations—

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

“the Contributions Regulations” means the Social Security (Contributions) Regulations (Northern Ireland) 1979(b).

*Refund of contributions*

2.—(1) Where contractual maternity pay becomes repayable after 31st March 1990, and—

(a) subject to paragraph (2) of this regulation, an application for refund of contributions paid in respect of that pay is made in accordance with paragraph (3) of this regulation; and

(b) the net amount of the refund which would, but for this sub-paragraph, be payable exceeds the amount of one fifteenth of a standard rate primary Class 1 contribution payable on earnings at the upper earnings limit in respect of primary Class 1 contributions prescribed in regulation 7 of the Contributions Regulations (lower and upper earnings limits) for the last or only year in respect of which the contributions were paid,

(a) 1975 c. 15; paragraph 6(1)(gg) of Schedule 1 was inserted by Article 4 of the Social Security (Northern Ireland) Order 1989 (S.I. 1989/1342 (N.I. 13))

(b) S.R. 1979 No. 186; relevant amending regulations are S.R. 1980 No. 463 and S.R. 1989 No. 70

the Department shall refund the whole of any primary or secondary Class 1 contributions paid in respect of that pay or, as the case may be, such part of those contributions as is prescribed in regulation 3 of these regulations.

(2) No application under this regulation may be made unless—

- (a) where the application is by the employee, the contractual maternity pay has been repaid; or
- (b) where the application is by the employer, he has been repaid the contractual maternity pay or can satisfy the Department that he has taken all reasonable steps to recover it.

(3) A person desiring to apply for the refund of any contribution under this regulation shall make the application in writing and within the period of 6 years from the end of the year in which that contribution was paid or, if the Department is satisfied that the person making the application had good cause for not making it within the said period, within such longer period as the Department may allow.

(4) In this regulation—

- (a) “contractual maternity pay” means earnings payable under a contract of service by reason of pregnancy or confinement and repayable to the employer in the event of the employee failing to resume that employment after the birth or confinement; and
- (b) “standard rate” means the appropriate percentage rate specified in section 4(6A) of the Act<sup>(a)</sup> for primary Class 1 contributions.

#### *Refund of part of contributions*

3. Where there has been paid an amount by way of any of the contributory benefits (as described in section 12(1) of the Act) which would not have been paid had any of the contributions (in respect of which an application for their refund is duly made in accordance with regulation 2 of these regulations) not been paid in the first instance, the Department shall refund that part of the contributions remaining after the deduction of the amount paid by way of such benefits.

#### *Consequential amendment of Schedule 1 to the Contributions Regulations*

4. In Regulation 26 of Schedule 1 to the Contributions Regulations (payment of earnings-related contributions by employer)—

- (a) in paragraph (3)(a) after the word “pay” in the first place where it occurs there shall be inserted “, or which has been refunded in accordance with regulation 2 of the Social Security (Refunds) (Repayment of Contractual Maternity Pay) Regulations (Northern Ireland) 1990 (refund of contributions)”;
- (b) in paragraph (3)(b)—
  - (i) at the end of head (ii) there shall be added “; or”;
  - (ii) after head (ii) there shall be added the following head—

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(a) Section 4(6A) was substituted by Article 3(1) of the Social Security (Northern Ireland) Order 1989

“(iii) a refund has been made under regulation 2 of the Social Security (Refunds) (Repayment of Contractual Maternity Pay) Regulations (Northern Ireland) 1990.”.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 9th March 1990.

(L.S.)

A. N. Burns

Assistant Secretary

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### EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These regulations provide for the refund of national insurance contributions where contractual maternity pay becomes repayable to an employer because the employee fails to return to her employment after the pregnancy or confinement.

Regulation 2(1) provides for the refund of contributions in respect of maternity pay which becomes repayable after 31st March 1990 if application is made to the Department and if the net amount of contributions to be refunded exceeds a specified amount. Regulation 2(2) provides that no application may be made unless the contractual maternity pay has been refunded or unless an employer can satisfy the Department that he has taken all reasonable steps to recover it. Regulation 2(3) specifies the manner of application and time limits, and regulation 2(4) defines “contractual maternity pay” and “standard rate”.

Regulation 3 provides for the deduction from the amount of contributions refundable of any amount paid by way of contributory benefit which would not have been paid had any of the refundable contributions not been originally paid.

Regulation 4 effects consequential amendments to the Social Security (Contributions) Regulations (Northern Ireland) 1979, to allow an employer to make “in-year” adjustments in respect of repaid contractual maternity pay.

The regulations correspond 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.