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STATUTORY RULES OF NORTHERN IRELAND

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**1996 No. 30**

**SOCIAL SECURITY**

**The Employer's Contributions Re-imbusement  
Regulations (Northern Ireland) 1996**

*Made* - - - - *6th February 1996*

*Coming into operation* *6th April 1996*

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 2(2) and (4), 29, 35(3) and (7) and 36(2) of the Jobseekers (Northern Ireland) Order 1995(1) 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 Employer's Contributions Re-imbusement Regulations (Northern Ireland) 1996 and shall come into operation on 6th April 1996.

(2) In these Regulations—

“the Order” means the Jobseekers (Northern Ireland) Order 1995;

“benefit week” means a period of 7 days (including Sundays) ending on the weekday corresponding to the particular weekday specified in a written notice last given to a person by the Department for the purposes of claiming unemployment benefit;

“breaking period” means—

(a) any period of not more than 12 consecutive weeks in respect of which a person is not entitled to a qualifying benefit, or

(b) a period in respect of which a person is summoned to jury service;

“carer” means a person of the description specified in paragraph 4(1) of Schedule 1(2) to the Income Support Regulations;

“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 percentage for the time being applying in section 37(1)(b) of the Pension Schemes (Northern Ireland) Act 1993(3) for the calculation of the amount of those contributions;

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(1) S.I.1995/2705 (N.I. 15); Article 2(2) is cited because of the powers conferred in the meaning of the expressions “pensionable age” and “week”  
(2) Paragraph 4 was substituted by S.R. 1991 No. 338 and amended by S.R. 1992 No. 6  
(3) 1993 c. 49

“the Contributions Regulations” means the Social Security (Contributions) Regulations (Northern Ireland) 1979(4);

“deductions certificate” means a certificate obtained from the Department in accordance with regulation 7;

“earnings” is to be construed in accordance with section 3 of the Benefits Act;

“employee” means a person who is—

- (a) an employed earner within the meaning of section 2(1)(a) of the Benefits Act, or
- (b) treated as such under section 116 of the Benefits Act or by regulations made under section 2(2), 117 or 119 of the Benefits Act, and
- (c) over the age of 16;

“employer” means a person who in relation to an employee is a secondary contributor within the meaning of section 7(1) of the Benefits Act or who is treated as such under section 116 of the Benefits Act or by regulations made under section 7(2), 117 or 119 of the Benefits Act;

“the Income Support Regulations” means the Income Support (General) Regulations (Northern Ireland) 1987(5);

“income tax period” has the meaning specified in Regulation 2(1) of Schedule 1(6) to the Contributions Regulations;

“lone parent” has the meaning specified in regulation 2(1) of the Income Support Regulations;

“mariner” has the meaning specified in regulation 84 of the Contributions Regulations;

“non-contracted-out rate” has the meaning specified in regulation 1(2)(7) of the Contributions Regulations;

“pensionable age” has the meaning given under the rules in paragraph 1 of Schedule 2 to the Pensions (Northern Ireland) Order 1995(8);

“qualifying benefit” means—

- (a) unemployment benefit;
  - (b) in the case of a person—
    - (i) who is treated as available for employment under regulation 9(9) of the Income Support Regulations, or
    - (ii) to whom paragraph 1, 4 or 11 of Schedule 1 to the Income Support Regulations applies,
- income support;

“training allowance” means an allowance (whether by way of periodical grants or otherwise) payable—

- (a) out of public funds by a government department or by or on behalf of the Department of Economic Development;
- (b) to a person for his maintenance or in respect of a member of his family, and
- (c) for the period, or part of the period, during which he is following a course of training or instruction provided by, or in pursuance of arrangements made with, a government

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(4) S.R. 1979 No. 186; relevant amending regulations are S.R. 1981 No. 30, S.R. 1982 No. 69, S.R. 1984 No. 43, S.R. 1985 Nos. 59 and 260, S.R. 1987 No. 143, S.R. 1988 No. 121, S.R. 1989 No. 384, S.R. 1990 No. 110, S.R. 1991 No. 310 and S.R. 1992 No. 280

(5) S.R. 1987 No. 459; relevant amending regulations are S.R. 1991 No. 338, S.R. 1992 No. 6 and S.R. 1995 No. 67

(6) Definition of “income tax period” was inserted by S.R. 1991 No. 310

(7) Definition of “non-contracted-out rate” was amended by S.R. 1985 No. 260 and S.R. 1989 No. 384

(8) S.I. 1995/3213 (N.I. 22)

(9) Regulation 9 was amended by S.R. 1995 No. 67

department or approved by such department in relation to him or so provided or approved by or on behalf of the Department of Economic Development,

but it does not include an allowance paid by any government department to, or in respect of, a person by reason of the fact that he is following a course of full-time education, other than under provision or arrangements under sections 2 and 3 of the Disabled Persons (Employment) Act (Northern Ireland) 1945<sup>(10)</sup> or section 1(1) of the Employment and Training Act (Northern Ireland) 1950<sup>(11)</sup>, or is training as a teacher;

“the Unemployment Regulations” means the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations (Northern Ireland) 1984<sup>(12)</sup>;

“voyage period” has the meaning specified in regulation 84 of the Contributions Regulations;

“week” means a period of 7 consecutive days;

“year”, except in regulation 5(4), means a period of 365 days or, where that period includes 29th February, 366 days.

(3) For the purposes of regulations 8 and 9 “the Department” shall include a reference to the Commissioners of Inland Revenue acting on its behalf.

### **Circumstances in which a person is treated as entitled to a jobseeker’s allowance for a continuous period of 2 years immediately before his employment**

2.—(1) Where this regulation applies, a person who would not otherwise satisfy the relevant condition shall be treated as satisfying that condition.

(2) This regulation applies where a person would have satisfied the relevant condition had the reference to “two years” been a reference to a period of two years within the meaning of regulation 1(2).

(3) This regulation applies where a person is entitled to a jobseeker’s allowance for periods (in this regulation referred to as jobseeker’s allowance periods) separated by breaking periods; and the jobseeker’s allowance periods excluding the intervening breaking periods form in aggregate a period of not less than two years.

(4) This regulation applies where—

- (a) a person has any one or more jobseeker’s allowance periods, and
- (b) he is also entitled to a qualifying benefit for one or more other periods (the additional periods) throughout which he is a person of a specified description, and
- (c) the jobseeker’s allowance periods plus the additional periods, form a continuous period of not less than two years.

(5) This regulation applies where, but for a breaking period occurring immediately after a jobseeker’s allowance period or an additional period, a person would have satisfied the relevant condition.

(6) For the purposes of paragraph (4)(b) in determining whether a person has been entitled to a qualifying benefit for any period, any benefit week on any day of which that person was entitled to unemployment benefit shall be treated as a period throughout which that person was entitled to a qualifying benefit.

(7) For the purposes of paragraph (4)(b) a person is a person of a specified description if he is—

- (a) undergoing a course of training for which a training allowance is payable;

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<sup>(10)</sup> 1945 c. 6 (N.I.); sections 2 and 3 were amended by section 1 of the Disabled Persons (Employment) Act (Northern Ireland) 1960 (c. 4 (N.I.)) and Schedule 18 to the Education and Libraries (Northern Ireland) Order 1986 (S.I. 1986/594 (N.I. 3))

<sup>(11)</sup> 1950 c. 29 (N.I.); subsection (1) was substituted by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (S.I. 1988/1087 (N.I. 10))

<sup>(12)</sup> S.R. 1984 No. 245; relevant amending regulations are S.R. 1989 No. 437

- (b) available or treated as available for employment under regulation 9 of the Income Support Regulations or under regulations made under section 25A(1)(a)(13) of the Benefits Act;
- (c) a carer, or
- (d) a lone parent.

(8) For the purposes of paragraph (4)(c) in determining whether there has been a continuous period of not less than two years where a person has jobseeker's allowance periods or additional periods separated by breaking periods, the jobseeker's allowance periods and the additional periods shall be aggregated together and treated as a single period, and the intervening breaking periods shall be excluded in the computation of that single period.

(9) In this regulation "the relevant condition" means the condition in Article 29(1) of the Order.

### **Circumstances in which a person is to be treated as unemployed for a continuous period of 2 years immediately before his employment**

3.—(1) Where this regulation applies, a person who would not otherwise satisfy the relevant condition shall be treated as satisfying that condition.

(2) This regulation applies where a person would have satisfied the relevant condition had the reference to "two years" been a reference to a period of two years within the meaning of regulation 1(2).

(3) This regulation applies where, but for a breaking period occurring immediately after the period of unemployment, a person would have satisfied the relevant condition.

(4) This regulation applies where a person has periods of unemployment separated by breaking periods and those periods of unemployment excluding the intervening breaking periods form in aggregate a period of not less than two years.

(5) This regulation applies where a person would have satisfied the relevant condition but for his engagement in employment which is not treated as remunerative work for the purposes of regulation 5(1)(14) of the Income Support Regulations.

(6) This regulation applies where—

- (a) a person would have satisfied the relevant condition but for his engagement in employment for any day, and
- (b) that day would not be excluded as a day of unemployment in relation to him by the application of regulation 7(1)(o)(15) of the Unemployment Regulations.

(7) In this regulation "the relevant condition" means the condition in Article 29(2)(a) of the Order.

### **Prescribed description of a person for the purposes of Article 29(2)(c) of the Order**

4.—(1) For the purposes of Article 29(2)(c) of the Order a person falls within a prescribed description of person if—

- (a) he is in receipt of a qualifying benefit for a continuous period of not less than two years, and
- (b) continuously for the whole of that period he satisfied any one or more of the following conditions—
  - (i) he is undergoing a course of training for which a training allowance is payable;

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(13) Section 25A was inserted by paragraph 5 of Schedule 1 to the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12))

(14) Paragraph (1) was amended by S.R. 1991 No. 338

(15) Sub-paragraph (o) was added by S.R. 1989 No. 437

- (ii) he is available or treated as available for employment under regulation 9 of the Income Support Regulations or under regulations made under section 25A(1)(a) of the Benefits Act;
- (iii) he is a carer;
- (iv) he is a lone parent.

(2) For the purposes of paragraph (1)(a) in determining whether a person has been entitled to a qualifying benefit for any period, any benefit week on any day of which that person was entitled to unemployment benefit shall be treated as a period throughout which that person was entitled to a qualifying benefit.

(3) For the purposes of paragraph (1) in determining whether there has been a continuous period of not less than two years where a person has periods throughout which he is a qualifying person separated by breaking periods, the periods throughout which the person is a qualifying person shall be aggregated together and treated as a single period, and the intervening breaking periods shall be excluded in the computation of that single period.

(4) In this regulation “qualifying person” means a person who is entitled to a qualifying benefit and is of a description specified in paragraph (1).

#### **Deductions from employer’s contributions payments**

5.—(1) An employer—

- (a) who employs a person who is a qualifying employee in relation to him for a continuous period of at least 13 weeks, and
- (b) who has obtained a deductions certificate, and
- (c) who is liable to pay Class 1 contributions in respect of earnings paid to or for the benefit of that qualifying employee in the relevant period,

shall be entitled to deduct an amount determined in accordance with this regulation from his contributions payments.

(2) The amount which an employer is entitled to deduct shall be where the Class 1 contributions specified in paragraph (1)(c) are payable—

- (a) at the contracted-out rate, an amount equal to the amount of secondary Class 1 contributions which would be payable by that employer in respect of the earnings paid in the relevant period were those contributions payable at the non-contracted-out rate;
- (b) at any other rate, an amount equal to the amount of secondary Class 1 contributions which would be payable by that employer in respect of the earnings paid in the relevant period.

(3) For the purposes of determining an amount which an employer is entitled to deduct under paragraph (2) no account shall be taken of any earnings paid to or for the benefit of the qualifying employee after the relevant period.

(4) In this regulation “the relevant period” means the period commencing with the first day of that qualifying employee’s employment with that employer and ending—

- (a) on the last day of such employment;
- (b) on the day the qualifying employee reaches pensionable age, or
- (c) in the following year on the day preceding the day corresponding to that first day of employment,

whichever shall first occur.

### **Deductions from employer's contributions payments where a mariner's earnings are paid for a voyage period**

6.—(1) An employer—

- (a) who employs a person who is a qualifying employee in relation to him as a mariner for a continuous period of at least 13 weeks, and
- (b) who has obtained a deductions certificate, and
- (c) who is liable to pay Class 1 contributions in accordance with regulation 88(16) of the Contributions Regulations in respect of earnings paid to or for the benefit of that mariner for a voyage period commencing in the relevant period but ending after it,

shall be entitled to deduct an amount determined in accordance with this regulation from his contributions payments.

(2) The amount which an employer is entitled to deduct shall be where the Class 1 contributions specified in paragraph (1)(c) are payable—

- (a) at the contracted-out rate, an amount equal to the amount of secondary Class 1 contributions which would be payable by that employer in respect of the earnings earned in the part of the voyage period falling within the relevant period were those contributions assessed at the non-contracted-out rate;
- (b) at any other rate, an amount equal to the amount of secondary Class 1 contributions which would be payable by that employer in respect of the earnings earned in the part of the voyage period falling within the relevant period.

(3) For the purposes of determining an amount which an employer is entitled to deduct under paragraph (2) no account shall be taken of any earnings earned or treated as earned under regulation 88 of the Contributions Regulations in that part of the voyage period falling after the end of the relevant period.

(4) In this regulation “the relevant period” has the same meaning as in regulation 5(4).

### **Deductions certificate**

7.—(1) An application for a deductions certificate must be in writing and shall contain the particulars specified in paragraph (2).

(2) For the purposes of paragraph (1) the particulars required are—

- (a) the name and address of the person employing the qualifying employee;
- (b) the name and national insurance number of the qualifying employee;
- (c) the date the qualifying employee's employment with that person commenced.

(3) An application for a deductions certificate must be made to the Department before the end of the period commencing with the first day of the qualifying employee's employment with the employer and ending on the expiry of 52 weeks after that date.

(4) The Department on receipt of an application from a person employing a qualifying employee shall issue a deductions certificate and shall certify on the deductions certificate that the person to whom it is issued is the employer entitled to make deductions in accordance with these Regulations.

(5) Where an application is made after the period specified in paragraph (3) it may be accepted by the Department if the person applying for it proves that there was good cause for his failure to make the application within the period specified.

(6) A deductions certificate remains at all times the property of the Department.

(7) A person who has been issued with a deductions certificate shall be responsible for its custody.

(8) A person to whom a deductions certificate has been issued shall, within 28 days of receiving a request from the Department to do so, return the certificate to the Department unless he has reasonable cause for not so doing.

(9) Where a deductions certificate has been lost or destroyed the Department may, at its discretion, issue a duplicate.

### **Deductions from contributions payments**

**8.** An employer who is entitled to deduct an amount determined in accordance with regulation 5 or 6 may do so by making one or more deductions from his contributions payments except where and in so far as—

- (a) those contributions payments are made more than 6 years after the end of the year in which he first became entitled to make the deduction;
- (b) that amount has been repaid to him by the Department;
- (c) he has made a request in writing under regulation 9 that an amount be paid to him and he has not received notification by the Department that the request is refused.

### **Payments to employers by the Department**

**9.—(1)** If the amount an employer is or would otherwise be entitled to deduct under regulation 8 exceeds the amount of his contributions payments in respect of earnings paid in an income tax period the Department shall, if the employer requests him to do so in writing, pay the employer an amount equal to such excess.

(2) If an employer is not liable to pay any contributions payments in an income tax period but would otherwise be entitled to deduct an amount under regulation 8 and the Department is satisfied that this is the case the Department shall, if the employer requests him to do so in writing, pay the employer such amount.

### **Qualifying employees with more than one employment**

**10.** Where an employee is a qualifying employee in relation to more than one employer at the same time, the right to make deductions shall be confined to the employer—

- (a) with whom the qualifying employee's employment began first, and
- (b) certified on the deductions certificate as the employer entitled to make the deductions.

### **Treatment of 2 or more employers as one**

**11.—(1)** Where this regulation applies, the employers concerned are to be treated as one for the purposes of determining the amount which may be deducted in accordance with regulation 5 or 6.

(2) This regulation applies where—

- (a) an employer is entitled to make deductions in accordance with these Regulations in relation to a qualifying employee, and
- (b) earnings paid to or for the benefit of that employee are, for the purposes of determining the amount of Class 1 contributions payable, aggregated by virtue of regulation 12(1)(a)(17) of the Contributions Regulations.

## Offences

- 12.**—(1) A person who contravenes the requirements of regulation 7(8) is guilty of an offence.  
 (2) Article 35(7) of the Order shall apply in relation to the original offence.

## Amendment of Schedule 1 to the Contributions Regulations

**13.**—(1) Schedule 1 to the Contributions Regulations (application of Income Tax (Employments) Regulations 1973(**18**) to earnings-related contributions and Class 1A contributions) shall be amended in accordance with paragraphs (2) to (6).

(2) In Regulation 2(1) (interpretation) after the definition of “national insurance number” there shall be inserted the following definition—

““the Re-imbusement Regulations” means the Employer’s Contributions Re-imbusement Regulations (Northern Ireland) 1996;”.

(3) In Regulation 26(2)(**19**) (payment of earnings-related contributions monthly by employer) after “Compensation of Employers Regulations” there shall be inserted “and the Re-imbusement Regulations”.

(4) In Regulation 26A(2)(**20**) (payment of earnings-related contributions quarterly by employer) after “Compensation of Employers Regulations” there shall be inserted “and the Re-imbusement Regulations”.

(5) In Regulation 30(**21**) (return by employer at end of year)—

- (a) in paragraph (1) after sub-paragraph (g) there shall be inserted the following sub-paragraph

—  
 “(gg) the total amounts he is entitled to deduct under regulation 5 of the Re-imbusement Regulations, and”;

- (b) in paragraph (2) after sub-paragraph (g) there shall be inserted the following sub-paragraph

—  
 “(gg) the total amount deducted under regulation 8 of the Re-imbusement Regulations in respect of all his qualifying employees in that year; and”.

(6) In Regulation 30A(**22**) (special return by employer at end of voyage period) in paragraph (2) after sub-paragraph (i) there shall be added the following sub-paragraph—

“(j) the total amounts he is entitled to deduct under regulation 5 or 6 of the Re-imbusement Regulations in relation to each apportionment of emoluments.”.

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

(19) Regulation 26 was substituted by S.R. 1991 No. 310

(20) Regulation 26A was substituted by S.R. 1991 No. 310

(21) Relevant amending regulations are S.R. 1981 No. 30, S.R. 1985 No. 59, S.R. 1987 No. 143, S.R. 1990 No. 110 and S.R. 1992 No. 280

(22) Regulation 30A was inserted by S.R. 1982 No. 69 and amended by S.R. 1992 No. 280

Sealed with the Official Seal of the Department of Health and Social Services on

6th February 1996.

*Kenneth L. Millar*  
Assistant Secretary

## EXPLANATORY NOTE

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

These Regulations provide for employers to make deductions from their social security contributions payments in prescribed circumstances where they employ a qualifying employee.

Regulation 1 contains definitions.

Regulation 2 sets out the circumstances in which a person, who would not otherwise satisfy the condition in Article 29(1) of the Jobseekers (Northern Ireland) Order 1995 (“the Order”) that immediately before beginning his employment with that employer he had been entitled to a jobseeker’s allowance for a continuous period of not less than two years, will be treated as satisfying such condition.

Regulation 3 sets out the circumstances in which a person, who would not otherwise satisfy the condition in Article 29(2)(a) of the Order that immediately before beginning his employment with that employer he had been unemployed for a continuous period of not less than two years, will be treated as satisfying such condition.

Regulation 4 sets out the prescribed description of a person for the purposes of Article 29(2)(c) of the Order.

Regulation 5 provides that an employer must employ a person who is a qualifying employee for a continuous period of at least 13 weeks and have obtained a deductions certificate in order to make deductions in accordance with these Regulations and sets out how the amount which an employer is entitled to deduct is to be calculated.

Regulation 6 provides for the making of deductions in the case of certain mariners.

Regulation 7 provides for an application to be made to the Department of Health and Social Services (“the Department”) for a deductions certificate before making any deduction and sets out requirements for the form of such an application and the period within which it shall be made to the Department.

Regulation 8 provides that where an employer is entitled to deduct amounts determined in accordance with regulation 5 or 6 that such deductions may be made by one or more deductions from the employer’s contributions payments except in specified circumstances.

Regulation 9 provides that where an employer is unable to deduct in whole or in part an amount because it exceeds the amount of his contributions payments paid in an income tax period the Department or the Commissioners of Inland Revenue acting on its behalf shall on request in writing by the employer pay him such amount.

Regulation 10 restricts the right to make deductions where an employee is a qualifying employee in relation to more than one employer at the same time.

Regulation 11 provides for employers to be treated as one where the earnings are aggregated by virtue of regulation 12(1)(a) of the Social Security (Contributions) Regulations (Northern Ireland) 1979 (“the Contributions Regulations”).

Regulation 12 makes it an offence to contravene the requirements of regulation 7(8).

Regulation 13 amends certain provisions in Schedule 1 to the Contributions Regulations by referring to these Regulations.

Articles 2(2) and (4) and 36(2) of the Order, two of the enabling provisions under which these Regulations are made, are brought into operation on 5th February 1996 by virtue of the Jobseekers

(1995 Order) (Commencement No. 1) Order (Northern Ireland) 1996 (S.R. [1996 No. 26 \(C. 3\)](#)). Articles 29 and 35(3) and (7) of the Order, the remaining enabling provisions, are brought into operation, for the purpose only of authorising the making of regulations on 5th February 1996 and for all other purposes on 6th April 1996, by virtue of that Commencement Order. As these Regulations are made before the end of the period of 6 months beginning with the coming into operation of those provisions they are accordingly exempt, by virtue of section 150(5)(a) of the Social Security Administration (Northern Ireland) Act [1992 \(c. 8\)](#), from reference to the Social Security Advisory Committee.