
STATUTORY RULES OF NORTHERN IRELAND

1996 No. 433

SOCIAL SECURITY

**The Social Security (Contributions) (Amendment
No. 5) Regulations (Northern Ireland) 1996**

Made - - - - 18th September 1996

Coming into operation 6th April 1997

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 3(2) and (3), 4(5) and 17(3) and (6) of, and paragraphs 1(1), 2, 6(1) and 8(1)(m) of Schedule 1 to, the Social Security Contributions and Benefits (Northern Ireland) Act 1992⁽¹⁾ 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. 5) Regulations (Northern Ireland) 1996 and shall come into operation on 6th April 1997.

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

Amendment of regulation 1 of the principal Regulations

2. In regulation 1(2) of the principal Regulations (interpretation)—

(a) after the definition of “company”⁽³⁾ there shall be inserted the following definition—

““COMPS employment” means employment in respect of which minimum payments are made to a money purchase pension scheme contracted out under section 5(3) of the Pension Schemes (Northern Ireland) Act 1993⁽⁴⁾ (requirements for certification of schemes);”;

(b) after the definition of “contributory benefit”⁽⁵⁾ there shall be inserted the following definitions—

(1) 1992 c. 7
(2) S.R. 1979 No. 186; relevant amending regulations are S.R. 1980 No. 463, S.R. 1981 No. 30, S.R. 1984 No. 43, S.R. 1985 No. 260, S.R. 1988 No. 204, S.R. 1989 No. 384, S.R. 1991 No. 106, S.R. 1992 Nos. 41 and 280, S.R. 1995 No. 91 and S.R. 1996 Nos. 89 and 430
(3) Definition of “company” was substituted by S.R. 1991 No. 106
(4) 1993 c. 49; section 5(3) is amended by Article 133(4) of, and paragraph 17 of Schedule 3 to, the Pensions (Northern Ireland) Order 1995 (S.I.1995/3213 (N.I. 22))
(5) Definition of “contributory benefit” was inserted by S.R. 1996 No. 430

““COSRS employment” means employment which qualifies an earner for a pension provided by a salary related scheme contracted out under section 5(2) of the Pension Schemes (Northern Ireland) Act 1993(6);

“director” means—

- (a) in relation to a company whose affairs are managed by a board of directors or similar body, a member of that board or similar body;
- (b) in relation to a company whose affairs are managed by a single director or similar person, that director or person;
- (c) any person in accordance with whose directions or instructions the company’s directors as defined in paragraphs (a) and (b) of this definition are accustomed to act; and for this purpose a person is not to be treated as such a person by reason only that the directors act on advice given by him in his professional capacity;”.

Amendment of regulation 5A of the principal Regulations

3. In regulation 5A(2) of the principal Regulations(7) (earnings period for earnings to be aggregated where the earnings periods for those earnings otherwise would be of different lengths) for sub-paragraph (b) there shall be substituted the following sub-paragraphs—

“(b) where the earnings are derived from employments which include any contracted-out employment and any non-contracted-out employment and the employed earner is not a person in respect of whom minimum contributions are paid by the Department in accordance with section 39 of the Pension Schemes (Northern Ireland) Act 1993(8), and

- (i) any of the contracted-out employments is COMPS employment, the earnings period in respect of the earnings derived from that COMPS employment or, if there is more than one such employment, the shorter, or as the case may be the shortest, of the earnings periods derived from such employments;
- (ii) the contracted-out employment is COSRS employment only, the earnings period in respect of the earnings derived from that COSRS employment or, if there is more than one such employment, the shorter, or as the case may be the shortest, of the earnings periods derived from such employments; or

(bb) where the earnings are derived from employments which are contracted-out employments only, and—

- (i) any of the employments is COMPS employment, the earnings period in respect of the earnings derived from that COMPS employment or, if there is more than one such employment, the shorter, or as the case may be the shortest, of the earnings periods derived from such employments;
- (ii) all of those employments are COSRS employment, the shorter, or as the case may be the shortest, of the earnings periods derived from such employments; and”.

Amendment of regulation 32 of the principal Regulations

4.—(1) Regulation 32 of the principal Regulations (return of contributions) shall be amended in accordance with paragraphs (2) and (3) of this regulation.

(6) Section 5(2) is substituted by Article 133(3) of the Pensions (Northern Ireland) Order 1995

(7) Regulation 5A was inserted by S.R. 1980 No. 463 and amended by S.R. 1996 No. 89

(8) Section 39 is amended by paragraph 34 of Schedule 3 to the Pensions (Northern Ireland) Order 1995

- (2) In paragraph (2)(9)—
- (a) for “Article 3(9) of the 1986 Order” there shall be substituted “section 40(1) of the Pension Schemes (Northern Ireland) Act 1993(10)”;
 - (b) for sub-paragraph (d) there shall be substituted the following sub-paragraphs—
 - “(d) any amount of primary Class 1 contributions at the percentages applying under section 37(1) of the Pension Schemes (Northern Ireland) Act 1993(11) (reduced rates of Class 1 contributions) in respect of COSRS employment as specified in head (i), (ii) or (iii) of this sub-paragraph—
 - (i) where the amount paid at the contracted-out percentage is equal to or exceeds 53 times the amount payable on earnings at the upper earnings limit for that year, the amount paid at the normal percentage in excess of 53 times the amount, calculated at the initial primary percentage rate specified in section 8(2)(a) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (calculation of primary Class 1 contributions), payable on earnings at the lower earnings limit for that year and the amount paid at the contracted-out percentage if any;
 - (ii) where the amount paid at the contracted-out percentage is less than 53 times the amount payable on earnings at the upper earnings limit for that year, the amount paid at the normal percentage;
 - (iii) where no amount has been paid at the contracted-out percentage, the amount paid at the normal percentage;
 - (e) any amount of primary Class 1 contributions at the percentages applying under section 38A of the Pension Schemes (Northern Ireland) Act 1993(12) (reduced rates of Class 1 contributions, and rebates) in respect of COMPS employment as specified in head (i), (ii) or (iii) of this sub-paragraph—
 - (i) where the amount paid at the contracted-out percentage is equal to or exceeds 53 times the amount payable on earnings at the upper earnings limit for that year, the amount paid at the normal percentage in excess of 53 times the amount, calculated at the initial primary percentage rate specified in section 8(2)(a) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992, payable on earnings at the lower earnings limit for that year and the amount paid at the contracted-out percentage if any;
 - (ii) where the amount paid at the contracted-out percentage is less than 53 times the amount payable on earnings at the upper earnings limit for that year, the amount paid at the normal percentage;
 - (iii) where no amount has been paid at the contracted-out percentage, the amount paid at the normal percentage.”.
- (3) In paragraph (2A)(13)—
- (a) for “Article 3(9)” there shall be substituted “section 40(1)”;
 - (b) for “sub-paragraph (d) of that paragraph shall be returned before those specified in sub-paragraph (c)” there shall be substituted “sub-paragraph (c) of that paragraph shall be returned after those specified in sub-paragraphs (d) and (e)”.

(9) Paragraph (2) was amended by S.R. 1985 No. 260, S.R. 1988 No. 204 and S.R. 1989 No. 384
(10) Section 40(1) is amended by Article 160(a) of the Pensions (Northern Ireland) Order 1995
(11) Section 37(1) is substituted by Article 134(2) of the Pensions (Northern Ireland) Order 1995
(12) Section 38A is inserted by Article 134(4) of the Pensions (Northern Ireland) Order 1995
(13) Paragraph (2A) was inserted by S.R. 1988 No. 204

Amendment of regulation 35 of the principal Regulations

5. In regulation 35(1) of the principal Regulations (calculation of return of contributions) after sub-paragraph (f)(14) there shall be added the following sub-paragraph—

- “(g) in the case of such contributions paid in error in respect of any person, the amount of any payment made by the Department under section 38A(3) of the Pension Schemes (Northern Ireland) Act 1993 (reduced rates of Class 1 contributions, and rebates: age-related rebates).”.

Amendment of regulation 68 of the principal Regulations

6. In regulation 68(2) of the principal Regulations (repayment of Class 4 contributions which are not due) for sub-paragraph (b) there shall be substituted the following sub-paragraph—

- “(b) the said application is made within a period of—
- (i) 6 years beginning with 6th April in the year of assessment next following that in respect of which the payment was made where the application is in respect of any year of assessment ending before 6th April 1996,
 - (ii) 5 years beginning with 1st February in the year of assessment next following that in respect of which the payment was made where the application is in respect of any year of assessment beginning on or after 6th April 1996, or
 - (iii) if later than head (i) or (ii) of this sub-paragraph, 2 years beginning with 6th April in the year of assessment next following that in which the payment was made.”.

Amendment of Schedule 1 to the principal Regulations

7.—(1) Schedule 1 to the principal Regulations (application of Income Tax (Employments) Regulations 1973(15) to earnings-related contributions and Class 1A contributions) shall be amended in accordance with paragraphs (2) to (4) of this regulation.

(2) In Regulation 13A(16) (recording of Class 1A contributions) for “75 days” there shall be substituted “105 days”.

(3) In Regulation 26C(17) (payment of Class 1A contributions)—

- (a) in paragraph (1)—
 - (i) “the provisions of paragraph (2) of this Regulation and to” shall be omitted,
 - (ii) for “19th June” there shall be substituted “19th July”;

(b) paragraph (2) shall be omitted.

(4) In—

- (a) Regulation 27(2A) and (3)(b)(18) (employer failing to pay earnings-related contributions or Class 1A contributions);
- (b) Regulation 27B(1), (2)(a), (3) and (5)(19) (specified amount of Class 1A contributions);
- (c) Regulation 28(1)(b)(20) (recovery of earnings-related contributions or Class 1A contributions);

(14) Sub-paragraph (f) was added by S.R. 1988 No. 204

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

(16) Regulation 13A was inserted by S.R. 1992 No. 41 and amended by S.R. 1992 No. 280

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

(18) Paragraphs (2A) and (3) were added and substituted respectively by S.R. 1992 No. 41 and amended by S.R. 1992 No. 280

(19) Regulation 27B was inserted by S.R. 1992 No. 41 and amended by S.R. 1992 No. 280 and S.R. 1995 No. 91

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

(d) Regulation 32(5)(21) (inspection of employer's records), "or (2)" shall be omitted.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland
on 17th September 1996.

John O'Neill
Assistant Secretary

The Commissioners of Inland Revenue hereby concur

S. C. T. Matheson
C. W. Corlett

18th September 1996.

Two of the Commissioners of Inland Revenue

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”).

Regulation 2 amends regulation 1(2) of the principal Regulations by inserting new definitions of “COMPS employment”, “COSRS employment” and “director”.

Regulation 3 amends regulation 5A(2) of the principal Regulations by designating the appropriate earnings period where an employed earner’s earnings in respect of one or more COMPS (contracted-out money purchase scheme) and COSRS (contracted-out salary related scheme) employments are aggregated and the earnings period for those earnings would otherwise be different.

Regulation 4 amends regulation 32(2) and (2A) of the principal Regulations by providing an order of priority for the return of earnings-related contributions in respect of COMPS employment and COSRS employment.

Regulation 5 amends regulation 35(1) of the principal Regulations to require the Department of Health and Social Services (“the Department”) to deduct from earnings-related contributions which have been paid in error, before they are repaid, the amount of any payment made by the Department (an age-related rebate) under section 38A of the Pension Schemes (Northern Ireland) Act 1993.

Regulation 6 amends regulation 68(2) of the principal Regulations to provide different periods for different years of assessment for the making of an application for the repayment of Class 4 contributions which were not due to be paid under section 15 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (formerly section 9 of the Social Security (Northern Ireland) Act 1975 (c. 15)).

Regulation 7 amends Regulations 13A, 26C(1) and (2), 27(2A) and (3), 27B(1), (2), (3) and (5), 28(1) and 32(5) of Schedule 1 to the principal Regulations. Paragraph (2) amends Regulation 13A by altering the time limit for the recording of Class 1A contributions and the preparation of deductions working sheets from 75 days to 105 days after the end of the income tax year in respect of which the contributions are payable. Paragraph (3)(a)(ii) amends Regulation 26C(1) by altering the date for payment of Class 1A contributions from 19th June to 19th July in the income tax year immediately following the year of assessment. Paragraphs (3)(a)(i) and (b) and (4) make consequential omissions.

These Regulations 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 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992 (c. 8), are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.