
STATUTORY INSTRUMENTS

1971 No. 2050

SOCIAL SECURITY

The National Insurance (Collection of Graduated Contributions) Amendment Regulations 1971

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| <i>Made</i> | - - - - | <i>16th December 1971</i> |
| <i>Laid before Parliament</i> | | <i>6th January 1972</i> |
| <i>Coming into Operation</i> | | <i>6th April 1972</i> |

The Secretary of State for Social Services, in conjunction with the Treasury and with the concurrence of the Commissioners of Inland Revenue, in exercise of powers under sections 11(3), 14(1), 15, 74(2) and 95(12) of the National Insurance Act 1965, and of all other powers enabling him in that behalf, after considering the report of the National Insurance Advisory Committee on the preliminary draft submitted to them in accordance with section 108 of that Act, hereby makes the following regulations:—

Citation, interpretation and commencement

1. These regulations, which may be cited as the National Insurance (Collection of Graduated Contributions) Amendment Regulations 1971, shall, unless the context otherwise requires, be read as one with the National Insurance (Collection of Graduated Contributions) Regulations 1970⁽¹⁾ (hereinafter referred to as “the principal regulations”) and shall come into operation on 6th April 1972.

Amendment of regulations 1(2) and 5(2) of the principal regulations

2. In regulations 1(2) and 5(2) of the principal regulations for the word “Schedule” there shall be substituted the word “Schedules”.

Amendment of regulation 2 of the principal regulations

3. In regulation 2 of the principal regulations (collection and recovery of graduated contributions)

(1) for the word “Schedule” there shall be substituted the word “Schedules” ;

⁽¹⁾ (1970 III, p. 5763).

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(2) after the reference to the Income Tax (Employments) Regulations 1965, as amended there shall be added the words “and of the Income Tax (Employments) (No. 6) (Seamen) Regulations 1970(2)”.

Amendment of Schedule to the principal regulations and revocation of Part V of that Schedule

4. In the Schedule to the principal regulations (provisions of the Income Tax (Employments) Regulations 1965 as they apply to graduated contributions)—

(1) for the heading “SCHEDULE” there shall be substituted the heading “ SCHEDULE 1”;

(2) in regulations 19(1), 26(1), 27(1) and (5), 28(1), 29(2)(c) and 32(4) after the words “Regulation 13” , “Regulation 26” , or, as the case may be “ Regulation 28” there shall be inserted the words “of this Schedule”;

(3) in regulation 29(6)—

(a) after the words “ Regulation 28” where they first appear there shall be inserted the words “of this Schedule” ;

(b) for the words “ Regulation 28” where they next appear there shall be substituted the words “that Regulation” .

(4) Part V (special provisions applicable to seamen) is hereby revoked.

Addition of Schedule 2 to the principal regulations

5. After Schedule 1 to the principal regulations there shall be added the provisions set out in the Schedule to these regulations.

Signed by authority of the Secretary of State for Social Services.

10th December 1971

Paul Dean
Parliamentary Under Secretary of State
Department of Health and Social Security

14th December 1971

Tim Fortescue
V.H. Goodhew
Two of the Lords Commissioners of Her
Majesty's Treasury

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The Commissioners of Inland Revenue hereby concur. By Order of the Commissioners of Inland Revenue.

16th December 1971

A.H. Dalton
Secretary

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SCHEDULE

Regulation 5

SCHEDULE SUBSTITUTED FOR PART V OF SCHEDULE TO THE NATIONAL INSURANCE (COLLECTION OF GRADUATED CONTRIBUTIONS) REGULATIONS 1970

SCHEDULE 2

Regulation 2

CONTAINING THE PROVISIONS OF THE INCOME TAX (EMPLOYMENTS) (No. 6) (SEAMEN) REGULATIONS 1970 AS THEY APPLY TO GRADUATED CONTRIBUTIONS

Interpretation

2.—(3) In this Schedule unless the context otherwise requires—

“employer” includes the master of a ship;

“Schedule 1” means Schedule 1 to these Regulations;

“seaman” means any person—

- (a) who has signed the agreement with the crew of a ship to which any determination of the National Maritime Board relating to remuneration applies, not being a member of Her Majesty's naval, military or air forces or a person in the employment of the British Railways Board; or
- (b) who being the holder of a British Seaman's Identity Card or of a British Seaman's Card to which he is lawfully entitled is employed to work on a ship;

and for the purpose of this definition—

- (i) where the crew of a ship are engaged at a place outside the United Kingdom on terms which adopt any determination of the National Maritime Board relating to remuneration, that ship shall be deemed to be a ship to which that determination applies if the determination would have applied to the ship if the crew had been engaged in the United Kingdom;
- (ii) where an arrangement has been made for the purposes of deduction of tax from the emoluments of persons resident in the United Kingdom who are employed or engaged in sea-going service in any foreign ship, those persons shall be deemed to be seamen; and
- (iii) an apprentice or cadet whose name is entered on the agreement with the crew shall be deemed to be a person who has signed the agreement.

2A. Subject to the provisions of the preceding paragraph the provisions contained in Part I of Schedule 1 shall apply also to the provisions of this Schedule.

Deduction of graduated contributions from seamen's emoluments

4.—(1A) Subject to the provisions of regulation 11 of this Schedule, Parts II and III of Schedule 1 shall not apply in the case of a seaman and every employer, on making any payment of a seaman's emoluments, may deduct graduated contributions therefrom in accordance with the provisions of this Schedule.

(2A) An employer shall not be entitled to recover any graduated contributions paid or to be paid by him on behalf of any seaman otherwise than by deduction in accordance with the provisions of this Schedule.

(3A) On the occasion of the payment of any seaman's emoluments there may be deducted therefrom the amount, if any, of the graduated contributions based thereon which the seaman is liable to pay under those provisions of Part I of the Act which relate to graduated contributions or under

those provisions as modified by Part II of the National Insurance (Mariners) Regulations 1967⁽³⁾ as amended⁽⁴⁾ (which modifies the statutory provisions in relation to graduated contributions for a seaman).

(4A) If by reason of an error made in good faith the employer, on making any payment of emoluments to a seaman, fails to deduct therefrom the full amount of graduated contributions which by virtue of the provisions of this Schedule he is entitled to deduct, he may recover the amount so underdeducted by deduction from any subsequent payment of emoluments to that employee during the same year:

Provided that—

- (a) the amount which may be deducted by virtue of the provisions of this paragraph from any payment shall be in addition to but shall not exceed the amount deductible therefrom under the other provisions of this Schedule; and
- (b) for the purposes of Part IV of Schedule 1 and of Regulations 6 and 8 of this Schedule an additional amount which may be deducted by virtue of the provisions of this paragraph shall be treated as an amount deductible under the provisions of this Schedule only in so far as the amount of the corresponding underdeduction has not been so treated.

Payment of graduated contributions to Collector

6. All amounts of graduated contributions which are deductible from any payment of emoluments under the provisions of this Schedule, together with an equal amount by way of employer's graduated contributions, shall be paid to the Collector within the time limited for the payment of income tax, if any, deductible from that payment of emoluments or, if income tax is not so deductible, the time which would be so limited if income tax were so deductible.

Return to be rendered by employer

7. Every employer who makes any payment of emoluments to a seaman shall, within the time laid down in Regulation 6 of this Schedule for the payment of the graduated contributions, if any, which are deductible therefrom, render a return to the Collector in such form as may be authorised by the Commissioners of Inland Revenue showing as regards every payment of emoluments which he makes to the seaman—

- (a) the seaman's name;
- (b) the seaman's rank or rating and discharge book number;
- (c) the seaman's National Insurance number;
- (d) the total emoluments paid to the seaman by the employer for the period in respect of which the payment of emoluments is made;
- (e) the number of employer's contributions which the employer is liable to pay under section 3 of the Act (which provides for the payment of weekly employer's contributions) in respect of the seaman for the period in respect of which the payment of emoluments is made;
- (f) the total amount of graduated contributions which may be deducted from the emoluments otherwise than under paragraph (4A) of Regulation 4 of this Schedule.

(3) (1967 I, p. 1294).

(4) S.I. 1969/1277; 1970/46, 1970/507 (1969 III, p. 3811; 1970 I, p. 243, 1713).

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Application of Part IV of Schedule 1

8.—(1) The provisions of Part IV of Schedule 1 shall apply in relation to seamen subject to any necessary modifications and in particular to the modifications set out in the following paragraphs of this Regulation.

(2) Paragraph (1) of Regulation 26 of Schedule 1 shall apply as if—

- (a) for the reference to payment of graduated contributions within 14 days of the end of every income tax month there were substituted a reference to payment of graduated contributions within the time limited in Regulation 6 of this Schedule; and
- (b) the words “other than amounts deductible by virtue of the proviso to paragraph (1) of Regulation 13 of this Schedule which he did not deduct” were omitted; and
- (c) the proviso were omitted.

(3) Regulation 27 of Schedule 1 shall not apply, but the following provisions shall have effect where the employer fails to pay to the Collector within the time limited in Regulation 6 of this Schedule any amount of graduated contributions which he is liable under this Schedule to pay to the Collector, that is to say—

- (a) the production of the return made by the employer under Regulation 7 of this Schedule shall be sufficient evidence that the amount of graduated contributions shown in that return as deductible by the employer is one half of the amount which the employer is liable to pay to the Collector; and
- (b) if the amount of graduated contributions shown as deductible in the said return differs from the amount which the employer was entitled to deduct from the payments specified therein under the provision of this Schedule, a certificate of the Collector as to the amount properly deductible shall be sufficient evidence that that amount, and not the amount shown in the said return, is one half of the amount which the employer is liable to pay to the Collector; and any document purporting to be such a certificate as aforesaid shall be deemed to be such a certificate until the contrary is proved.

(4) Regulation 29 of Schedule 1 shall not apply in the case of seamen.

Seamen to whom this Schedule shall not apply

11. Notwithstanding the preceding regulations in this Schedule where, under Regulation 11 of the Income Tax (Employments) (No. 6) (Seamen) Regulations 1970 the Commissioners of Inland Revenue have approved arrangements agreed with an employer in respect of all or some of his employees for the purpose of applying with or without modification the provisions of Parts II, III and IV of the Income Tax (Employments) Regulations 1965⁽⁵⁾ and in consequence the provisions of the Income Tax (Employments) (No. 6) (Seamen) Regulations 1970 do not apply in respect of those employees, the foregoing provisions of this Schedule shall not apply in respect of them either and the provisions of Parts II, III and of Part IV of Schedule 1 shall, subject to any modifications which may be specified in the said arrangements, apply instead.

(5) (1965 I, p. 1321).

EXPLANATORY NOTE

These Regulations revoke Part V of the Schedule to the National Insurance (Collection of Graduated Contributions) Regulations 1970 and replace it in a slightly amended form by a Schedule 2.

That Schedule sets out the provisions of the regulations dealing with the collection and recovery of Income Tax under Pay As You Earn in respect of seamen as modified to apply for the purposes of graduated contributions. In it have been made the consequential amendments necessitated by the making of the Income Tax (Employments) (No. 6) (Seamen) Regulations 1970 which revoked and re-enacted in slightly amended form Part V of the Income Tax (Employments) Regulations 1965.

As in the regulations revoked, the regulations in Schedule 2 are numbered non-consecutively, so that those provisions of the Income Tax (Employments) (No. 6) (Seamen) Regulations 1970, applied or adapted, retain for graduated contributions purposes the numbers which they bear in the regulations last mentioned above.

An amendment of substance is made in regulation 11 of the new Schedule 2, corresponding to a similar provision of the Income Tax (Employments) (No. 6) (Seamen) Regulations 1970. Under regulation 11 Parts II, III and IV of Schedule 1 can be applied in certain circumstances instead of the provisions of Schedule 2.

The report of the National Insurance Advisory Committee on the preliminary draft of these Regulations dated 21st October 1971 is contained in Command Paper (Cmnd. 4844) published by Her Majesty's Stationery Office.