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STATUTORY INSTRUMENTS

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**2001 No. 1004**

**The Social Security (Contributions) Regulations 2001**

**PART 9**

**SPECIAL CLASSES OF EARNERS**

**Case A—**

**Airmen**

**Interpretation**

**111.** In this Case, unless the context otherwise requires—

“airman” means a person who is, or has been, employed under a contract of service either as a pilot, commander, navigator or other member of the crew of any aircraft, or in any other capacity on board any aircraft where—

- (a) the employment in that other capacity is for the purposes of the aircraft or its crew or of any passengers or cargo or mails carried on that aircraft; and
- (b) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the aircraft is in flight,

but does not include a person in so far as his employment is as a serving member of the forces;

“British aircraft” means any aircraft belonging to Her Majesty and any aircraft registered in the United Kingdom of which the owner (or managing owner if there is more than one owner) resides or has his principal place of business in the United Kingdom, and references to the owner of an aircraft shall, in relation to an aircraft which has been hired, be taken as referring to the person for the time being entitled as hirer to possession and control of the aircraft by virtue of the hiring or any subordinate hiring.

**Modification of employed earner’s employment**

**112.—**(1) Subject to paragraphs (2) and (3), where an airman is employed as such on board any aircraft, and the employer of that airman or the person paying the airman his earnings in respect of the employment (whether or not the person making the payment is acting as agent for the employer) or the person under whose directions the terms of the airman’s employment and the amount of the earnings to be paid in respect of that employment are determined has—

- (a) in the case of the aircraft being a British aircraft, a place of business in Great Britain or Northern Ireland; or
- (b) in any other case, his principal place of business in Great Britain or Northern Ireland,

then, notwithstanding that the airman does not fulfil the conditions of section 2(1)(a) of the Act (definition of employed earner), he shall be treated as employed in employed earner’s employment and, for the purposes of regulation 145(1)(a), in respect of that employment, as present in Great Britain or Northern Ireland (as the case requires).

(2) Subject to paragraph (3), notwithstanding that an airman is employed in an employment to which the provisions of paragraph (1) applies, if that airman is neither domiciled nor has a place of residence in Great Britain or Northern Ireland (as the case requires) no contributions shall be payable by or in respect of him as an employed earner.

(3) Paragraph (2) is subject to any Order in Council giving effect to any reciprocal agreement made under section 179 of the Administration Act (reciprocal agreements with countries outside the United Kingdom).

### **Application of the Act and regulations**

**113.** Part I of the Act and so much of Part VI of the Act as relates to contributions and the regulations made under those provisions, so far as they are not inconsistent with this Case, apply to an airman with the modification that, where an airman is, on account of his being outside the United Kingdom by reason of his employment as an airman, unable to perform an act required to be done either immediately or upon the happening of a certain event or within a specified time, he shall be deemed to have complied with such requirement if he performs the act as soon as is reasonably practicable, although after the happening of the event or the expiration of the specified time.

Case B—

### **Continental Shelf(1)**

### **Application to employment in connection with continental shelf of Part I of the Act and so much of Part VI of the Act as relates to contributions**

**114.—**(1) For the purposes of section 120 of the Act (employment at sea (continental shelf operations))(2), prescribed employment shall be any employment (whether under a contract of service or not) in any area which may from time to time be designated by Order in Council under section 1(7) of the Continental Shelf Act 1964(3), where the employment is in connection with any activity mentioned in section 11(2) of the Petroleum Act 1998(4) in the designated area.

(2) Where a person is employed in any employment specified in paragraph (1), the provisions of Part I of the Act and so much of Part VI of the Act as relates to contributions shall, subject to the provisions of paragraph (3), apply as though the area so designated were in Great Britain, and notwithstanding that he does not satisfy the conditions as of residence or presence in Great Britain prescribed in regulation 145(1)(a).

(3) Where a person employed in any employment specified in paragraph (1) is, on account of his being outside Great Britain by reason of that employment, unable to perform any act required to be done either immediately or on the happening of a certain event or within a specified time, he shall be deemed to have complied with the requirement if he performs the act as soon as reasonably practicable, although after the happening of the event or the expiration of the specified time.

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(1) The enabling power for this Case is section 120 of the Act; there is no equivalent provision in the Social Security Contributions and Benefits (Northern Ireland) Act 1992. However, contributions in respect of employment on the Continental Shelf would fall to be treated as satisfying the corresponding requirement in Northern Ireland by virtue of Article 2 of the Memorandum set out in Schedule 1 to [S.I. 1976/1003](#) and Schedule 1 to [S.R. 1976 No. 196](#). Article 2 of the Memorandum was amended by paragraph 3 of the first letter in the Schedule to [S.I. 1999/2227](#) and [S.R. 1999 No. 350](#).

(2) Section 120 was amended by paragraph 70 of Schedule 7 to the Social Security Act 1998 (c. 14) and paragraph 26 of Schedule 3, and paragraph 8 of Schedule 7 to the Transfer Act.

(3) [1964 c. 29](#).

(4) [1998 c. 17](#).

Case C—

Mariners

**Interpretation**

**115.** In this Case—

“British ship” means—

- (a) any ship or vessel belonging to Her Majesty; or
- (b) any ship or vessel whose port of registry is a port in the United Kingdom; or
- (c) a hovercraft which is registered in the United Kingdom;

“foreign-going ship” means any ship or vessel which is not a home-trade ship;

“home-trade ship” includes—

- (a) every ship or vessel employed in trading or going within the following limits, that is to say, the United Kingdom (including for this purpose the Republic of Ireland), the Channel Islands, the Isle of Man, and the continent of Europe between the river Elbe and Brest inclusive;
- (b) every fishing vessel not proceeding beyond the following limits—
  - on the South, Latitude 48°30'N.,
  - on the West, Longitude 12°W., and
  - on the North, Latitude 61°N.;

“managing owner” means the owner of any ship or vessel who, where there is more than one such owner, is responsible for the control and management of that ship or vessel;

“mariner” means a person who is or has been in employment under a contract of service either as a master or member of the crew of any ship or vessel, or in any other capacity on board any ship or vessel where—

- (a) the employment in that other capacity is for the purposes of that ship or vessel or her crew or any passengers or cargo or mails carried by the ship or vessel; and
- (b) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the ship or vessel is on her voyage;

but does not include a person in so far as his employment is as a serving member of the forces;

“owner” in relation to any ship or vessel, means the person to whom the ship or vessel belongs and who, subject to the right of control of the captain or master of the ship or vessel (“the master’s rights”), is entitled to control of that ship or vessel, and references to the owner of a ship or vessel shall, in relation to a ship or vessel which has been demised, be construed as referring to the person who for the time being is entitled as charterer to possession and, subject to the master’s rights, to control of the ship or vessel by virtue of the demise or any sub-demise;

“passenger” means any person carried on a ship except—

- (a) a person employed or engaged in any capacity on board the ship on the business of the ship; or
- (b) a person on board the ship either in pursuance of the obligation to carry shipwrecked, distressed or other persons, or by reason of any circumstance that neither the master nor the owner nor the charterer (if any) could have prevented or forestalled;

“pay period” in relation to any payment of a mariner’s earnings means the period in respect of which the payment is made;

“radio officer” means a mariner employed in connection with the radio apparatus of any ship or vessel and holding a certificate of competence in radio telephony granted by the Secretary of State or by an authority empowered in that behalf by the legislature of some part of the Commonwealth or of the Republic of Ireland and recognised by the Secretary of State as equivalent to the like certificate granted by him;

“share fisherman” means any person who—

- (a) is ordinarily employed in the fishing industry, otherwise than under a contract of service as the master or a member of the crew of any United Kingdom fishing vessel within the meaning of section 1(3) of the Merchant Shipping Act 1995<sup>(5)</sup>, manned by more than one person, and who is remunerated in respect of that employment in whole or in part by a share of the profits or gross earnings of the fishing vessel, or
- (b) has ordinarily been so employed, but who by reason of age or infirmity permanently ceases to be so employed and becomes ordinarily engaged in employment ashore in the United Kingdom, otherwise than under a contract of service, making or mending any gear appurtenant to a United Kingdom fishing vessel or performing other services ancillary to or in connection with that vessel and is remunerated in respect of that employment in whole or in part by a share of the profits or gross earnings of that vessel and has not ceased to be ordinarily engaged in such employment;

“ship or vessel” for the purposes of this Case other than those of regulations 116 to 120 includes hovercraft;

“voyage period” means a pay period comprising an entire voyage or series of voyages (including any period of leave on pay which immediately follows the day on which the termination of that voyage or series of voyages occurs);

“week” means a period of 7 consecutive days and “weekly” shall be construed accordingly.

### **Modification of section 162(5) of the Administration Act**

**116.** In section 162 of the Administration Act (destination of contributions), subsection (5)(6) (which specifies the amount of the national health service allocation to be deducted from each class of contribution prior to their payment into the National Insurance Fund) shall be modified, in the case of contributions paid at the rate reduced in accordance with regulation 119(1), as if, instead of the percentage figure specified in paragraph (b) of that subsection, there were specified the percentage figure “0.6”.

### **Conditions of domicile or residence**

**117.—(1)** As respects any employment of a person as a mariner and liability for payment of any contribution under the Act as an employed earner by or on behalf, or in respect, of that mariner in respect of that employment—

- (a) the provisions of Case F of these Regulations relating to conditions as to residence or presence in Great Britain or Northern Ireland (as the case requires) shall not apply; but
- (b) it shall be a condition of liability to pay a contribution under the Act that the mariner is domiciled or resident in Great Britain or Northern Ireland (as the case requires); and
- (c) it shall be a condition of liability to pay a secondary contribution under the Act that the secondary contributor is resident or has a place of business in Great Britain or Northern Ireland (as the case requires).

<sup>(5)</sup> 1995 c. 21.

<sup>(6)</sup> Subsection (5) was amended by section 2(1) of the Social Security (Contributions) Act 1994 (c. 1), section 65(2) of, and paragraph 99(3) of Schedule 7 to, the Social Security Act 1998 (c. 14), paragraph 9(2) of Part III of Schedule 9 to the Welfare Reform Act and section 74(7) of the Child Support, Pensions and Social Security Act (c. 19).

This is subject to the following qualification.

(2) This regulation has effect subject to any Order in Council giving effect to any reciprocal agreement made under section 179 of the Administration Act (reciprocal agreements with countries outside the United Kingdom).

### **Modification of employed earner's employment**

**118.** Where a mariner—

- (a) is employed as such and—
  - (i) the employment is on board a British ship, or
  - (ii) the employment is on board a ship and the contract in respect of the employment is entered into in the United Kingdom with a view to its performance (in whole or in part) while the ship or vessel is on her voyage, and
  - (iii) in a case to which sub-paragraph (ii) applies, the person by whom the mariner's earnings are paid, or, in the case of employment as a master or member of the crew of a ship or vessel, either that person or the owner of the ship or vessel (or the managing owner if there is more than one owner) has a place of business in Great Britain or Northern Ireland (as the case requires); or
- (b) is employed as a master, member of the crew or as a radio officer on board any ship or vessel, not being a mariner to whom paragraph (a) applies, and—
  - (i) in the case of employment as a radio officer, if the contract under which the employment is performed is entered into in the United Kingdom, the employer or the person paying the radio officer his earnings for that employment has a place of business in Great Britain or Northern Ireland (as the case requires), or
  - (ii) in the case of the employment being a master, member of the crew or as a radio officer, if the contract is not entered into in the United Kingdom, the employer or the person paying the earnings has his principal place of business in Great Britain or Northern Ireland (as the case requires),

then, notwithstanding that he does not fulfil the conditions of section 2(1)(a) of the Act (definition of employed earner), the employment of the mariner as mentioned above shall be treated as employed earner's employment.

### **Modification of section 9(2) of the Act**

**119.—**(1) As respects earnings paid to or for the benefit of a mariner for employment as such in any employment specified in paragraph (2), being employment which by virtue of regulation 118 is treated as employed earner's employment, from the figure specified as the secondary percentage in section 9(2) of the Act<sup>(7)</sup> there shall be subtracted 0.5 per cent and section 9 of the Act shall be modified accordingly.

(2) The employment referred to in paragraph (1) is employment as a master or member of the crew of a ship where—

- (a) the employment is on a foreign-going ship and the payment of earnings is exclusively in respect of that employment; or
- (b) the employment is partly on a foreign-going ship and partly otherwise than on such a ship and the payment of earnings in respect of that employment is made during the employment on the foreign-going ship.

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(7) Section 9 was substituted by paragraph 5 of Part I of Schedule 9 to the Welfare Reform Act.

(3) In this regulation the word “employment” includes any period of leave, other than leave for the purpose of study, accruing from the employment.

### **Earnings periods for mariners and apportionment of earnings**

**120.**—(1) For the purposes of liability for and calculation of earnings-related contributions, paragraphs (2) to (9) apply where earnings are paid to or for the benefit of a mariner in respect of his employment as such for a voyage period.

(2) In this regulation “a relevant change” means a change affecting the calculation of earnings-related contributions under the Act not being—

- (a) a change in the amount of the mariner’s earnings; or
- (b) a change in one or more of the following figures applicable in respect of the mariner’s employment—
  - (i) the primary percentage for a primary Class 1 contribution specified in section 8(2) of the Act<sup>(8)</sup> or the percentage rate for a secondary Class 1 contribution specified in section 9(2) of the Act,
  - (ii) the contracted-out rate applying in the case of a primary or secondary Class 1 contribution in section 41(1) of the Pension Act<sup>(9)</sup>,
  - (iii) the amount by which the percentage rate of a secondary Class 1 contribution is reduced in accordance with regulation 119(1),
  - (iv) the lower or upper earnings limit for primary Class 1 contributions specified in section 5(1) of the Act<sup>(10)</sup>.

(3) Where a voyage period falls wholly in one year, then—

- (a) if no relevant change occurs during the voyage period, the earnings period shall be the voyage period;
- (b) if one or more than one relevant change occurs during the voyage period the earnings shall be apportioned to such periods as comprise—
  - (i) the day on which the voyage period began and the day immediately before which the change occurred, and for any subsequent change, the day on which the immediately preceding change occurred and the day before which the next succeeding change occurred, and
  - (ii) so much of the voyage period as remains,
 according to the amounts earned in each period, and the earnings period in respect of each amount so apportioned shall be the length of the period to which it is apportioned.

(4) Where a voyage period falls partly in one or more other years, then if no relevant change occurs during the voyage period—

- (a) the earnings shall be apportioned to those years according to the amounts earned in each year; and
- (b) the earnings period in respect of each amount shall be the length of the period to which that amount is apportioned.

(5) Where a voyage period falls partly in one and partly in one or more other years and one or more than one relevant change occurs during the voyage period, then—

<sup>(8)</sup> Section 8 was substituted by paragraph 4 of Part I of Schedule 9 to the Welfare Reform Act.

<sup>(9)</sup> Section 41(1) was amended by paragraph 127 of Schedule 7 of the Social Security Act 1998 and paragraph 6(2) of Part II of Schedule 9 to the Welfare Reform Act.

<sup>(10)</sup> Section 5 was substituted by paragraph 1 of Part I of Schedule 9 to the Welfare Reform Act.

- (a) in respect of a year during which a relevant change or more than one relevant change occurs the earnings shall be apportioned to such periods as comprise—
    - (i) the day on which the voyage period began, or where it began in another year, the beginning of the year in which the change occurred, and the day immediately before which the change occurred, and for any subsequent change, the day on which the immediately preceding change occurred and the day before which the next succeeding change occurred, and
    - (ii) so much of the voyage period as remains in the year,according to the amounts earned in each period, and the earnings period in respect of each amount so apportioned shall be the length of the period to which it is apportioned; and
  - (b) in respect of other years, the earnings shall be apportioned to those years according to the amounts earned in each year and the earnings period in respect of each amount so apportioned shall be the length of the period to which it is apportioned.
- (6) Where under paragraphs (3) to (5) an earnings period—
- (a) is less than a week, that period shall for the purposes of those paragraphs be treated as a week;
  - (b) exceeds a week or a whole multiple of a week by a part of a week,
    - (i) if that part of a week is a period in excess of 3 days, that part of a week shall be treated as a week for the purposes of paragraphs (3) to (5), and
    - (ii) if that part of a week is a period of 3 days or less, it shall be disregarded for those purposes.
- (7) For the purposes of paragraphs (3) to (5)—
- (a) where a period of leave on pay immediately follows the day on which the termination of an entire voyage or series of voyages occurs—
    - (i) the earnings for that period of leave shall be treated as if they were earned during that period and shall be excluded from the earnings for any other period or periods, and
    - (ii) for the purpose of apportionment, the earnings for the period of leave shall be deemed to accrue from day to day by equal daily amounts; and
  - (b) “earned” includes treated as earned under this paragraph.
- (8) Where under paragraphs (1) to (7) earnings are apportioned to a period—
- (a) each amount so apportioned shall be treated as paid at the end of the period to which it is apportioned; and
  - (b) contributions paid in respect of the amount so apportioned shall be treated as paid in respect of the year in which the end of that period falls.
- (9) Notwithstanding paragraphs (3) to (5) and (8), where a voyage period extends beyond the date on which the earnings are paid, any amount of earnings which, by virtue of paragraphs (1) to (8), would be apportioned to a period in the year following that in which the earnings are paid—
- (a) shall be treated as paid at the end of the year in which the earnings are paid but shall not be aggregated with any other amount of earnings paid or treated as paid at the end of that year; and
  - (b) the earnings period in respect of that amount shall be a period of the same length as that to which it is apportioned.

### **Calculation of earnings-related contributions for mariners**

**121.**—(1) For the purpose of the calculation of earnings-related contributions payable in respect of earnings paid to or for the benefit of a person in respect of that person's employment as a mariner—

- (a) regulation 12(1) shall apply, save that in the case of a contribution payable on earnings above the upper earnings limit or the prescribed equivalent of that limit, the appropriate contributions calculator prepared by the Board may be applied;
- (b) in the alternative, paragraphs (2), (3) or (4) and (5) of that regulation shall, except in relation to secondary Class 1 contributions payable at a rate reduced in accordance with regulation 119, apply in respect of those earnings.

(2) Subject to paragraphs (3), (4) and (5) of regulation 12 where the secondary Class 1 contribution is payable at a rate reduced in accordance with regulation 119, that contribution may be calculated in accordance with the scale prepared by the Board appropriate to that rate or, in the case of such a contribution payable on earnings above the upper limit or the prescribed equivalent of that limit, a contributions calculator appropriate to that rate, prepared by the Board.

### **Prescribed secondary contributors**

**122.** In relation to any payment of earnings to or for the benefit of a mariner in respect of employment to which the provisions of regulation 118 apply, where the person employing the mariner does not satisfy the conditions specified in regulation 117(1)(c), but the person who pays the mariner those earnings does satisfy either of those conditions, that person shall be treated as the secondary contributor, whether or not he makes the payment as agent for the employer.

### **Payments to be disregarded**

**123.**—(1) Without prejudice to the generality of regulation 25 and Schedule 3, but subject to paragraph (2), for the purposes of earnings-related contributions, there shall be excluded from the computation of a person's earnings any payment in respect of employment as a mariner which is—

- (a) an interim payment of earnings by way of an advance;
- (b) a payment to some other person of any part of such a mariner's earnings allocated by him to that person;
- (c) a payment of a special payment while sick abroad (as defined by the National Maritime Board).

(2) Nothing in sub-paragraph (a) or (b) of paragraph (1) shall be construed as preventing any sum deducted on account of any such payment as is specified in either of those sub-paragraphs from another payment of earnings being treated as comprised in those earnings.

### **Application of the Act and regulations**

**124.**—(1) Part I of the Act and so much of Part VI of the Act as relates to contributions and the regulations made under those provisions shall, insofar as they are not inconsistent with the provisions of this Case, apply to mariners with the modification set out in paragraph (2).

(2) The modification is that, where a mariner is, on account of his being at sea or outside Great Britain or Northern Ireland (as the case requires) by reason of his employment as a mariner, unable to perform an act required to be done either immediately or on the happening of a certain event or within a specified time, he shall be deemed to have complied with that requirement if he performs the act as soon as is reasonably practicable, although after the happening of the event or the expiration of the specified time.



## **Modification in relation to share fishermen of Part I of the Act and so much of Part VI of the Act as relates to contributions**

**125.** Part I of the Act and so much of Part VI of the Act as relates to contributions shall apply to share fishermen with the modification that—

- (a) employment as a share fisherman shall be employment as a self-employed earner notwithstanding that it is not employment in the United Kingdom;
- (b) as respects liability of a share fishermen to pay Class 2 contributions in respect of his employment as a share fisherman, regulation 117(1)(a) and (b) and (2) shall apply as if the share fisherman were a mariner and as if the reference in regulation 117(1) to an employed earner were a reference to a self-employed earner and as if the words “or on behalf, or in respect, of” were omitted;
- (c) for the purposes of entitlement to a contribution-based job seeker’s allowance, the weekly rate of any Class 2 contribution payable by a share fisherman for any contribution week while he is ordinarily employed as a share fisherman shall, notwithstanding the provisions of section 11(1) of the Act (Class 2 contributions)(**11**), be £2.65;
- (d) regulations 21, 100 and 108 shall apply to contributions payable at the weekly rate specified in paragraph (c) of this regulation as if references in those regulations to Class 2 contributions included, as may be appropriate, references to Class 2 contributions at that rate;
- (e) regulation 43 shall apply to a share fisherman as if there were included at the end of paragraph (1)(a) of that regulation the words “or is entitled to a contribution-based jobseeker’s allowance or, but for a failure to satisfy the contribution conditions for that benefit, would be so entitled”;
- (f) insofar as Class 4 contributions in respect of the profits or gains of a share fisherman in respect of his employment as such are not collected by the Board under section 16 of the Act(**12**) (assessment and collection, etc. of Class 4 contributions) regulations 103 to 110 shall apply as if the share fisherman were a person to whom section 18(1)(a) and (b) of the Act applied (Class 4 contributions for persons treated under section 2(2)(b) of the Act as self-employed earners)(**13**); and
- (g) for the purposes of section 12 of the Act(**14**) and for the purposes of that section as modified by regulations 63 to 65, where an earner was a share fisherman when liability for Class 2 contributions arose, any reference in section 12 to an ordinary contribution, and any reference in those regulations to the weekly applicable rate of a contribution, shall be a reference to the rate of Class 2 contributions prescribed for a share fisherman.

Case D—

Married Women and Widows

## **Interpretation**

**126.**—(1) In this Case, unless the context otherwise requires—

“personal death benefit” means any death benefit which, apart from any regulations made under section 73 of the Administration Act (overlapping benefits—general)(**15**), is payable to a person otherwise than in respect of another person who is a child or an adult dependant;

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(11) Section 11 was amended by paragraph 12 of Schedule 3 to the Transfer Act and by article 2 of [S.I. 2000/755](#).

(12) Section 16 was amended by paragraph 16 of Schedule 3, and Schedule 10, to the Transfer Act.

(13) Section 18 was amended by paragraph 7 of Schedule 1 to the Transfer Act, paragraph 18 of Schedule 3 to that Act and article 4 of [S.I. 2000/755](#).

(14) Section 12 was amended by paragraph 13 of Schedule 3 and paragraph 3 of Schedule 9 to the Transfer Act.

(15) Section 73 was amended by paragraph 49 of Schedule 2 to the Jobseekers Act [1995 \(c. 18\)](#).

“Personal Injuries Scheme” means any scheme made under the Personal Injuries (Emergency Provisions) Act 1939<sup>(16)</sup> or under the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939<sup>(17)</sup>;

“qualifying widow” has the meaning assigned to it in regulation 127(1);

“reduced rate” means the rate specified in regulation 131;

“regulation 91 of the 1975 Regulations” and “regulation 94 of the 1975 Regulations” mean respectively regulation 91 and regulation 94 of the Social Security (Contributions) Regulations 1975<sup>(18)</sup> before section 3(1) of the Social Security Pensions Act 1975<sup>(19)</sup> (married women and widows) came into force and sections 5(3) and 130(2) of the Social Security Act 1975<sup>(20)</sup> (Class 1 reduced rate and married women and widows) were repealed;

“Service Pensions Instrument” means those provisions and only those provisions of any Royal Warrant, Order in Council or other instrument (not being a 1914–1918 War Injuries Scheme) under which a death or disablement pension (not including a pension calculated by reference to length of service) and allowances for dependants payable with either such pension may be paid out of public funds in respect of any death or disablement, wound, injury or disease due to service in the naval, military or air forces of the Crown or in any nursing service or other auxiliary service of any of those forces or in the Home Guard or in any other organisation established under the control of the Defence Council or formerly established under the control of the Admiralty, the Army Council or the Air Council;

“1914–1918 War Injuries Scheme” means any scheme made under the Injuries in War (Compensation) Act 1914<sup>(21)</sup> or under the Injuries in War Compensation Act 1914 (Session 2)<sup>(22)</sup> or under any Government scheme for compensation in respect of persons injured in any merchant ship or fishing vessel as a result of hostilities during the 1914–1918 War.

(2) Where by any provision of this Case notice is required to be or may be given in writing it shall be given on a form approved by the Board or in such other manner, being in writing, as they may accept as sufficient in any case.

### **Elections by married women and widows**

**127.**—(1) A woman who on 6th April 1977 (the date on which section 3(1) of the Social Security Pension Act 1975 (married women and widows) came into force) was married or was a widow who satisfied the conditions prescribed in paragraph (8) (“a qualifying widow”) may—

(a) elect that her liability in respect of primary Class 1 contributions shall be a liability to contribute at the reduced rate; and

(b) elect that she shall be under no liability to pay Class 2 contributions.

(2) Any election made for the purpose of paragraph (1)(a) shall be treated as also made for the purpose of paragraph (1)(b) and any election made for the purpose of paragraph (1)(b) shall be treated as also made for the purpose of paragraph (1)(a) and any revocation of an election for the one purpose shall be treated also as a revocation of an election for the other purpose.

(3) Where a woman has made an election to which this regulation applies, any primary Class 1 contributions payable in respect of any earnings paid to or for the benefit of that woman in the period during which the election has effect under the following provisions of this Case shall be at the

<sup>(16)</sup> 1939 c. 82.

<sup>(17)</sup> 1939 c. 83.

<sup>(18)</sup> S.I. 1975/492.

<sup>(19)</sup> 1975 c. 60.

<sup>(20)</sup> 1975 c. 14.

<sup>(21)</sup> 1914 c. 30.

<sup>(22)</sup> 5 & 6 Geo. 5 c. 18.

reduced rate and she shall be under no liability to pay any Class 2 contribution for any contribution week in that period.

(4) Subject to regulation 134, no woman shall be entitled to make an election specified in paragraph (1) after 11th May 1977.

(5) Every election shall be made by notice in writing to the Board and by notice in writing to the Board may be revoked by the woman who made the election.

(6) Any revocation may be cancelled by notice in writing to the Board before the date upon which the notice of revocation is to have effect, and upon cancellation the revocation shall cease to have effect.

(7) Every woman who makes an election under this regulation shall furnish such certificates, documents, information and other evidence for the purpose of enabling the Board to consider the validity of the election as the Board may require.

(8) The conditions referred to in paragraph (1) are that the widow—

(a) was entitled to—

- (i) widow's benefit under the Social Security Act 1975,
- (ii) any personal death benefit which was payable to her as a widow under the provisions of Chapter IV of Part II of that Act at a weekly rate which was not less than the basic pension specified for the time being in section 6(1)(a) of the Social Security Pensions Act 1975 (rate of Category A retirement pension),
- (iii) any personal death benefit by way of pension or allowance payable to her as a widow under any Personal Injuries Scheme or Service Pensions Instrument or any 1914–1918 War Injuries Scheme (not being a pension or allowance calculated by reference to the needs of the beneficiary), the rate of which is as set out in head (ii) above, or
- (iv) benefit under section 39(4) of the Social Security Act 1975 (retirement benefits for the aged), other than a Category C retirement pension; and

(b) was not disentitled to payment of any such benefit by reason of her living with a man, to whom she was not married, as his wife.

### **Duration of effect of election**

**128.**—(1) Subject to paragraph (2), any election made under regulation 127 shall have effect from and including 6th April 1977 (the date on which section 3(1) of the Social Security Pensions Act 1975 (married women and widows) came into force) until whichever of the following events first occurs after the date of the election, namely—

- (a) the date on which the woman ceases to be married otherwise than by reason of the death of her husband;
- (b) the end of the year in which she ceases to be a qualifying widow;
- (c) the end of any two consecutive years which begin on or after 6th April 1978 and in which the woman who made the election has no earnings in respect of which any primary Class 1 contributions are payable in those years and in which that woman is not at any time a self-employed earner;
- (d) in the case of a revocation which has not been cancelled in accordance with regulation 127(6), the end of the week in which the notice of revocation is given or, if the woman so wishes, the end of any subsequent week in the same year specified in the notice;
- (e) where in any year after 5th April 1982 a payment (“an erroneous payment”) is made by or on behalf of a woman on account of primary Class 1 contributions at the contracted-out rate and the woman wishes to pay contributions at the primary percentage from the

beginning of the year next following that year, the end of the year in respect of which the erroneous payment is made; or

(f) where—

- (i) in any year after 5th April 1982 a payment is made by or on behalf of a woman on account of primary Class 1 contributions at the non-contracted-out rate, (“an erroneous payment”), or more than one such payment is made,
- (ii) from the time of making that payment or, if there is more than one such payment, the first, to the time at which she notifies the Board in accordance with head (v), no contributions have been paid by her or on her behalf at the reduced rate and no contributions have been payable by her or on her behalf in respect of any contracted-out employment.
- (iii) she has not procured a refund in respect of any erroneous payment,
- (iv) she wishes to pay contributions at the primary percentage from the date on which the only or first erroneous payment was made, and
- (v) after 5th April 1983 and on or before the 31st December in the next complete calendar year following the end of the year in which any erroneous payment was made, she notifies the Board of her wish to pay contributions at the primary percentage in accordance with head (iv),

the date on which the only or first erroneous payment was made.

(2) Where a woman, to whom paragraph (1)(b) applies, remarries or again becomes a qualifying widow before the end of the year in which she ceases to be a qualifying widow, that woman’s election shall, notwithstanding that sub-paragraph, but without prejudice to the application of paragraph (1) (c), (d), (e) or (f), continue to have effect from the end of that year.

### **Continuation of elections under regulation 91 of the 1975 Regulations**

**129.** Where, but for regulation 91 of the 1975 Regulations ceasing to have effect on 6th April 1977 (the date on which section 130(2) of the Social Security Act 1975 was repealed) an election made under that regulation before that date would have continued to have effect on that date, that election shall be treated as made under regulation 127 and this Case shall apply accordingly.

### **Continuation of elections on widowhood**

**130.—**(1) If on 6th April 1977 (the date on which section 3(1) of the Social Security Pensions Act 1975 came into force) a woman—

- (a) was married and subsequently becomes a widow; or
- (b) was a widow and subsequently remarries and again becomes a widow,

paragraph (2) applies to her.

(2) Where this paragraph applies to a woman any election—

- (a) which she had made under regulation 127 before the death of the husband which renders a widow; or
- (b) which she is, by virtue of regulation 129, treated as having made under regulation 127 before that death;

and which is still effective at the time of the husband’s death, shall, subject to paragraphs (4) and (5) and notwithstanding regulation 128, continue to have effect until the end of the appropriate period.

(3) For the purposes of this regulation the end of the appropriate period is—

- (a) the earliest of—

- (i) the end of the second year specified in regulation 128(1)(c),
- (ii) the end of the period specified in regulation 128(1)(d) or (e), or
- (iii) the date specified in regulation 128(1)(f); or
- (b) subject to sub-paragraph (a) and paragraphs (4) and (5)—
  - (i) where the husband's death occurs before 1st October in any year, the end of that year,
  - (ii) where the husband's death occurs after 30th September in any year, the end of the year next following that in which the death occurs.

(4) Subject to regulation 128(1)(c), (d), (e) and (f) and to paragraph (5), if at the end of the year specified in head (i) or head (ii) of paragraph (3)(b) there is pending a claim or application made by or on behalf of the woman as a widow within 182 days (including Sundays) of her husband's death for any benefit specified in head (i) or (iv) or, irrespective of its rate, in head (ii) or (iii) of regulation 127(8)(a), the end of the appropriate period shall be the end of the year in which the claim or application is determined.

(5) If at the end of the year specified in head (i) or (ii) of paragraph (3)(b) or, as the case may be, in paragraph (4) the woman is a qualifying widow or married, the election shall continue to have effect, unless she is then a person to whom regulation 128(1)(c), (d), (e) or (f) applies.

### **Reduced rate**

**131.** On and after 6th April 1978 the reduced rate of contribution for the purposes of section 19(4) of the Act (married women and widows) shall be 3.85 per cent, and, in respect of earnings paid on or after 5th October 1989, the amount of a primary Class 1 contribution payable at the reduced rate shall continue to be calculated by reference to that rate only.

### **Class 3 contributions**

**132.** A woman who has made, or is under the regulations 126 to 131 treated as having made, an election under regulation 127 shall be precluded from paying Class 3 contributions for any year in respect of the whole of which that election has effect.

### **Certificates of election**

**133.—(1)** As represents any election made, or by virtue of regulation 129 as treated as made, under regulation 127—

- (a) where a woman makes an election under regulation 127, the Board shall issue without charge, a certificate of election ("a certificate") to her;
- (b) where a woman is treated as making such an election, the Board shall, on application without charge, issue a certificate to her; and
- (c) the certificate shall remain the property of the Board.

(2) A woman to whom a certificate has been issued shall be responsible for its custody unless and until it is delivered to a secondary contributor or returned to the Board.

(3) A woman in respect of whom an election has effect in accordance with regulations 126 to 132 shall, if any primary Class 1 contribution is payable by her or on her behalf, immediately deliver to the secondary contributor a certificate which is currently in force in respect of her and upon the delivery of the certificate, the secondary contributor shall become responsible for its custody unless and until it is delivered again to the woman or to the Board.

(4) Where a certificate has ceased to be in force, the woman in respect of whom the certificate was issued shall immediately return it to the Board and for that purpose, if at the time when the

certificate ceases to be in force it is in the custody of a secondary contributor, that contributor shall immediately return it to the woman.

(5) The Board may at any time require the person for the time being responsible for the custody of a certificate to return it to the Board, and if at that time the election to which that certificate relates continues to have effect, the Board shall issue to that person a replacement certificate.

(6) Where a woman in respect of whom an election has effect has more than one employed earner's employment the Board shall issue to her without charge, on her application, such number of certificates as will enable her to comply with the requirements of paragraph (3) in relation to each secondary contributor.

(7) Where a certificate has been lost or destroyed the person responsible for its custody shall inform the Board of that loss or destruction.

(8) When a woman gives notice in writing to the Board that she revokes an election she shall—

- (a) if the certificate is with a secondary contributor, recover it from him; and
- (b) deliver the certificate to the Board.

(9) Where a secondary contributor holds a certificate and—

- (a) is informed by the woman to whom it was issued that she intends to revoke her election and is requested to return the certificate to her so that she may return it to the Board; or
- (b) the employment by him of the woman to whom the certificate was issued has terminated, he shall immediately return the certificate to her.

(10) Where under the foregoing provisions of this Case an election has been made by a woman to pay primary Class 1 contributions at the reduced rate and that election ceases to have effect, it shall be the duty of that woman to inform the secondary contributor accordingly.

(11) Any certificate issued for the purpose of an election made or deemed to have been made under the regulation 91 of the 1975 Regulations shall, if by virtue of regulation 124 the election is treated as made under regulation 127, continue in force for the purposes of that regulation.

### **Special transitional provisions consequent upon passing of the Social Security Pensions Act 1975**

**134.—**(1) Any woman to whom this regulation applies—

- (a) shall, in respect of any liability for a primary Class 1 contribution, be liable to pay that contribution at the reduced rate; and
- (b) shall not be liable to pay any Class 2 contribution which, apart from the provisions of this paragraph, she would be liable to pay.

(2) Subject to paragraphs (3) to (7), this regulation applies to any woman—

- (a) to whom, before 6th April 1977 (the date on which section 3(1) of the Social Security Pensions Act 1975 came into force and sections 5(3) and 130(2) of the Social Security Act 1975 were repealed), the provisions of section 5(3) of the Social Security Act 1975 or of regulation 94 of the 1975 Regulations (newly widowed woman) applied and to whom those provisions would have continued to apply but for those provisions having been repealed or, as the case may be, having ceased to have effect on that date;
- (b) who, not being a person to whom regulation 130 applies—
  - (i) on 6th April 1977 was a married woman and became a widow during the period from and including that date to 6th April 1978, or
  - (ii) on 6th April 1977 was a qualifying widow, remarried after that date and again became a widow during that period; or

- (c) who on 6th April 1977 was married or a qualifying widow and had attained the age of 59.
- (3) In the case of a woman specified in paragraph (2)(a) or (b), the provisions of paragraph (1) shall, subject to the provisions of paragraphs (4) and (5), apply only during the period which—
  - (a) in the case of a woman specified in paragraph (2)(a)—
    - (i) began at the beginning of the year in which section 3(1) came into force; and
    - (ii) ended at the end of that year;
  - (b) in the case of a woman specified in paragraph (2)(b)—
    - (i) began on the date on which that woman became or, as the case may be, again became a widow, and
    - (ii) ends at the end of whichever of the two periods specified in regulation 130(2)(b) is appropriate in her case in so far as that regulation relates to the date of the death of the husband.
- (4) In the case of a woman to whom paragraph (3)(a) or (b) applies, those sub-paragraphs shall be subject to regulation 130(4) and paragraph (5) below with the modification that—
  - (a) in regulation 130(4), the reference to sub-paragraphs (d) and (e) of regulation 128(1) shall be omitted;
  - (b) in so far as the provisions of regulation 128(1)(c) are incorporated in regulation 130(4) as modified for the purposes of this regulation, references in regulation 128(1)(c) to any election made under regulation 127 and to a woman who made the election shall respectively be construed as references to the application of paragraph (1) and to the woman to whom that paragraph applies.
- (5) Any woman—
  - (a) who by virtue of paragraph (1)—
    - (i) was, in respect of any liability for a primary Class 1 contribution, liable to pay that contribution at the reduced rate, or
    - (ii) was not liable to pay any Class 2 contribution which apart from the provisions of that paragraph she would have been liable to pay; but
  - (b) to whom by virtue of paragraphs (2) to (4), paragraph (1) ceases so to apply; and
  - (c) who has not, in relation to the application of paragraph (1), given the notice prescribed in paragraph (7),may, subject to the conditions prescribed in paragraph (6), make an election under and in accordance with regulation 127, notwithstanding that she has not done so before the date prescribed in that regulation, and regulations 126 to 133 shall apply accordingly from the end of the year in which paragraph (1) ceases to apply to her.
- (6) The conditions referred to in paragraph (5) are that the woman—
  - (a) shall make the election not later than 11th May next following the end of the year in which paragraph (1) ceases to apply to her; and
  - (b) is, at the beginning of the year next following the year in which paragraph (1) so ceases to apply, married or a qualifying widow.
- (7) Any woman to whom, by virtue of paragraph (2)(a) or (b), paragraph (1) applies may give notice in writing to the Board that she does not wish paragraph (1) to apply to her and upon the giving of such notice it shall accordingly cease to apply.

### **Deemed election of married women and widows excepted from contribution liability under the National Insurance Act 1965**

**135.** Where immediately before 6th April 1975 there was, or is deemed to have been, in issue a current certificate of exception under regulation 9(3) or (4A) of the National Insurance (Contributions) Regulations 1969<sup>(23)</sup> (exception for certain widows), or there was current an election under regulation 2(1)(a) of the National Insurance (Married Women) Regulations 1973<sup>(24)</sup> (married women who are employed persons), or a woman then was, or but for any exception under or by virtue of another provision of the National Insurance Act 1965<sup>(25)</sup> would have been, excepted under regulation 3(1)(a) of the 1973 Regulations (married women who are self-employed persons) from liability for contributions as a self-employed person under that Act and in any of these cases on that day the woman is a widow or, as the case may be, a married woman, that woman shall be deemed to have made an election under regulation 91 of the 1975 Regulations.

### **Special transitional provisions regarding deemed elections**

**136.—**(1) If, under regulation 135 a woman is deemed to have made an election under regulation 91 of the 1975 Regulations, this regulation applies.

(2) Before the woman first becomes liable to pay a primary Class 1 contribution she may revoke any such election by notice in writing given to the Board and, if she so specified in that notice, the revocation shall have effect from and including the beginning of the year in which the notice is given.

(3) If no notice of revocation is given and—

- (a) in the first year (not being more than 2 years after 6th April 1978) in which the woman becomes liable to pay primary Class 1 contributions—
  - (i) she shall be entitled to choose whether with effect from the beginning of that year, to pay such contributions at the primary percentage or at the reduced rate,
  - (ii) she shall notify any secondary contributor whether he is to pay such contributions on her behalf at the primary percentage or the reduced rate, and
  - (iii) such secondary contributor shall pay those contributions in accordance with that notification until the woman notifies him to the contrary in accordance with the provisions of regulation 133(10);
- (b) in that first year (not being more than 2 years after 6th April 1978) any primary Class 1 contribution at the standard rate is paid by or on behalf of the woman, unless it is shown to the satisfaction of the Board that the woman did not intend, by the making of that payment, to revoke the election she shall be deemed to have revoked the election.

### **Application of regulations 126 to 134 to elections and revocation of elections deemed made under regulations 135 and 136**

**137.—**(1) Subject to paragraph (2), regulations 126 to 134, save only in so far as inconsistent with regulations 135 and 136, shall apply to any election deemed to have been made under regulation 91 of the 1975 Regulations by virtue of regulation 135 as if it had been made under, and in accordance with, regulation 127 except that the Board shall not be obliged to issue a certificate, and as if any revocation which is deemed to be made under regulation 136 were made under, and in accordance with, regulation 127(5).

(2) Where a woman who under regulation 135 is not liable for a primary Class 1 contribution otherwise than at the reduced rate and to whom no certificate of election under the Act has been issued becomes employed in employed earner's employment, she shall make application in writing

<sup>(23)</sup> [S.I. 1969/1696](#); the relevant amending instrument is [S.I. 1970/1580](#).

<sup>(24)</sup> [S.I. 1973/693](#).

<sup>(25)</sup> [1965 c. 51](#).



to the Board for such a certificate and, notwithstanding paragraph (1), the Board shall issue such a certificate to her.

### **Savings**

**138.** For the purpose of facilitating the introduction of the scheme of social security contributions within the meaning of paragraph 9(1)(a)(i) of Schedule 3 to the Social Security (Consequential Provisions) Act 1975<sup>(26)</sup> regulations 2(2) (married women who are employed persons), 3(2) (married women who are self-employed persons), 4(2) (married women who are non-employed persons) and 16 (notice of marriage) of the National Insurance (Married Woman) Regulations 1973 shall be saved.

### **Modification of the Act**

**139.** The Act shall have effect as respects married woman and widows subject to the modifications contained in this Case.

Case E—

Members of the Forces<sup>(27)</sup>

### **Establishments and organisations of which Her Majesty's forces are taken to consist**

**140.** Except in relation to the employment in any of the establishments or organisations specified in Part I of Schedule 6 of any person specified in Part II of that Schedule, Her Majesty's forces shall, for the purpose of the Act, be taken to consist of the establishments and organisations specified in Part I of that Schedule, and this Case shall be construed accordingly.

### **Treatment of serving members of the forces as present in Great Britain**

**141.** For the purposes of regulation 145(1)(a) a serving member of the forces shall, in respect of his employment as such, be treated as present in Great Britain<sup>(28)</sup>.

### **Treatment of contributions paid after that date**

**142.** For the purpose of any entitlement to benefit, any earnings-related contributions paid after the due date in respect of earnings paid to or for the benefit of a person in respect of his employment as a member of the forces shall be treated as paid on that date.

### **Special provisions concerning earnings-related contributions**

**143.—(1)** For the purposes of earnings-related contributions, there shall be excluded from the computation of a person's earnings as a serving member of the forces any payment in so far as it is—

- (a) a payment of or in respect of an Emergence Service grant;
- (b) a payment of any sum referred to in section 316 of the Taxes Act (allowances bounties and gratuities); or
- (c) a payment of liability bounty in recognition of liability for immediate call-up in times of emergency.

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<sup>(26)</sup> 1975 c. 18.

<sup>(27)</sup> This Case applies to Northern Ireland by virtue of the powers conferred by section 116 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 on the Treasury. These powers are exercisable, as in Great Britain, with the concurrence of the Secretary of State (and not the Department for Social Development).

<sup>(28)</sup> See however regulation 6 of S.I. 1975/493 as to the treatment of contributions paid by members of the forces for the purposes of entitlement to benefit in Northern Ireland.

- (2) The earnings period for a person who is a serving member of the forces shall be as follows—
- (a) in the case of a person serving in the regular naval, military or air forces of the Crown, whatever is the accounting period from time to time applying in his case under the Naval Pay Regulations or, as the case may be, the Army Pay Warrant, Queen's Regulations for the Army or for the Royal Air Force or the Air Council Instructions; or
  - (b) in the case of a person undergoing training in any of the establishments or organisations specified in paragraphs 2 to 9 of Part I of Schedule 6, a month.

### **Application of the Act and regulations**

**144.**—(1) The provisions of Part I of the Act and so much of Part VI of the Act as relates to contributions and the regulations made under those provisions shall, in so far as they are not inconsistent and the provisions of this Case, apply in relation to persons who are serving members of the forces with the modification prescribed in paragraph (2).

(2) The modification is that where any such person is, on account of his being at sea or outside the United Kingdom by reason of his employment as a serving member of the forces, unable to perform an act required to be done either immediately or on the happening of a certain event or within a specified time, he shall be deemed to have complied with that requirement if he performs the act as soon as is reasonably practicable, although after the happening of the event or the expiration of the specified time,

#### **Case F—**

#### **Residence and Persons Abroad**

### **Condition as to residence or presence in Great Britain or Northern Ireland**

**145.**—(1) Subject to paragraphs (2) and (3), for the purposes of section 1(6) of the Act (conditions as to residence or presence in Great Britain for liability or entitlement to pay Class 1 or Class 2 contributions, liability to pay Class 1A or Class 1B contributions or entitlement to pay Class 3 Contributions)(29) the conditions as to residence or presence in Great Britain or Northern Ireland (as the case requires) shall be—

- (a) as respects liability of an employed earner to pay primary Class 1 contributions in respect of earnings for an employed earner's employment, that the employed earner is resident or present in Great Britain or Northern Ireland (or but for any temporary absence would be present in Great Britain or Northern Ireland) at the time of that employment or is then ordinarily resident in Great Britain or Northern Ireland (as the case may be);
- (b) as respect liability to pay secondary Class 1 contributions, Class 1A contributions or Class 1B contributions that the person who, but for any conditions as to residence or presence in Great Britain or Northern Ireland (as the case may be and including the having of a place of business in Great Britain or Northern Ireland), would be the secondary contributor or the person liable for the payment of Class 1B contributions (in this Case referred to as "the employer") is resident or present in Great Britain or Northern Ireland when such contributions become payable or then has a place of business in Great Britain or Northern Ireland (as the case may be), so however that nothing in this paragraph shall prevent the employer paying the said contributions if he so wishes;
- (c) as respects entitlement of a self-employed earner to pay Class 2 contributions, that that earner is present in Great Britain or Northern Ireland (as the case may be) in the contribution week for which the contribution is to be paid;

(29) Section 1(6) was amended by paragraph 56(3) of Schedule 7 to the Social Security Act 1998 (c. 47).

- (d) as respects liability of a self-employed earner to pay Class 2 contributions, that the self-employed earner is ordinarily resident in Great Britain or Northern Ireland (as the case may be), or, if he is not so ordinarily resident, that before the period in respect of which any such contributions are to be paid he has been resident in Great Britain (as the case may be) for a period of at least 26 out of the immediately preceding 52 contribution weeks under the Act, the Social Security Act 1975<sup>(30)</sup> or the National Insurance Act 1965<sup>(31)</sup> or under some or all of those Acts.
  - (e) as respects entitlement of a person to pay Class 3 contributions in respect of any year, either that—
    - (i) that person is resident in Great Britain or Northern Ireland (as the case may be) throughout the year,
    - (ii) that person has arrived in Great Britain or Northern Ireland (as the case may be) during that year and has been or is liable to pay Class 1 or Class 2 contributions in respect of an earlier period during that year,
    - (iii) that person has arrived in Great Britain or Northern Ireland (as the case may be) during that year and was either ordinarily resident in Great Britain or Northern Ireland (as the case may be) throughout the whole of that year or became ordinarily resident during the course of it, or
    - (iv) that person not being ordinarily resident in Great Britain or Northern Ireland (as the case may be), has arrived in that year or the previous year and has been continuously present in Great Britain or Northern Ireland (as the case may be) for 26 complete contribution weeks, entitlement where the arrival has been in the previous year arising in respect only of the next year.
- (2) Where a person is ordinarily neither resident nor employed in the United Kingdom and, in pursuance of employment which is mainly employment outside the United Kingdom by an employer whose place of business is outside the United Kingdom (whether or not he also has a place of business in the United Kingdom) that person is employed for a time in Great Britain or Northern Ireland (as the case may be) as an employed earner and, but for the provisions of this paragraph, the provisions of sub-paragraph (a) of paragraph (1) would apply, the conditions prescribed in that sub-paragraph and in sub-paragraph (b) of that paragraph shall apply subject to the proviso that—
- (a) no primary or secondary Class 1 contribution shall be payable in respect of the earnings of the employed earner for such employment;
  - (b) no Class 1A contribution shall be payable in respect of something which is made available to the employed earner or to a member of his family or household by reason of such employment; and
  - (c) no Class 1B contribution shall be payable in respect of any PAYE settlement agreement in connection with such employment, after the date of the earner's last entry into Great Britain or Northern Ireland (as the case may be) and before he has been resident in Great Britain or Northern Ireland (as the case may be) for a continuous period of 52 contribution weeks from the beginning of the contribution week following that in which that date falls.
- (3) Where a person to whom paragraph (1)(a) would otherwise apply is not ordinarily resident in the United Kingdom and is not a person to whom the provisions of paragraph (2) apply, the proviso in paragraph (2) shall nevertheless apply if either—
- (a) during a vacation occurring in a course of full-time studies which that person is pursuing outside the United Kingdom, that person is gainfully employed under a contract of service

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<sup>(30)</sup> 1975 c. 14.

<sup>(31)</sup> 1965 c. 51.

in Great Britain or Northern Ireland (as the case may be) in temporary employment of a nature similar or related to that course of studies; or

- (b) there exists between him and some other person outside the United Kingdom a relationship comparable with the relationship between an apprentice and his master in Great Britain or Northern Ireland (as the case may be) and that person is gainfully employed under a contract of service in Great Britain or Northern Ireland (as the case may be) in employment which began before he attained the age of 25 and which is of a nature similar or related to the employment under the said relationship outside the United Kingdom.

### **Payment of contributions for periods abroad**

**146.**—(1) Where an earner is gainfully employed outside the United Kingdom, and that employment, if it had been in Great Britain or Northern Ireland, would have been employed earner's employment, that employment outside the United Kingdom shall be treated as employed earner's employment for the period for which under paragraph (2)(a) contributions are payable in respect of the earnings paid to the earner in respect of that employment provided that—

- (a) the employer has a place of business in Great Britain or Northern Ireland (as the case may be);
- (b) the earner is ordinarily resident in Great Britain or Northern Ireland (as the case may be); and
- (c) immediately before the commencement of the employment the earner was resident in Great Britain or Northern Ireland (as the case may be).

(2) Where, under paragraph (1), the employment outside the United Kingdom is treated as an employed earner's employment, the following provisions shall apply in respect of the payment of contributions—

- (a) primary and secondary Class 1 contributions shall be payable in respect of any payment of earnings for the employment outside the United Kingdom during the period of 52 contribution weeks from the beginning of the contribution week in which that employment begins to the same extent as that to which such contributions would have been payable if the employment had been in Great Britain or Northern Ireland (as the case may be);
- (b) subject to regulation 148, any earner by or in respect of whom contributions are or have been payable under sub-paragraph (a) shall be entitled to pay Class 3 contributions in respect of any year during which the earner is outside the United Kingdom from and including that in which the employment outside the United Kingdom begins until that in which he next returns to Great Britain or Northern Ireland (as the case may be);
- (c) Class 1A contributions and Class 1B contributions shall be payable in respect of the period specified in sub-paragraph (a).

### **Class 2 and Class 3 contributions for periods abroad**

**147.**—(1) Subject to regulation 148, a person (other than a person to whom regulation 146(2)(a) applies) may, notwithstanding the provisions of regulation 145(1)(c) and (e), if he so wishes and if he satisfies the conditions specified in paragraph (3) below pay contributions in respect of periods during which he is outside the United Kingdom as follows—

- (a) in respect of any contribution week throughout which he is gainfully employed outside the United Kingdom in employment which is not employment in respect of earnings from which Class 1 contributions are payable, he may, if immediately before he last left Great Britain or Northern Ireland (as the case may be), he was ordinarily an employed earner or a self-employed earner, pay a contribution as a self-employed earner;

- (b) in respect of any year which includes a period during which he is outside the United Kingdom he may pay Class 3 contributions.
- (2) A person who is gainfully employed outside Great Britain and falls within the provisions of paragraph (1)(a) shall for the purposes of that paragraph be treated as being outside the United Kingdom for any period during which he is temporarily in the United Kingdom.
- (3) Subject to paragraph (4), the conditions referred to in paragraph (1) are that—
  - (a) the person has been resident in Great Britain or Northern Ireland (as the case may be) for a continuous period of not less than three years at any time before the period for which the contributions are to be paid;
  - (b) there have been paid by or on behalf of that person contributions of the appropriate amount—
    - (i) for each of 3 years ending at any time before the relevant period,
    - (ii) for each of 2 years ending at any time before the relevant period and, in addition, 52 contributions under either or both the Social Security Act 1975 or the National Insurance Act 1965, or
    - (iii) for any one year ending at any time before the relevant period and, in addition, 104 contributions under either or both the Social Security Act 1975 or the National Insurance Act 1965, or
  - (c) there have been paid by or on behalf of that person 156 contributions under either or both the Social Security Act 1975 or the National Insurance Act 1965.
- (4) In paragraph (3)—
  - “contributions of the appropriate amount” means contributions under the Act the earnings factor derived from which is not less than 52 times the lower earnings limit for the time being for primary Class 1 contributions;
  - “contributions under either or both the Social Security Act 1975 or the National Insurance Act 1965” means contributions of any class under section 4, 7 or 8 of the Social Security Act 1975 or section 3 of the National Insurance Act 1965 in respect of any period; and
  - “the relevant period” means the period for which it is desired to pay the Class 2 or Class 3 contributions specified in paragraph (1).

### **Conditions of payment of Class 2 or Class 3 contributions for periods abroad**

**148.** Entitlement to pay Class 2 or Class 3 contributions under regulations 146 and 147 shall be subject to the following conditions—

- (a) that the payment is made within the period specified in regulation 48(3)(b)(i); and
- (b) that the payment is made only to the extent to which it could have been made if the contributor had been present in Great Britain or Northern Ireland (as the case may be) and otherwise entitled to make it.

### **CASE G—**

### **VOLUNTEER DEVELOPMENT WORKERS**

### **Interpretation**

**149.—**(1) In this Case “volunteer development worker” means a person in respect of whom the Board has certified that it is consistent with the proper administration of the Act that, subject to the satisfaction of the conditions in paragraph (2), that person should be entitled to pay Class 2 contributions under regulation 151.

(2) The conditions are—

- (a) that that person is ordinarily resident in Great Britain or Northern Ireland (as the case may be); and
- (b) that he is employed outside Great Britain.

### **Certain volunteer development workers to be self-employed earners**

**150.** Any employment as a volunteer development worker, which is not employment in respect of earnings from which Class 1 contributions are payable, or, where section 6A of the Act applies<sup>(32)</sup>, are treated as having been paid, shall be employment as a self-employed earner notwithstanding that it is not employment in Great Britain or Northern Ireland.

### **Option to pay Class 2 contributions**

**151.** Notwithstanding section 11(1) of the Act and regulation 150, a volunteer development worker who by virtue of that regulation is a self-employed earner—

- (a) shall be excepted from liability to pay a Class 2 contribution; but
- (b) shall be entitled to pay such a contribution if he so wishes at the rate prescribed in regulation 152(b).

### **Special provisions as to residence, rate, annual maximum and method of payment**

**152.** In relation to the Class 2 contributions a volunteer development worker is entitled to pay by virtue of regulation 151—

- (a) the provision of Case F of these Regulations shall not apply;
- (b) the weekly rate of any Class 2 contributions payable by a volunteer development worker for any contribution week while he is ordinarily employed as a volunteer development worker shall, notwithstanding the provisions of section 11(1) of the Act (Class 2 contributions) be 5 per cent. of the lower earnings limit for the year in which falls the week in respect of which the contribution is paid;
- (c) for the purpose of determining the extent of an earner's liability for contributions under regulation 21 the amount prescribed in that regulation shall be reduced by the amount of any contributions paid in respect of the year in question by virtue of regulation 151; and
- (d) regulation 89 shall not apply.

### **Late paid contributions**

**153.—(1)** This regulation applies to any Class 2 contribution a volunteer development worker is entitled to pay by virtue of regulation 151, which is paid in respect of a week falling within a tax year ("the contribution year") earlier than the tax year in which it is paid.

(2) Section 12 of the Act (late paid Class 2 contributions) shall not apply.

(3) Subject to paragraph (4), the amount of a contribution to which this regulation applies shall be the amount which the volunteer development worker would have had to pay if he had paid the contribution in the contribution year.

(4) In any case where—

- (a) the volunteer development worker pays a contribution to which this regulation applies after the end of the tax year immediately following the contribution year; and

(32) Section 6A was inserted by paragraph 3 of Part I of Schedule 9 to the Welfare Reform Act.

- (b) the weekly rate of contributions applicable under regulation 152(b), for the week in respect of which the contribution is paid, differs from the weekly rate so applicable at the time of payment,

the amount of the contributions shall be computed by reference to the highest weekly rate of contributions applicable in the period from the week in respect of which the contribution is paid to the day on which it is paid.

#### **Modifications of the Act and these Regulations**

**154.** Part I of the Act and these Regulations shall have effect as respects volunteer development workers subject to the modification contained in this Case.