STATUTORY INSTRUMENTS

1998 No. 1506

The Social Security (Northern Ireland) Order 1998

PART III N.I.

CONTRIBUTIONS

Amendments of the Contributions and Benefits Act

Apportionment of payments, etc. made for more than one earner N.I.

45. After subsection (2) of section 3 of the Contributions and Benefits Act ("earnings" and "earner") there shall be inserted the following subsection—

"(2A) Regulations made for the purposes of subsection (2) above may provide that, where a payment is made or a benefit provided to or for the benefit of two or more earners, a proportion (determined in such manner as may be prescribed) of the amount or value of the payment or benefit shall be attributed to each earner." .

Payments on account of directors' contributions N.I.

46. After subsection (3) of section 3 of the Contributions and Benefits Act there shall be added the following subsections—

"(4) Subsection (5) below applies to regulations made for the purposes of subsection (2) above which make special provision with respect to the earnings periods of directors and former directors of companies.

(5) Regulations to which this subsection applies may make provision—

(a) for enabling companies, and directors and former directors of companies, to pay on account of any earnings-related contributions that may become payable by them such amounts as would be payable by way of such contributions if the special provision had not been made; and

(b) for requiring any payments made in accordance with the regulations to be treated, for prescribed purposes, as if they were the contributions on account of which they were made." .

Payments treated as remuneration and earnings N.I.

47.—(1) For subsection (4) of section 4 of the Contributions and Benefits Act (payments treated as remuneration and earnings) there shall be substituted the following subsection—

"(4) For the purposes of section 3 above there shall be treated as remuneration derived from an employed earner's employment—

(a) any gain on which the earner is chargeable to tax by virtue of section 135 (gains by directors and employees from share options) of the Income and Corporation Taxes Act 1988 ("the 1988 Act");

(b) any sum paid (or treated as paid) to or for the benefit of the earner which is chargeable to tax by virtue of section 313 of the 1988 Act (taxation of consideration for certain restrictive undertakings).” .

(Para) .

(3) Paragraph (1), so far as relating to a sum which is chargeable to tax by virtue of section 313 of the Income and Corporation Taxes Act 1988, shall have effect in relation to any undertaking given on or after 10th July 1997.

(4) Regulations under subsection (6) of section 4 of the Contributions and Benefits Act (as added by paragraph (2))—

(a) shall not be made before the passing of the Finance Act 1998; but

(b) may make provision having effect in relation to acquisitions on or after 6th April 1998.

Art. 48 rep. by 1999 c. 30

Art. 49 rep. by 2000 c. 19

Class 1B contributions N.I.

50. After section 10 of the Contributions and Benefits Act there shall be inserted the following section—

“Class 1B contributions

Class 1B contributions.

10A.—(1) Where for any tax year a person is accountable to the Inland Revenue in respect of income tax on emoluments of his employees in accordance with a PAYE settlement agreement, a Class 1B contribution shall be payable by him for that tax year in accordance with this section.

(2) The Class 1B contribution referred to in subsection (1) above is payable in respect of—

(a) the amount of any of the emoluments included in the PAYE settlement agreement which are chargeable emoluments; and

(b) the total amount of income tax in respect of which the person is accountable for the tax year in accordance with the PAYE settlement agreement.

(3) The amount of the Class 1B contribution referred to in subsection (1) above shall be the Class 1B percentage of the aggregate of the amounts mentioned in paragraphs (a) and (b) of subsection (2) above.

(4) Emoluments are chargeable emoluments for the purposes of subsection (2) above if, apart from section 6(2A) or 10(8A) above, the person accountable in accordance with the PAYE settlement agreement would be liable or entitled to pay secondary Class 1 contributions or Class 1A contributions in respect of them.

(5) Where—

(a) the PAYE settlement agreement was entered into after the beginning of the tax year; and

(b) Class 1 contributions were due in respect of any emoluments before it was entered into,

those emoluments shall not be taken to be included in the PAYE settlement agreement.

(6) For the purposes of subsection (3) above the Class 1B percentage shall be 12.2 per cent., but the percentage is subject to alteration under section 129 of the Administration Act.

(7) Regulations may provide for persons to be excepted in prescribed circumstances from liability to pay Class 1B contributions.”.

Contributions paid in error N.I.

51. After section 19 of the Contributions and Benefits Act there shall be inserted the following section—

“**Class 1, 1A or 1B contributions paid in error.**

19A.—(1) This section applies where—

(a) payments by way of Class 1, Class 1A or Class 1B contributions are made in respect of earnings paid to or for the benefit of an earner (or in respect of a benefit made available to an earner) in 1998-99 or a subsequent tax year (“year 1”);

(b) the payments are made in error, in that the employment from which the earnings are derived (or by reason of which the benefit is made available) is not employed earner's employment; and

(c) the person making the payments has not been notified of the error by the Department before the end of the tax year following year 1 (“year 2”).

(2) After the end of year 2 the earner shall, except in such circumstances as may be prescribed, be treated for all purposes relating to—

(a) contributions and contributory benefits; and

(b) statutory sick pay and statutory maternity pay,

as if the earnings were derived from (or the benefit were made available by reason of) employed earner's employment.”.

Recovery of primary Class 1 contributions by secondary contributors N.I.

52. In paragraph 3 of Schedule 1 to the Contributions and Benefits Act (supplementary provisions as to contributions)—

(a) in sub-paragraph (3), for the words from “and notwithstanding” to “any enactment” there shall be substituted the words “and, subject to sub-paragraph (4) below but notwithstanding any other provision in any enactment”;

(b) after that sub-paragraph there shall be added the following sub-paragraphs—

“(4) Sub-paragraph (5) below applies in a case where—

(a) a person (“the employee”) ceases in a particular tax year (“the cessation year”) to be employed by a particular employer (“the employer”); and

(b) the employee receives from the employer in the cessation year, after the cessation of the employment, earnings in a form other than money (“non-monetary earnings”).

(5) If and to the extent that regulations so provide, the employer may recover from the employee in such manner as may be prescribed any primary Class 1 contributions paid or to be paid by him on the employee's behalf in respect of—

(a) the non-monetary earnings mentioned in sub-paragraph (4) above; or

(b) any non-monetary earnings received by the employee from the employer in the cessation year before the cessation of the employment,

which he was unable to recover by deduction from the employee's earnings.” .

Contributions returns N.I.

53.—(1) In sub-paragraph (3) of paragraph 7 of Schedule 1 to the Contributions and Benefits Act—

(a) for the words “is liable to” there shall be substituted the words “has been required to pay”; and

(b) for the words “be liable to” there shall be substituted the words “be required to pay”.

(2) After that paragraph there shall be inserted the following paragraph—

“**7A.**—(1) This paragraph applies where paragraph 7 above applies; and in this paragraph “contributions return” has the same meaning as in that paragraph.

(2) Without prejudice to paragraph 7(2) above or to the powers of the Inland Revenue to penalise omissions or errors in returns, regulations may provide for the Department to impose penalties in respect of a person who, in making a contributions return, fraudulently or negligently—

(a) fails to provide any information or computation that he is required to provide; or

(b) provides any such information or computation that is incorrect.

(3) Regulations under sub-paragraph (2) above shall—

(a) prescribe the rates of penalty, or provide for how they are to be ascertained;

(b) provide for the penalty to be imposed by the Department within 6 years after the date on which the penalty is incurred;

(c) provide for determining the date on which, for the purposes of paragraph (b) above, the penalty is incurred;

(d) prescribe the means by which the penalty is to be enforced; and

(e) provide for enabling the Department, in its discretion, to mitigate or to remit the penalty, or to stay or to compound any proceedings for it.”.

Collection of contributions by the Department N.I.

54. After paragraph 7A of Schedule 1 to the Contributions and Benefits Act there shall be inserted the following paragraph—

“Collection of contributions by the Department

7B.—(1) Regulations may provide that, in such cases or circumstances as may be prescribed—

(a) contributions payable under Part I of this Act shall be paid to the Department (and not to the Inland Revenue); and

(b) the Department shall be responsible for the collection of such contributions, and generally for the relevant administration.

(2) Regulations under this paragraph may, in particular—

(a) provide for returns to be made to the Department by such date as may be prescribed;

(b) prescribe the form in which returns are to be made, or provide for returns to be made in such form as the Department may approve;

(c) prescribe the manner in which contributions are to be paid, or provide for contributions to be paid in such manner as the Department may approve;

(d) prescribe the due date for the payment of contributions;

(e) subject to sub-paragraph (4) below, provide for interest to be charged by the Department on contributions that are not paid by the due date, and for enabling such interest to be remitted or repaid;

(f) provide for interest to be paid on contributions that fall to be repaid;

(g) provide for determining the date from which interest to be charged or paid pursuant to regulations under paragraph (e) or (f) above is to be calculated;

(h) provide for penalties to be imposed in respect of a person who—

(i) fails to submit, within the time allowed, a return required to be made in accordance with regulations under paragraph (a) above;

(ii) in making such a return, fraudulently or negligently fails to provide any information or computation that he is required to provide;

(iii) in making such a return, fraudulently or negligently provides any incorrect information or computation; or

(iv) fails to pay Class 2 contributions by the due date;

(i) provide for a penalty imposed pursuant to regulations under paragraph (h) above to carry interest from the date on which it becomes payable until payment.

(3) Where—

(a) a decision relating to contributions falls to be made under Article 9, 10, 11, 13 or 15 of the Social Security (Northern Ireland) Order 1998 or section 22 of the Administration Act; and

(b) the decision will affect a person's liability for, or the amount of, any interest due in respect of those contributions,

regulations under sub-paragraph (2)(e) above shall not require any such interest to be paid until the decision has been made.

(4) Regulations under sub-paragraph (2)(e) above may provide that, in such cases or circumstances as may be prescribed, interest under those regulations may be charged by the Inland Revenue (instead of the Department) as if the regulations were made by virtue of paragraph 6 above.

(5) Regulations under sub-paragraph (2)(h) above shall—

(a) prescribe the rates of penalty, or provide for how they are to be ascertained;

(b) subject to sub-paragraph (6) below, provide for the penalty to be imposed by the Department—

(i) within 6 years after the date on which the penalty is incurred; or

(ii) where the amount of the penalty is to be ascertained by reference to the amount of any contributions payable, at any later time within 3 years after the final determination of the amount of those contributions;

(c) provide for determining the date on which, for the purposes of paragraph (b) above, the penalty is incurred;

(d) prescribe the means by which the penalty is to be enforced; and

(e) provide for enabling the Department, in its discretion, to mitigate or to remit the penalty, or to stay or to compound any proceedings for it.

(6) Regulations under sub-paragraph (2)(h)(ii) or (iii) above may provide that, in such cases or circumstances as may be prescribed, penalties under those regulations may be imposed by the Inland Revenue (instead of the Department) as if the return in question were a contributions return within the meaning of paragraph 7 above.

(7) Section 12 above shall not apply in relation to Class 2 contributions in respect of which the Department charges interest or imposes a penalty pursuant to regulations under paragraph (e) or (h) of sub-paragraph (2) above.

(8) Interest or penalties may be charged by virtue of regulations under this paragraph in respect of a period before the coming into operation of Article 54 of the Social Security (Northern Ireland) Order 1998 but only to the extent that interest or penalties would have been chargeable if the contributions in question had been recoverable, in respect of that period, by virtue of regulations under paragraph 6 above.

(9) Any reference to contributions in sub-paragraph (1) above shall be construed as including a reference to any interest or penalty payable, in respect of contributions, by virtue of regulations under paragraph (e) or (h) of sub-paragraph (2) above.

(10) The rate of interest applicable for any purpose of this paragraph shall be—

(a) the rate from time to time prescribed under section 178 of the Finance Act 1989 for the purpose of any enactment (whether or not extending to Northern Ireland) if prescribed by regulations made by virtue of this paragraph; or

(b) such other rate as may be prescribed by such regulations.”.

Art. 55 rep. by SI 1999/671

Amendments of the Administration Act

Breach of regulations **N.I.**

56. For section 107 of the Administration Act there shall be substituted the following section—

“**Breach of regulations.**

107.—(1) Regulations and schemes under any of the legislation to which section 104 above applies may provide that any person who contravenes, or fails to comply with, any provision contained in regulations made under that legislation—

(a) in the case of a provision relating to contributions, shall be liable to a penalty;

(b) in any other case, shall be guilty of an offence under that legislation.

(2) Any regulations or scheme making such provision as is mentioned in subsection (1)(a) above shall—

(a) prescribe the amount or rate of penalty, or provide for how it is to be ascertained;

(b) provide for the penalty to be imposed by the Department—

(i) within 6 years after the date on which the penalty is incurred; or

(ii) where the amount of the penalty is to be ascertained by reference to the amount of any contributions payable, at any later time within 3 years after the final determination of the amount of those contributions;

(c) provide for determining the date on which, for the purposes of paragraph (b) above, the penalty is incurred;

(d) prescribe the means by which the penalty is to be enforced; and

(e) provide for enabling the Department, in its discretion, to mitigate or to remit any such penalty, or to stay or to compound any proceedings for a penalty.

(3) A person guilty of such an offence as is mentioned in subsection (1)(b) above shall be liable on summary conviction—

(a) to a fine not exceeding level 3 on the standard scale;

(b) in the case of an offence of continuing a contravention or failure after conviction, to a fine not exceeding £40 for each day on which it is so continued.

(4) Any provision contained in regulations which authorises statutory sick pay or statutory maternity pay to be set off against secondary Class 1 contributions is not a provision relating to contributions for the purposes of this section.”.

Offences and penalties relating to contributions **N.I.**

57. For section 108 of the Administration Act there shall be substituted the following sections—

“**Offences relating to contributions.**

108.—(1) Any person who is knowingly concerned in the fraudulent evasion of any contributions which he or any other person is liable to pay shall be guilty of an offence.

(2) A person guilty of an offence under this section shall be liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding 7 years or to a fine or to both;

(b) on summary conviction, to a fine not exceeding the statutory maximum.

Art. 108A rep. by SI 1999/671”

Evidence of non-payment **N.I.**

58.—(1) For subsection (1) of section 112 of the Administration Act (evidence of non-payment) there shall be substituted the following subsections—

“(1) A certificate of an authorised officer that any amount by way of contributions, or by way of interest or penalty in respect of contributions, which a person is liable to pay to the Department for any period has not been paid—

(a) to the officer; or

(b) to the best of his knowledge and belief, to any other person to whom it might lawfully be paid,

shall until the contrary is proved be sufficient evidence in any proceedings before any court that the sum mentioned in the certificate is unpaid and due.

(1A) Subsection (2) below applies with respect to any period during which, under regulations made by virtue of paragraph 6(1) of Schedule 1 to the Contributions and Benefits Act (deduction with PAYE), contributions fall to be paid in like manner as income tax.” .

(Para)

(3) In subsection (4) of that section, the words “for a particular contribution card or”, and the words “the card in question or”, shall cease to have effect.

(Para)

Art. 59 rep. by 2004 c.3

Liability of directors, etc. for company's contributions N.I.

60. After section 115A of the Administration Act there shall be inserted the following sections—

"**Liability of directors, etc. for company's contributions.**

115B.—(1) This section applies to contributions which a body corporate is liable to pay, where—

(a) the body corporate has failed to pay the contributions at or within the time prescribed for the purpose; and

(b) the failure appears to the Department to be attributable to fraud or neglect on the part of one or more individuals who, at the time of the fraud or neglect, were officers of the body corporate ("culpable officers").

(2) The Department may issue and serve on any culpable officer a notice (a "personal liability notice")—

(a) specifying the amount of the contributions to which this section applies ("the specified amount");

(b) requiring the officer to pay to the Department—

(i) a specified sum in respect of that amount; and

(ii) specified interest on that sum; and

(c) where that sum is given by paragraph (b) of subsection (3) below, specifying the proportion applied by the Department for the purposes of that paragraph.

(3) The sum specified in the personal liability notice under subsection (2)(b)(i) above shall be—

(a) in a case where there is, in the opinion of the Department, no other culpable officer, the whole of the specified amount; and

(b) in any other case, such proportion of the specified amount as, in the opinion of the Department, the officer's culpability for the failure to pay that amount bears to that of all the culpable officers taken together.

(4) In assessing an officer's culpability for the purposes of subsection (3)(b) above, the Department may have regard both to the gravity of the officer's fraud or neglect and to the consequences of it.

(5) The interest specified in the personal liability notice under subsection (2)(b)(ii) above shall be at the prescribed rate and shall run from the date on which the notice is issued.

(6) An officer who is served with a personal liability notice shall be liable to pay to the Department the sum and the interest specified in the notice under subsection (2)(b) above.

(7) Where, after the issue of one or more personal liability notices, the amount of contributions to which this section applies is reduced by a payment made by the body corporate—

(a) the amount that each officer who has been served with such a notice is liable to pay under this section shall be reduced accordingly;

(b) the Department shall serve on each such officer a notice to that effect; and

(c) where the reduced liability of any such officer is less than the amount that he has already paid under this section, the difference shall be repaid to him together with interest on it at the prescribed rate.

(8) Any amount paid under a personal liability notice shall be deducted from the liability of the body corporate in respect of the specified amount.

(9) In this section—

"contributions" includes any interest or penalty in respect of contributions;

"officer", in relation to a body corporate, means—

(a) any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act as such; and

(b) in a case where the affairs of the body corporate are managed by its members, any member of the body corporate exercising functions of management with respect to it or purporting to do so;

"the prescribed rate" means the rate from time to time prescribed under paragraph 6 of Schedule 1 to the Contributions and Benefits Act for the purposes of the corresponding provision of that paragraph, that is to say—

(a) in relation to subsection (5) above, sub-paragraph (2)(a);

(b) in relation to subsection (7) above, sub-paragraph (2)(b).

Appeals in relation to personal liability notices.

115C.—(1) No appeal shall lie in relation to a notice except as provided by this personal liability section.

(2) An individual who is served with a personal liability notice may appeal to an appeal tribunal against the Department's decision as to the issue and content of the notice on the ground that—

(a) the whole or part of the amount specified under subsection (2)(a) of section 115B above (or the amount so specified as reduced under subsection (7) of that section) does not represent contributions to which that section applies;

(b) the failure to pay that amount was not attributable to any fraud or neglect on the part of the individual in question;

(c) the individual was not an officer of the body corporate at the time of the alleged fraud or neglect; or

(d) the opinion formed by the Department under subsection (3)(a) or (b) of that section was unreasonable.

(3) The Department shall give a copy of any notice of an appeal under this section, within 28 days of the giving of the notice, to each other individual who has been served with a personal liability notice.

(4) On an appeal under this section, the burden of proof as to any matter raised by a ground of appeal shall be on the Department.

(5) Where an appeal under this section—

(a) is brought on the basis of evidence not considered by the Department, or on the ground mentioned in subsection (2)(d) above; and

(b) is not allowed on some other basis or ground,

the appeal tribunal shall either dismiss the appeal or remit the case to the Department, with any recommendations it sees fit to make, for the Department to consider whether to revise its decision as to the issue and content of the personal liability notice.

(6) In this section—

"appeal tribunal" means an appeal tribunal constituted under Chapter I of Part II of the Social Security (Northern Ireland) Order 1998;

"officer", in relation to a body corporate, has the same meaning as in section 115B above;

"personal liability notice" has the meaning given by subsection (2) of that section;

"revise" means revise under Article 10 of the Social Security (Northern Ireland) Order 1998.".

Class 1B contributions: supplemental N.I.

61.—(Para)

(2) In subsection (5) of section 142 of that Act (destination of contributions), after paragraph (c) there shall be inserted the following paragraph—

(ca) in the case of Class 1B contributions, 0.9 per cent. of the amount estimated to be the aggregate of the emoluments and the amounts of income tax in respect of which those contributions were paid;

Payments of certain contributions out of the Consolidated Fund N.I.

62.—(1) Subsection (4) of section 143 of the Administration Act (general financial arrangements) shall have effect, and shall be deemed always to have had effect, as if—

(a) for the words "a secondary Class 1 contributor" there were substituted the words "any person"; and

(b) after the words "any secondary Class 1 contributions" there were inserted the words ", or any Class 1A contributions,".

(2) Paragraph (2) of Article 3 of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977 (from which subsection (4) of section 143 of the Administration Act is derived) shall be deemed to have had effect with the same amendments as from the commencement of the Social Security (Contributions) (Northern Ireland) Order 1991.

Changes to legislation:
The Social Security (Northern Ireland) Order 1998, PART III is up to date with all changes known to be in force on or before 03 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.
View outstanding changes

Changes and effects yet to be applied to :

– power to am. (prosp.) by 1998 c. 47 s.87

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

– Act amended by 1999 c. 10 s.1(2)Sch.1 paras.16(r)

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

– Sch. 2 para. 7A and cross-heading inserted by S.I. 2015/2006 (N.I.) Sch. 2 para. 41(3)
– Sch. 3 para. 3A inserted by S.I. 2015/2006 (N.I.) Sch. 2 para. 42
– art. 38(1A) inserted by 2010 c. 13 (N.I.) s. 16(2)