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STATUTORY RULES OF NORTHERN IRELAND

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**1993 No. 130**

**SOCIAL SECURITY**

**The Social Security (Contributions) (Amendment  
No. 5) Regulations (Northern Ireland) 1993**

*Made* - - - - *23rd March 1993*

*Coming into operation* *19th April 1993*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by paragraph 6 of Schedule 1 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992<sup>(1)</sup> and of all other powers enabling it in that behalf, and with the concurrence of the Inland Revenue, hereby makes the following regulations:

**Citation and commencement**

1. These regulations may be cited as the Social Security (Contributions) (Amendment No. 5) Regulations (Northern Ireland) 1993 and shall come into operation on 19th April 1993.

**Amendment of the Social Security (Contributions) Regulations**

2. After Regulation 28 of Schedule 1 to the Social Security (Contributions) Regulations (Northern Ireland) 1979<sup>(2)</sup> (application of Income Tax (Employments) Regulations 1993<sup>(3)</sup> to earnings-related contributions and Class 1A contributions) there shall be inserted the following Regulations—

**“Interest on overdue earnings-related contributions or Class 1A contributions**

**28A.—**(1) Subject to Regulation 28D, where, in relation to the year ended 5th April 1993 or any subsequent year, an employer has not within 14 days of the end of the year paid an earnings-related contribution which he is liable to pay in respect of that year or a Class 1A contribution which he is liable to pay in that year, any contribution not so paid shall carry interest at the rate applicable under paragraph 6(3)(a) of Schedule 1 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992 for the purpose of

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(1) 1992 c. 7

(2) S.R. 1979 No. 186; relevant amending regulations are S.R. 1984 No. 43, S.R. 1985 No. 260, S.R. 1987 No.468, S.R. 1988 No.204, S.R. 1989 No.384, S.R. 1991 No. 310 and S.R. 1992 Nos. 41 and 280

(3) S.I.1993/744 consolidates S.I. 1973/334 and its subsequent amending regulations

paragraph 6(3) of Schedule 1 to the Social Security Contributions and Benefits Act 1992<sup>(4)</sup> from the reckonable date until payment.

(2) Interest payable under this Regulation shall be recoverable as if it were an earnings-related contribution or a Class 1A contribution, as the case may be, in respect of which an employer is liable under Regulation 26, 26A, 26C or 26D to pay to the Collector.

(3) For the purposes of this Regulation “the reckonable date” means, in relation to—

- (a) an earnings-related contribution, the 14th day after the end of the year in respect of which it was due;
- (b) a Class 1A contribution, the 14th day after the end of the year in which it was due to be paid.

(4) A contribution to which paragraph (1) of this Regulation applies shall carry interest from the reckonable date even if that date is a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882<sup>(5)</sup>.

(5) A certificate of the Collector that any amount of interest payable under this Regulation has not been paid to him, or, to the best of his knowledge and belief, to any other Collector or to any person acting on his behalf or on behalf of another Collector, shall be sufficient evidence that the employer is liable to pay to the Collector the amount of interest shown on the certificate and that the sum is unpaid and due to be paid, and any document purporting to be such a certificate shall be deemed to be a certificate until the contrary is proved.

### **Payment of interest on repaid earnings-related contributions or Class 1A contributions**

**28B.**—(1) Where an earnings-related contribution or a Class 1A contribution paid by an employer in respect of the year ended 5th April 1993 or any subsequent year is repaid to him and that repayment is made after the relevant date, any such repaid contribution shall carry interest at the rate applicable under paragraph 6(3)(a) of Schedule 1 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992 for the purpose of paragraph 6(3) of Schedule 1 to the Social Security Contributions and Benefits Act 1992 from the relevant date until the order for the repayment is issued.

(2) For the purposes of this Regulation “the relevant date” is—

- (a) in the case of an earnings-related contribution or a Class 1A contribution overpaid more than 12 months after the end of the year in respect of which the payment was made, the last day of the year in which it was paid;
- (b) in any other case, the last day of the year after the year in respect of which the contribution in question was paid.

### **Repayment of interest**

**28C.** Where an employer has paid interest on an earnings-related contribution or a Class 1A contribution, that interest shall be repaid to him where—

- (a) the interest paid is found not to have been due to be paid, although the contribution in respect of which it was paid was due to be paid;
- (b) the earnings-related contribution or Class 1A contribution in respect of which interest was paid is returned or repaid to the employer in accordance with the provisions of regulation 32 or 33A of the Main Regulations.

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(4) 1992 c. 4

(5) 1882 c. 61; section 92 was amended by sections 3(1) and 4(4) of the Banking and Financial Dealing Act 1971 (c. 80)

### Remission of interest

**28D.**—(1) Where interest is payable in accordance with Regulation 28A it shall be remitted for the period from the first relevant date until the second relevant date in the circumstances specified in paragraph (2) of this Regulation.

(2) For the purposes of paragraph (1) of this Regulation the circumstances are that—

- (a) the liability to pay interest in respect of an earnings-related contribution or a Class 1A contribution arises as the result of an official error being made; or
- (b) (i) a question has arisen relating to an employer’s liability to pay an earnings-related contribution or a Class 1A contribution, or to his liability for, or the amount due from him in respect of, any interest calculated in accordance with Regulation 28A and that question is to be determined by the Department in accordance with section 15 of the Administration Act, or  
(ii) a question, being a question of law arising in connection with the determination by the Department of any question such as is mentioned in head (i) of this sub-paragraph, is referred for decision to the Court of Appeal in accordance with section 16 of the Administration Act.

(3) In this Regulation—

- (a) “the Administration Act” means the Social Security Administration (Northern Ireland) Act 1992(6);
- (b) “an official error” means a mistake made, or something omitted to be done, by an officer of, or a person employed in relation to, the Inland Revenue or the Department acting as such, where the employer or any person acting on his behalf has not caused, or materially contributed to, that mistake or omission;
- (c) in the circumstances specified in—
  - (i) paragraph (2)(a) of this Regulation, “the first relevant date” means the reckonable date as defined in Regulation 28A(3) or, if later, the date on which the official error occurs and “the second relevant date” means the date 14 days after the date on which the official error is rectified and the employer is advised in writing of its rectification,
  - (ii) paragraph (2)(b) of this Regulation, “the first relevant date” means the date on which the question for determination under section 15 of the Administration Act is submitted to the Department or, as the case may be, the question of law arising in connection with the determination of such a question is referred to the Court of Appeal under section 16 of the Administration Act and “the second relevant date” means the date 14 days after the question is so determined, or the reference is finally disposed of, as the case may be.”.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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

23rd March 1993.

*A. Devlin*  
Assistant Secretary

The Commissioners of Inland Revenue hereby concur.

24th March 1993

*L. J. H. Beighton*  
*C. W. Corlett*  
Two of the Commissioners of Inland Revenue

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## EXPLANATORY NOTE

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

These regulations further amend the Social Security (Contributions) Regulations (Northern Ireland) 1979 (“the principal regulations”).

Regulation 2 inserts 4 new Regulations into Schedule 1 to the principal Regulations—

- (a) Regulation 28A provides for interest to be payable on Class 1 contributions unpaid after the 14th day after the end of the tax year in respect of which they were due and on Class 1A contributions unpaid after the 14th day after the end of the tax year in which they were due to be paid;
- (b) Regulation 28B provides for interest to be payable to employers who have overpaid Class 1 or Class 1A contributions, where the repayment of those contributions is made more than a year after the end of the year in respect of which the payment was originally made;
- (c) Regulation 28C provides for interest paid by an employer to be repaid to him in certain circumstances and Regulation 28D provides for interest to be remitted in certain circumstances.

These regulations make in relation to Northern Ireland only provision corresponding to provision contained in regulations made by the Secretary of State for Social Security in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992, are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.