

1992 No. 41

SOCIAL SECURITY

**The Social Security (Contributions) (Amendment)
Regulations (Northern Ireland) 1992**

Made 28th January 1992

Coming into operation 14th February 1992

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 1(6) and 126 of, and paragraphs 5(1)(a) and (b) and 6(1)(g), (ggg), (h) and (m) of Schedule 1 to, the Social Security (Northern Ireland) Act 1975(a) and Article 1(8) of the Social Security (Northern Ireland) Order 1985(b) and of all other powers enabling it in that behalf, and with the concurrence of the Inland Revenue in so far as their concurrence is required, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (Contributions) (Amendment) Regulations (Northern Ireland) 1992 and shall come into operation on 14th February 1992.

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

(3) The Interpretation Act 1978(d) shall apply to these regulations as it applies to an Act of the United Kingdom Parliament.

Amendment of regulation 31 of the principal regulations

2. In regulation 31 of the principal regulations (disposal of contributions not properly paid)—

(a) immediately before “Where” there shall be inserted “—(1)”;

(b) after “than” there shall be inserted “Class 1A or”;

(c) after paragraph (1) there shall be added the following paragraph—

“(2) Where the whole or any part of a Class 1A contribution falls to be returned by the Department to any person under regulation 32(1)

(a) 1975 c. 15; section 1(6) was amended by Article 3(3) of the Social Security (Contributions) (Northern Ireland) Order 1991 (S.I. 1991/2294 (N.I. 22)); paragraph 5(1)(a) of Schedule 1 was amended by Article 4(3)(a) of that Order; paragraph 6(1)(g) and (ggg) of Schedule 1 was respectively amended and inserted by Article 4(5)(b) and (c) of that Order; paragraph 6(1)(h) was amended by paragraph 1 of Schedule 9 to the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18))

(b) S.I. 1985/1209 (N.I. 16)

(c) S.R. 1979 No. 186; relevant amending regulations are S.R. 1980 No. 463, S.R. 1981 No. 30, S.R. 1983 No. 64, S.R. 1984 No. 43, S.R. 1985 Nos. 59, 61 and 260, S.R. 1987 No. 143, S.R. 1988 No. 204, S.R. 1990 No. 110 and S.R. 1991 Nos. 80, 106 and 310

(d) 1978 c. 30

of these regulations, or any part of a Class 1A contribution falls to be repaid by the Department to any person under regulation 33A(1) of these regulations(a), the Department may treat the amount of that contribution or, as the case may be, that part of that contribution as a payment on account of any secondary Class 1 contributions or Class 2 contributions properly payable by that person.”

Amendment of regulation 32 of the principal regulations

3. In regulation 32(1) of the principal regulations (return of contributions) for the words from “(a)” to the end of the paragraph there shall be substituted—

“(a) in the case of Class 1A contributions, does not exceed £0·50; or

(b) in the case of—

(i) Class 1 contributions, or

(ii) Class 2 contributions paid in excess of the amount prescribed in the said regulation 17,

does not exceed the amount of one fifteenth of a standard rate contribution payable on earnings at the upper earnings limit in respect of primary Class 1 contributions prescribed in regulation 7 of these regulations for the last or only year in respect of which the contributions were paid.”

Insertion of regulation 33A in the principal regulations

4. After regulation 33 of the principal regulations (return of Class 1 contributions paid at the non-contracted-out rate instead of at the contracted-out rate) there shall be inserted the following regulation—

“Repayment of Class 1A contributions

33A.—(1) Subject to the provisions of regulations 31 and 35 of these regulations and paragraphs (2) and (3) of this regulation, where, in a case prescribed in the next succeeding paragraph, the Department is satisfied, in the light of information of a kind mentioned in section 4A(6)(a), (b) or (c) of the Act(b), that too much has been paid in respect of the Class 1A contribution payable by the person referred to in that paragraph, the Department shall repay to that person the amount of that part of the Class 1A contribution which has been overpaid, unless that amount does not exceed £0·50.

(2) The cases to which the last preceding paragraph applies are those in which a person has paid a Class 1A contribution and in calculating the cash equivalent of the benefit of the car or fuel for the purpose of ascertaining the amount of that contribution under section 4A(4) of the Act—

(a) he made that calculation by reference to information which had been made available to him by the earner in the employment by reason of which the car was made available and that information was inaccurate or incomplete;

(a) Inserted by regulation 4 of these regulations

(b) Section 4A was inserted by Article 3(5) of the Social Security (Contributions) (Northern Ireland) Order 1991

- (b) he had been unable to obtain information for that purpose from the earner because at the time when he made that calculation the earner—
- (i) was absent from work because of the earner's sickness, injury, pregnancy or confinement,
 - (ii) was absent from Northern Ireland, or
 - (iii) was no longer employed in the employment by reason of which the car was made available; or
- (c) he had become liable to pay that contribution by reason of a change of employer and the information available to him for the purpose of ascertaining the amount of that contribution was inaccurate or incomplete.

(3) The repayment of part of a Class 1A contribution under paragraph (1) of this regulation is subject to the condition that the person referred to in that paragraph shall make an application to that effect in writing to the Department and within the period of 6 years from the end of the year in which the Class 1A contribution was paid or, if the Department is satisfied that that person had good cause for not making the application within that period, within such longer period as the Department may allow.”.

Amendment of regulation 46 of the principal regulations

5. In regulation 46 of the principal regulations (collection and recovery of earnings-related contributions)—

- (a) after “contributions” in the shoulder note and in each place where it occurs there shall be inserted “and Class 1A contributions”;
- (b) for “purpose” there shall be substituted “purposes”.

Amendment of regulation 47 of the principal regulations

6. In regulation 47 of the principal regulations (direct collection and recovery of earnings-related contributions) after “contributions” in the shoulder note and in each place where it occurs there shall be inserted “or Class 1A contributions”.

Amendment of regulation 50 of the principal regulations

7. In regulation 50(2) of the principal regulations (special provisions relating to employers exempted from liability under the Act by international treaty or convention) after “in respect of the employment” there shall be inserted “, or contributions under section 4A of the Act in respect of any car made available to the earner or to a member of his family or household by reason of the employment, in either case”.

Amendment of regulation 111 of the principal regulations

8. In regulation 111 of the principal regulations (conditions as to residence or presence in Northern Ireland)—

- (a) in paragraph (1) after “Class 2 contributions” there shall be inserted “, liability to pay Class 1A contributions”;

- (b) in paragraph (1)(b) for “liability for secondary Class 1 contributions” there shall be substituted “liability to pay secondary Class 1 contributions or Class 1A contributions”;
- (c) in paragraph (2) for the words from “subject to the proviso” to “last entry into Northern Ireland” there shall be substituted “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; and
 - (b) no Class 1A contribution shall be payable in respect of any car which is made available to the employed earner or to a member of his family or household by reason of such employment, after the date of the earner’s last entry into Northern Ireland”.

Amendment of regulation 112 of the principal regulations

9. In regulation 112(2) of the principal regulations (payment of contributions for periods abroad) after sub-paragraph (b) there shall be added the following sub-paragraph—

- “(c) Class 1A contributions shall be payable in respect of the period specified in sub-paragraph (a) of this paragraph.”.

Amendment of Schedule 1 to the principal regulations

10.—(1) Schedule 1 to the principal regulations (application of Income Tax (Employments) Regulations 1973 to earnings-related contributions) shall be amended in accordance with paragraphs (2) to (12) of this regulation.

(2) In the heading after “CONTRIBUTIONS” there shall be inserted “AND CLASS 1A CONTRIBUTIONS”.

(3) At the end of the cross-heading to Parts II and III there shall be added “AND RECORDING OF CLASS 1A CONTRIBUTIONS”.

(4) In Regulation 13(6) (calculation of deduction) after “(6B) of this Regulation” there shall be inserted “and the provisions of Regulation 13A(b)”.

(5) After Regulation 13 there shall be inserted the following Regulation—

“Recording of Class 1A contributions

13A. Not later than 75 days after the end of the year in respect of which a Class 1A contribution is payable, every employer who is liable to pay such a contribution—

- (a) shall, if he has not already done so in accordance with or as mentioned in Regulation 6, prepare a deductions working sheet in respect of the year immediately following the year in respect of which that contribution is payable and in respect of the employee by reason of whose employment the car was made available; and
- (b) shall record on the deductions working sheet for that employee, in addition to any particulars required under Regulation 13(6), the following particulars, namely—

- (i) the appropriate category letter indicated by the Department for recording the amount of the Class 1A contributions payable by an employer, and
- (ii) the amount of the Class 1A contribution which the employer has calculated as being payable by him in accordance with section 4A(4) of the Act in respect of the employee and car in question,

and he shall retain the deductions working sheet for not less than 3 years after the end of the year in which the Class 1A contribution is payable.”.

(6) In the cross-heading to Part IV after “CONTRIBUTIONS” there shall be inserted “AND CLASS 1A CONTRIBUTIONS”.

(7) After Regulation 26B (payment of earnings-related contributions by employer — further provisions) there shall be inserted the following Regulation—

“Payment of Class 1A contributions

26C.—(1) Subject to paragraph (2) of this Regulation, an employer who is liable to pay a Class 1A contribution shall pay that contribution to the Collector not later than 19th June in the year immediately following the end of the year in respect of which that contribution is payable.

(2) Where an employer who is liable to pay a Class 1A contribution is liable to pay earnings-related contributions quarterly in accordance with Regulation 26A(1), he shall pay the Class 1A contribution to the Collector not later than 19th July in the year immediately following the end of the year in respect of which that contribution is payable.

(3) If the employer has paid to the Collector under this Regulation an amount in respect of Class 1A contributions which he was not liable to pay, he shall be entitled to deduct the amount overpaid from any payment in respect of secondary earnings-related contributions which he is liable to pay subsequently to the Collector under Regulation 26 or 26A for any income tax period in the same year.”.

(8) In Regulation 27 (employer failing to pay earnings-related contributions)—

(a) at the end of the shoulder note there shall be added “*or Class 1A contributions*”;

(b) after paragraph (2) there shall be added the following paragraph—

“(2A) If the employer has paid no amount of Class 1A contributions to the Collector by the date which applies to him under Regulation 26C(1) or (2) and the Collector is unaware of the amount, if any, which the employer is liable so to pay, the Collector may give notice to the employer requiring him to render, within 14 days, a return in the prescribed form showing the amount of Class 1A contributions which the employer is liable to pay to the Collector under that Regulation in respect of the year in question.”;

(c) for paragraph (3) there shall be substituted the following paragraph—

“(3) A notice may be given by the Collector—

- (a) under paragraph (1) of this Regulation notwithstanding that an amount of earnings-related contributions has been paid to him by the employer under Regulation 26 or 26A for any income tax period; or
- (b) under paragraph (2A) of this Regulation notwithstanding that an amount of Class 1A contributions has been paid to him by the employer under Regulation 26C(1) or (2) in respect of the year in question,

if the Collector is not satisfied that the amount so paid is the full amount which the employer is liable to pay to him for that period or, as the case may be, that year; and the provisions of this Regulation shall have effect accordingly.''

(9) After Regulation 27A (specified amount of earnings-related contributions payable by the employer) there shall be inserted the following Regulation—

“Specified amount of Class 1A contributions

27B.—(1) If after 14 days following the date which applies to him under Regulation 26C(1) or (2) the employer has paid no amount of Class 1A contributions to the Collector in respect of the preceding year, despite demand being made, and there is reason to believe that the employer is liable so to pay, the Collector—

- (a) in the case of the first year in which the employer is liable to pay such contributions, upon consideration of any information which has been provided to him by the employer relating to the liability of the employer to pay such contributions; or
- (b) thereafter, upon consideration of the employer's record of past payments,

may to the best of his judgment specify the amount of Class 1A contributions which he considers the employer is liable to pay and give notice to him of that amount.

(2) If, on the expiration of the period of 7 days allowed in the notice, the specified amount of Class 1A contributions or any part thereof is unpaid, the amount so unpaid shall be certified by the Collector and shall be deemed, for the purposes of these Regulations, to be an amount of Class 1A contributions which the employer was liable to pay in respect of that year in accordance with Regulation 26C(1) or (2).

(3) The provisions of paragraph (2) of this Regulation shall not apply if, during the period allowed in the notice, the employer pays to the Collector the full amount of Class 1A contributions which the employer is liable to pay under Regulation 26C(1) or (2) in respect of that year, or the employer satisfies the Collector that no amount of such contributions is due.

(4) The production of a certificate such as is mentioned in paragraph (2) of this Regulation shall, until the contrary is established, be sufficient evidence that the employer is liable to pay to the Collector the amount shown in the certificate and any document purporting to be such a certificate shall be deemed to be such a certificate until the contrary is

proved; and the provisions of Regulation 28, with any necessary modifications, shall apply to the amount shown in that certificate.

(5) A notice may be given by the Collector under paragraph (1) of this Regulation notwithstanding that an amount of Class 1A contributions has been paid to him by the employer under Regulation 26C(1) or (2) in respect of the year in question, if, after seeking the employer's explanation as to the amount of Class 1A contributions paid, the Collector is not satisfied that the amount so paid is the full amount which the employer is liable to pay to him in respect of that year; and the provisions of this Regulation shall have effect accordingly, save that paragraph (2) of this Regulation shall not apply if, during the period allowed in the said notice, the employer satisfies the Collector that no further amount of Class 1A contributions is due in respect of that year.

(6) Where, during the period allowed in a notice given by the Collector under paragraph (1) of this Regulation, the employer claims, but does not satisfy the Collector, that the payment of Class 1A contributions made in respect of the year specified therein is the full amount of Class 1A contributions which he is liable to pay to the Collector in respect of that year, the employer may require the Collector to inspect the employer's documents and records as if the Collector had called upon the employer to produce those documents and records in accordance with Regulation 32(1); and the provisions of Regulation 32 shall apply in relation to that inspection and the notice given by the Collector under paragraph (1) of this Regulation shall thereafter be disregarded.

(7) Notwithstanding anything in this Regulation, if the employer pays an amount of Class 1A contributions certified by the Collector under this Regulation and that amount exceeds the amount which he would have been liable to pay in respect of the preceding year apart from this Regulation, he shall be entitled to set off such excess against any amount of secondary earnings-related contributions which he is liable to pay to the Collector under Regulation 26 or 26A subsequently for any income tax period in the year in which he has paid the amount of Class 1A contributions certified by the Collector under this Regulation."

(10) For Regulation 28 (recovery of earnings-related contributions) there shall be substituted the following Regulation—

"Recovery of earnings-related contributions or Class 1A contributions

28.—(1) The provisions of the Income Tax Acts and of any regulations under section 203 of the Income and Corporation Taxes Act 1988(a) (pay as you earn) relating to the recovery of tax shall apply to the recovery of—

- (a) any amount of earnings-related contributions which an employer is liable to pay to the Collector for any income tax period in accordance with Regulation 26 or 26A, or which he is deemed to be liable to pay to the Collector for any income tax period under Regulation 27A; or

- (b) any amount of Class 1A contributions which an employer is liable to pay to the Collector in respect of any year in accordance with Regulation 26C(1) or (2), or which he is deemed to be liable to pay to the Collector in respect of any year under Regulation 27B,

as if each of those amounts had been tax charged by way of an assessment on the employer under Schedule E:

Provided that, in the application to any proceedings taken by virtue of this Regulation of any such provisions limiting the amount which is recoverable in those proceedings, there shall be disregarded any amount of tax which may by virtue of paragraph (2) of this Regulation be included as part of the cause of action or matter of complaint in those proceedings.

(2) Proceedings may be brought for the recovery of the total amount of—

- (a) earnings-related contributions which the employer is liable to pay to the Collector for any income tax period;
- (b) Class 1A contributions which the employer is liable to pay to the Collector in respect of any year;
- (c) both of those classes of contributions as specified in sub-paragraphs (a) and (b) of this paragraph; or
- (d) any of the contributions as specified in sub-paragraph (a), (b) or (c) of this paragraph in addition to any tax which the employer is liable to pay to the Collector for any income tax period,

without specifying the respective amounts of those contributions and of tax or distinguishing the amounts which the employer is liable to pay in respect of each employee and without specifying the employees in question, and for the purposes of proceedings under section 66 of the Taxes Management Act 1970(a) (including proceedings under that section as applied by the provisions of this Regulation) and for the purposes of summary proceedings, the said total amount shall, subject to the provisions of the proviso to paragraph (1) of this Regulation, be one cause of action or one matter of complaint; but nothing in this paragraph shall prevent the bringing of separate proceedings for the recovery of each of the several amounts of earnings-related contributions, Class 1A contributions and of tax which the employer is liable to pay to the Collector for any income tax period in respect of his several employees, or, in the case of Class 1A contributions, in respect of any year in which any cars were made available to his several employees.”.

(11) In Regulation 30 (return by employer at end of year)—

- (a) in paragraph (1)(g) for “pounds.” there shall be substituted “pounds, and”;
- (b) after sub-paragraph (g) of paragraph (1) there shall be added the following sub-paragraph—

“(h) the amount of any Class 1A contribution payable in that year, shown in the return under the appropriate category letter and

- separately from the total amounts under head (iii) of Regulation 13(6)(b).”;
- (c) in paragraph (2)(g) for “regulations.” there shall be substituted “regulations; and”;
- (d) after sub-paragraph (g) of paragraph (2) there shall be added the following sub-paragraphs—
- “(h) the total amount of Class 1A contributions payable by him in respect of each employee during that year; and
- (i) the total amount of Class 1A contributions payable by him in respect of all his employees during that year.”;
- (e) for paragraph (6) there shall be substituted the following paragraph—
- “(6) If within 14 days of the end of any year an employer has failed to pay to the Collector the total amount of earnings-related contributions which he is liable so to pay, or any Class 1A contributions which he is liable to pay in respect of the year immediately preceding that year, the Collector may prepare a certificate showing—
- (a) the amount of earnings-related contributions remaining unpaid for that year, excluding any amount deducted by the employer by virtue of the Compensation of Employers Regulations;
- (b) the total amount of Class 1A contributions remaining unpaid in respect of the year immediately preceding that year; or
- (c) both those total amounts,
- and to the amount shown in the said certificate the provisions of paragraphs (1) and (2) of Regulation 28 shall with any necessary modifications apply.”.
- (12) In Regulation 32 (inspection of employer’s records)—
- (a) after sub-paragraph (a) of paragraph (1) there shall be inserted the following sub-paragraph—
- “(aa) all wages sheets, deductions working sheets, and other documents and records whatsoever relating to the amount of any Class 1A contributions payable by the employer in respect of the years specified by such officer; or”;
- (b) at the end of paragraph (2)(a) for “and” there shall be substituted “or”;
- (c) after sub-paragraph (a) of paragraph (2) there shall be inserted the following sub-paragraph—
- “(aa) the amount of any Class 1A contributions which it appears from the documents and records so produced that the employer is liable to pay to the Collector for the years covered by the inspection, or such an amount in addition to an amount referred to in sub-paragraph (a) of this paragraph; and”;
- (d) in paragraph (2)(b) after “contributions” there shall be inserted “or Class 1A contributions, or both of those classes of contributions.”;

- (e) in paragraph (5) for “relate.” there shall be substituted “relate; and, in the case of any of those documents or records which contains any information relating to the amount of any Class 1A contribution, for not less than three years after the end of the year in which that contribution became payable under Regulation 26C(1) or (2).”:

Revocations

11. The following regulations are hereby revoked—

- (a) regulation 4(9)(d) of the Social Security (Contributions) (Amendment No. 3) Regulations (Northern Ireland) 1983(a);
- (b) regulation 4 of the Social Security (Contributions) (Amendment) Regulations (Northern Ireland) 1985(b);
- (c) regulation 5(6)(a) of the Social Security (Contributions and Credits) (Transitional and Consequential Provisions) Regulations (Northern Ireland) 1985(c);
- (d) regulation 12(8)(c) of the Social Security (Contributions) (Amendment No. 2) Regulations (Northern Ireland) 1987(d); and
- (e) regulation 2(6) of the Social Security (Contributions) (Amendment No. 4) Regulations (Northern Ireland) 1991(e).

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 28th January 1992.

(L.S.)

A. N. Burns

Assistant Secretary

The Commissioners of Inland Revenue hereby concur.

T. J. Painter

L. J. H. Beighton

3rd February 1992

Two of the Commissioners of
Inland Revenue

(a) S.R. 1983 No. 64
(b) S.R. 1985 No. 59
(c) S.R. 1985 No. 260
(d) S.R. 1987 No. 143
(e) S.R. 1991 No. 310

(This note is not part of the Regulations.)

These regulations further amend the Social Security (Contributions) Regulations (Northern Ireland) 1979 ("the principal regulations") to make provision in respect of Class 1A contributions, payable by employers in respect of cars and car fuel made available to employed earners for private use. The amendments made by these regulations are consequential on amendments made to the Social Security (Northern Ireland) Act 1975 by the Social Security (Contributions) (Northern Ireland) Order 1991 (which introduced Class 1A contributions).

Regulations 2, 3 and 5 to 9 amend the principal regulations to extend provisions to Class 1A contributions.

Regulation 4 inserts a new regulation 33A into the principal regulations. The new regulation provides for the Department to repay any overpayment in respect of a Class 1A contribution in prescribed cases where the information available to the employer in calculating the amount of that contribution was inaccurate or incomplete.

Regulation 10 amends Schedule 1 to the principal regulations to extend provisions to Class 1A contributions for the purposes of the recording, payment and recovery of those contributions and inspection of employers' records.

Regulation 11 contains revocations.

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 10(2) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1980 (c. 30), are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee.