

---

STATUTORY RULES OF NORTHERN IRELAND

---

**1999 No. 117**

**SOCIAL SECURITY  
STATUTORY MATERNITY  
PAY; STATUTORY SICK PAY**

**The Social Security (Contributions), Statutory  
Maternity Pay and Statutory Sick Pay (Miscellaneous  
Amendments) Regulations (Northern Ireland) 1999**

*Made* - - - - *15th March 1999*  
*Coming into operation* *6th April 1999*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 1(6), 3(2) and (3), 10A(7), 159(3), 167(5) and 171(1) to (3) of, and paragraphs 3(5), 5A, 6 and 8(1)(g), (l), (m), (n) and (q) of Schedule 1 to, the Social Security Contributions and Benefits (Northern Ireland) Act 1992(1) 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), Statutory Maternity Pay and Statutory Sick Pay (Miscellaneous Amendments) Regulations (Northern Ireland) 1999 and shall come into operation on 6th April 1999.

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

**Amendment of regulation 18 of the principal Regulations**

2. In regulation 18 of the principal Regulations (calculation of earnings)—

---

(1) 1992 c. 7; section 1(6) was amended by paragraph 38(3) of Schedule 6 to, section 10A was inserted by Article 50 of, paragraph 3(5) was added by Article 52(b) of, paragraph 5A was inserted, and paragraphs 6 and 8(1)(l) were amended, by paragraph 58(7) to (9), (11) and (16) of Schedule 6 to, the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)); paragraph 8(1)(g) was amended by paragraph 11 of Schedule 3 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))

(2) S.R. 1979 No. 186; relevant amending regulations are S.R. 1981 No. 30, S.R. 1982 No. 267, S.R. 1984 No. 43, S.R. 1985 No. 59, S.R. 1990 No. 110, S.R. 1991 Nos. 310 and 490, S.R. 1992 Nos. 41, 126 and 280, S.R. 1993 No. 130, S.R. 1995 No. 91, S.R. 1996 Nos. 30, 433 and 566, S.R. 1997 No. 163 and S.R. 1998 Nos. 317, 332 and 416

- (a) in paragraph (2)(3) “(4)” shall be omitted;
- (b) paragraphs (2A), (2B), (4), (5), (5A) and (9A)(4) shall be omitted;
- (c) in paragraph (7A)(5) “(4),” shall be omitted;
- (d) in paragraph (9)(6) for “(2A), (5A) and (9A)” there shall be substituted “(17) to (19)”;
- (e) after paragraph (15)(7) there shall be added the following paragraphs—

“(16) Subject to paragraph (17) of this regulation, the amount of earnings which is comprised in any payment by way of a gain which a person realises by the assignment or release of a right to acquire shares in a body corporate, obtained by that person as a director(8) or employee of that or any other body corporate where that right or those shares are not readily convertible assets(9), and which falls to be taken into account in the computation of a person’s earnings shall, for the purposes of earnings-related contributions, be calculated on the basis of the best estimate that can reasonably be made of the difference between—

- (a) the amount or value of the consideration for that assignment or release; and
- (b) the amount or value of the consideration (if any) given for the grant of the right,

(a just apportionment being made of any entire consideration given for the grant of the right to acquire those shares and other shares or otherwise for the grant of the right to acquire those shares and for something else besides).

(17) The amount of earnings which is comprised in any payment by way of a gain which a person realises by the assignment or release of a right to acquire shares in a body corporate (“the first body corporate”), obtained by that person before 6th April 1999 as a director or employee of that or any other body corporate where that right or those shares are not readily convertible assets, where a subsequent right—

- (a) forms all, or part of, the consideration given for the assignment or release of the first right; and
- (b) the subsequent right is—
  - (i) a right to acquire shares in the first body corporate or any other body corporate;
  - (ii) not treated as consideration for the assignment or release of the first right by virtue of section 136(1) of the Income and Corporation Taxes Act 1988(10) (provisions supplementary to section 135), and
  - (iii) acquired at a total discount on the total market value which is substantially greater than the total discount on the total market value of the first right at the time of its assignment or release,

and which falls to be taken into account in the computation of a person’s earnings shall, for the purposes of earnings-related contributions, be calculated on the basis of the best estimate that can reasonably be made of the difference between the total discount on the subsequent right and the total discount on the first right.

---

(3) Paragraph (2) was added by [S.R. 1991 No. 490](#) and amended by [S.R. 1996 No. 566](#)  
 (4) Paragraphs (2A), (2B), (5A) and (9A) were inserted by [S.R. 1998 No. 416](#); paragraphs (4) and (5) were added by [S.R. 1991 No. 490](#)  
 (5) Paragraph (7A) was inserted by [S.R. 1996 No. 566](#)  
 (6) Paragraph (9) was substituted by [S.R. 1998 No. 317](#) and amended by [S.R. 1998 No. 416](#)  
 (7) Paragraph (15) was substituted by [S.R. 1998 No. 317](#)  
 (8) Definition of “director” was inserted into [S.R. 1979 No. 186](#) by [S.R. 1996 No. 433](#)  
 (9) Definition of “readily convertible asset” was inserted into [S.R. 1979 No. 186](#) by [S.R. 1998 No. 317](#)  
 (10) [1988 c. 1](#)

(18) The amount of earnings which is comprised in any payment by way of a gain which a person realises by the exercise of a right to acquire shares in a body corporate, obtained by that person as a director or employee of that or any other body corporate, where—

- (a) that right—
  - (i) formed all, or part of, the consideration given for the assignment or release of a right which was obtained before 6th April 1999 (“the first right”) to acquire shares in a body corporate (“the first body corporate”);
  - (ii) is a right to acquire shares in the first body corporate or any other body corporate, and
  - (iii) was not treated as consideration for the assignment or release of the first right by virtue of section 136(1) of the Income and Corporation Taxes Act 1988; and
- (b) at the time of its acquisition, the total market value of the subsequent right was not similar to the total market value of the first right immediately before its assignment or release,

and which falls to be taken into account in the computation of a person’s earnings shall, for the purposes of earnings-related contributions, be calculated or estimated in accordance with the provisions of paragraph (19) of this regulation.

(19) The amount referred to in paragraph (18) of this regulation shall be calculated or estimated in respect of a gain realised by the exercise at any time of a subsequent right, on the basis of the best estimate that can reasonably be made, of such part of that gain which relates to the difference between—

- (a) the amount that a person might reasonably expect to obtain from a sale in the open market at the time that the shares were acquired pursuant to that subsequent right less the amount or value of the consideration (if any) given for those shares and the grant of that right; and
- (b) the amount that a person might reasonably expect to obtain from a sale in the open market of the shares which were the subject of the first right at the time of its assignment or release less the amount or value of the consideration (if any) given for those shares and the grant of that right,

and for the purposes of this paragraph “gain” means the amount realised by the exercise of a subsequent right less any amount which has previously been included in that person’s earnings for the purposes of his assessment of earnings-related contributions in respect of his acquisition, assignment or release of the first right (a just apportionment being made of any entire consideration given for the grant of the right to acquire those shares and other shares or otherwise for the grant of the right to acquire those shares and for something else besides).

(20) For the purposes of paragraphs (16) to (19) and this paragraph of this regulation—

- (a) “total market value” means the price which the shares which are the subject of the right in question might reasonably be expected to fetch on sale in the open market;
- (b) the total market value of the subsequent right is similar to the total market value of the first right if it is not substantially greater than that latter right;

- (c) “total discount” means the difference between the total value of the exercise price of the shares that are the subject of the right in question and the total market value of that right;
- (d) neither the consideration given for the grant of the right nor any such entire consideration shall be taken to include the performance of any duties of, or in connection with, the office or employment by reason of which the right was granted, and no part of the amount or value of the consideration given for the grant shall be deducted more than once;
- (e) in so far as the context permits, “shares” include stock;
- (f) “body corporate” includes—
  - (i) a body corporate constituted under the law of a country or territory outside the United Kingdom, and
  - (ii) an unincorporated association wherever constituted.”.

### **Amendment of regulation 19 of the principal Regulations**

3. In regulation 19 of the principal Regulations (payments to be disregarded)—
- (a) in paragraph (1)—
    - (i) sub-paragraph (ll)(11) shall be omitted;
    - (ii) after sub-paragraph (zc)(12) there shall be added the following sub-paragraphs—
      - “(zd) a payment by way of—
        - (i) a gain realised by the exercise of a right to acquire shares in a body corporate chargeable to income tax under Schedule E by virtue of section 135(13) of the Income and Corporation Taxes Act 1988 (gains by directors and employees from share options);
        - (ii) the grant of a right to acquire shares obtained on, or after, 6th April 1999 which is capable of being exercised more than 10 years after it is obtained,
 where that right and those shares are not readily convertible assets;
    - (ze) a payment by way of the grant of a right obtained on, or after, 6th April 1999 to acquire shares which is not capable of being exercised more than 10 years after it is obtained;
    - (zf) a payment by way of the conferment of a conditional interest in shares, where that interest will, or might, remain only conditional until a time more than 5 years after its acquisition, which is acquired pursuant to the exercise of a right to acquire shares granted on, or after, 6th April 1999 where—
      - (i) the conferment of that interest would otherwise be chargeable to income tax by virtue of section 135 of the Income and Corporation Taxes Act 1988, and

---

(11) Sub-paragraph (ll) was inserted by [S.R. 1998 No. 332](#)

(12) Sub-paragraph (zc) was added by [S.R. 1998 No. 317](#)

(13) Section 135 was amended by section 49(1) of the Finance Act 1998 (c. 36); see also section 4(4)(a) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 as substituted by Article 47(1) of the Social Security (Northern Ireland) Order 1998

- (ii) the acquisition of that interest would be treated as earnings by virtue of regulation 17AB(14) of these Regulations (further provision as to payments to be treated as earnings);
  - (zg) a payment by way of the acquisition of an interest in shares pursuant to a right to acquire shares granted before 9th April 1998 where the acquisition of that interest would be treated as earnings by virtue of regulation 17AB of these Regulations;
  - (zh) a payment by way of a gain realised by the assignment or release of a right (“the first right”) to acquire shares in a body corporate (“the first body corporate”) chargeable to income tax under Schedule E by virtue of section 135 of the Income and Corporation Taxes Act 1988, where a subsequent right—
    - (i) forms all, or part of, the consideration given for the assignment or release of the first right, and
    - (ii) the subsequent right is—
      - (aa) a right to acquire shares in the first body corporate or any other body corporate, and
      - (bb) not treated as consideration for the assignment or release of the first right by virtue of section 136(1) of the Income and Corporation Taxes Act 1988 (provisions supplementary to section 135),  
but this sub-paragraph shall not apply where the first right was acquired before 6th April 1999 and the total discount on the total market value of the subsequent right is substantially greater than the total discount on the total market value of the first right at the time of its assignment or release;
  - (zi) a payment by way of a gain realised by the exercise, or by the assignment or release, of a right obtained before 6th April 1999 to acquire shares in a body corporate chargeable to income tax under Schedule E by virtue of section 135 of the Income and Corporation Taxes Act 1988, unless—
    - (i) that right (“the subsequent right”)—
      - (aa) forms all, or part of, the consideration given for the assignment or release of a right to acquire shares in a body corporate (“the first right”);
      - (bb) is a right to acquire shares in the first body corporate or any other body corporate;
      - (cc) is not treated as consideration for the assignment or release of the first right by virtue of section 136(1) of the Income and Corporation Taxes Act 1988, and
    - (ii) at the time of its acquisition, the total market value of the subsequent right was not similar to the total market value of the first right immediately before its assignment or release.”;
- (b) after paragraph (10)(15) there shall be added the following paragraph—
- “(11) For the purposes of paragraph (1)(zd), (zh) and (zi) and this paragraph of this regulation—

---

(14) Regulation 17AB was inserted by [S.R. 1998 No. 317](#)

(15) Paragraph (10) was added by [S.R. 1998 No. 317](#)

- (a) “body corporate” includes—
  - (i) a body corporate constituted under the law of a country or territory outside the United Kingdom, and
  - (ii) an unincorporated association wherever constituted;
- (b) “total discount” means the difference between the total value of the exercise price of the shares that are the subject of the right in question and the total market value of that right;
- (c) “total market value” means the price which the shares which are the subject of the right in question might reasonably be expected to fetch on sale in the open market;
- (d) the total market value of the subsequent right is similar to the total market value of the first right if it is not substantially greater than that latter right.”.

#### **Insertion of Part IIB into the principal Regulations**

4. After Part IIA(16) of the principal Regulations (exceptions from liability for, and reductions and calculation of, Class 1A contributions) there shall be inserted the following Part—

### “PART IIB

#### CALCULATION OF, AND EXCEPTION FROM LIABILITY FOR, CLASS 1B CONTRIBUTIONS

##### **Calculation of Class 1B contributions**

**22I.** Where a person is liable to pay a Class 1B contribution in accordance with the provisions of section 10A of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (Class 1B contributions), the amount of that contribution shall be calculated to the nearest £0.01 and any amount of £0.005 or less shall be disregarded.

##### **Exception from liability for Class 1B contributions**

**22J.—(1)** A person shall be excepted from liability to pay a Class 1B contribution for any year in respect of—

- (a) the amount of any of the chargeable emoluments under section 10A(4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 of an employee included in a PAYE settlement agreement; and
- (b) the total amount of income tax in respect of which that person is accountable to the Inland Revenue in relation to emoluments of such an employee in accordance with a PAYE settlement agreement,

where the employee is—

- (i) subject to the legislation of a contracting party, other than the United Kingdom, to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993(17), or

---

(16) Part IIA was inserted by S.R. 1992 No. 126; regulation 22H was added by S.R. 1998 No. 317

(17) O.J. No. L1, 3.1.94, p. 7

- (ii) a person subject to the legislation of a country outside the United Kingdom in respect of which there is an order under section 155 of the Social Security Administration (Northern Ireland) Act 1992<sup>(18)</sup> (reciprocal agreements with countries outside the United Kingdom) giving effect to a reciprocal agreement.

(2) Where, under the foregoing provisions of this regulation, a person is excepted from liability to pay a Class 1B contribution for any year, that person shall be entitled, if he so wishes, to pay that contribution for that year.”

#### **Amendment of regulation 31 of the principal Regulations**

5. In regulation 31<sup>(19)</sup> of the principal Regulations (disposal of contributions not properly paid)

- (a) in paragraph (1) after “Class 1A” there shall be inserted “, Class 1B”;
- (b) for paragraph (2) there shall be substituted the following paragraph—

“(2) Where the whole or any part of a Class 1A contribution or a Class 1B contribution falls to be returned by the Department to any person under regulation 32(1)<sup>(20)</sup> 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)<sup>(21)</sup> of these Regulations, the Department may treat—

- (a) the amount of that Class 1A contribution or, as the case may be, any part of such a contribution, as a payment on account of any secondary Class 1 contributions, Class 1B contribution or Class 2 contributions;
- (b) the amount of that Class 1B contribution or, as the case may be, any part of such a contribution, as a payment on account of any secondary Class 1 contributions, Class 1A contribution or Class 2 contributions,

properly payable by that person.”

#### **Amendment of regulation 32 of the principal Regulations**

6. In regulation 32(1)(a) of the principal Regulations (return of contributions) after “Class 1A contributions” there shall be inserted “and Class 1B contributions”.

#### **Amendment of regulation 46 of the principal Regulations**

7. In regulation 46<sup>(22)</sup> of the principal Regulations (collection and recovery of earnings-related contributions and Class 1A contributions) for “and Class 1A contributions” in the shoulder note and in both places where it occurs there shall be substituted “, Class 1A contributions and Class 1B contributions”.

#### **Amendment of regulation 111 of the principal Regulations**

8. In regulation 111<sup>(23)</sup> of the principal Regulations (conditions as to residence or presence in Northern Ireland)—

---

<sup>(18)</sup> 1992 c. 8; section 155 was amended by paragraph 48 of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15))

<sup>(19)</sup> Regulation 31 was amended by S.R. 1992 No. 41

<sup>(20)</sup> Paragraph (1) was amended by S.R. 1984 No. 43 and S.R. 1992 No. 41

<sup>(21)</sup> Regulation 33A was inserted by S.R. 1992 No. 41 and amended by S.R. 1992 No. 280

<sup>(22)</sup> Regulation 46 was amended by S.R. 1992 No. 41

<sup>(23)</sup> Relevant amending regulations are S.R. 1992 No. 41

- (a) in paragraph (1) after “Class 1A contributions” there shall be inserted “or Class 1B contributions”;
- (b) in paragraph (1)(b)—
  - (i) for “or Class 1A contributions” there shall be substituted “, Class 1A contributions or Class 1B contributions”;
  - (ii) after “secondary contributor” there shall be inserted “or the person liable for the payment of Class 1B contributions”;
- (c) after sub-paragraph (b) of paragraph (2) there shall be added the following sub-paragraph—
  - “(c) no Class 1B contribution shall be payable in respect of any PAYE settlement agreement in connection with such employment.”.

### **Amendment of regulation 112 of the principal Regulations**

**9.** In regulation 112(2)(c)(**24**) of the principal Regulations (payment of contributions for periods abroad) after “Class 1A contributions” there shall be inserted “and Class 1B contributions”.

### **Amendment of Schedule 1 to the principal Regulations**

**10.**—(1) Schedule 1 to the principal Regulations (application of Income Tax (Employments) Regulations 1973(**25**) to earnings-related contributions and Class 1A contributions) shall be amended in accordance with paragraphs (2) to (12) of this regulation.

(2) In the heading(**26**) for “AND CLASS 1A CONTRIBUTIONS” there shall be substituted “, CLASS 1A CONTRIBUTIONS AND CLASS 1B CONTRIBUTIONS”.

(3) In Regulation 13 (calculation of deduction)—

- (a) in paragraph (1) for “section 4(3) of the Act” there shall be substituted “section 6(3)(a) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (liability for Class 1 contributions)”;
- (b) in paragraph (2A)(b)—
  - (i) in head (ii) for “Article 14 of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977” there shall be substituted “section 112(**27**) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (certain sums to be earnings)”;
  - (ii) in head (iii)(**28**) the words from “except where,” to “apply” shall be omitted;
- (c) in paragraph (3A)(**29**)—
  - (i) for “the provisions of the preceding paragraph” there shall be substituted “paragraphs (2A), (3C) and (3F)”;
  - (ii) for “that paragraph” in both places where it occurs there shall be substituted “those paragraphs”;
- (d) after paragraph (3A) there shall be inserted the following paragraphs—

---

(24) Sub-paragraph (c) was added by [S.R. 1992 No. 41](#)

(25) [S.I. 1973/334](#); this and its subsequent amending instruments were consolidated as [S.I. 1993/744](#)

(26) Heading was amended by [S.R. 1992 No. 41](#)

(27) Section 112 was amended by Schedule 1 to the Employment Rights (Northern Ireland) Order 1996 ([S.I. 1996/1919 \(N.I. 16\)](#))

(28) Head (iii) was amended by [S.R. 1982 No. 267](#)

(29) Paragraph (3A) was amended by [S.R. 1984 No. 43](#)



“(3B) Paragraph (3C) of this Regulation applies where an employer makes a payment consisting of solely non-monetary earnings, or a combination of monetary and non-monetary earnings, to—

- (a) an employee;
- (b) an ex-employee,

and at the time of the payment of those earnings there are no, or insufficient, monetary earnings from which the employer could deduct the amount of earnings-related contributions which the employee or ex-employee, as the case may be, is liable to pay under section 6(3)(a) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992; and for the purposes of this paragraph “ex-employee” means a person who—

- (i) ceases to be employed by the employer in a particular year (“the cessation year”), and
- (ii) receives such earnings from the employer after the cessation of employment but in the cessation year.

(3C) Where, in the circumstances specified in paragraph (3B) of this Regulation, the employer does not deduct from the earnings referred to in that paragraph the full amount of earnings-related contributions which by virtue of these Regulations he is entitled to deduct, he may, subject to the provisions of paragraph (3A) of this Regulation, recover the amount so underdeducted by deduction from any subsequent payment of monetary earnings to that employee or ex-employee, as the case may be, during the same year.

(3D) Paragraph (3F) of this Regulation applies where—

- (a) a person (“the ex-employee”) ceases in a particular year (“the cessation year”) to be employed by a particular employer (“the employer”); and
- (b) the ex-employee receives from the employer in the cessation year, after the cessation of employment, earnings in the form of—
  - (i) a beneficial interest in shares;
  - (ii) a conditional interest in shares or a beneficial interest in convertible shares treated as earnings by virtue of regulation 17AB of the Main Regulations (further provision as to payments to be treated as earnings);
  - (iii) any gain on which the ex-employee is chargeable to tax by virtue of section 135 of the Income and Corporation Taxes Act 1988 (gains by directors and employees from share options); and
- (c) at the time of the payment of those earnings there are no, or insufficient, monetary earnings from which the employer could deduct the amount of earnings-related contributions which the employee is liable to pay under section 6(3)(a) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

(3E) For the purposes of paragraph (3D) of this Regulation—

- (a) “conditional shares” means shares within the meaning given for the purposes of sections 140A and 140B(30) of the Income and Corporation Taxes Act 1988 (conditional acquisition of shares and consideration for shares conditionally acquired) in section 140C of that Act (cases where interest to be treated as only conditional) and, by virtue of section 140A(9) of that Act, includes securities issued by a company;

(b) “convertible shares” means shares which are convertible within the meaning of section 140D of the Income and Corporation Taxes Act 1988.

(3F) Where, in the circumstances specified in paragraph (3D) of this Regulation, the employer has not deducted from the earnings referred to in sub-paragraph (b) of that paragraph the full amount of earnings-related contributions which by virtue of these Regulations he is entitled to deduct, he may, without prejudice to the provisions of paragraph (3C) of this Regulation and subject to the provisions of paragraph (3G)(b) of this Regulation, recover the amount so underdeducted by deduction from the proceeds of sale of some, or all, of—

- (a) the shares referred to in sub-paragraph (b)(i) and (ii) of paragraph (3D) of this Regulation;
- (b) the shares which form the subject matter of the option referred to in sub-paragraph (b)(iii) of that paragraph.

(3G) For the purposes of paragraph (3F) of this Regulation—

- (a) the whole of the amount underdeducted may be recovered from the proceeds of sale of some, or all, of the shares referred to in that paragraph; and
- (b) the employee’s prior written consent to that sale and the recovery of all or part of the underdeduction from the proceeds thereof, shall be required.”

(4) In the cross-heading to Part IV(31) for “AND CLASS 1A CONTRIBUTIONS” there shall be substituted “, CLASS 1A CONTRIBUTIONS AND CLASS 1B CONTRIBUTIONS”.

(5) In Regulation 26C(32) (payment of Class 1A contributions)—

- (a) in the shoulder note after “Class 1A contributions” there shall be added “and Class 1B contributions”;
- (b) after paragraph (1) there shall be inserted the following paragraph—
 

“(1A) A person who is liable to pay a Class 1B contribution (“the employer”) shall pay that contribution to the Collector not later than 19th October in the year immediately following the end of the year in respect of which that contribution is payable.”;
- (c) in paragraph (3) after “Class 1A contributions” there shall be inserted “or Class 1B contributions”.

(6) For Regulation 28(33) (recovery of earnings-related contributions or Class 1A contributions) there shall be substituted the following Regulation—

**“Recovery of earnings-related contributions, Class 1A contributions or Class 1B 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(34) (pay as you earn) relating to the recovery of tax and 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(35) or

---

(31) Cross-heading was amended by S.R. 1992 No. 41

(32) Regulation 26C was inserted by S.R. 1992 No. 41 and amended by S.R. 1992 No. 280 and S.R. 1996 No. 433

(33) Regulation 28 was substituted by S.R. 1992 No. 41 and amended by S.R. 1992 No. 280 and S.R. 1996 No. 433

(34) 1988 c. 1; section 203 was amended by section 128 of, and paragraph 4 of Schedule 3 to, the Finance Act 1988 (c. 39), section 45(3) of the Finance Act 1989 (c. 26), paragraph 38 of Schedule 19 to the Finance Act 1994 (c. 9) and section 119 of the Finance Act 1998

(35) Regulation 26 was substituted by S.R. 1991 No. 310 and amended by S.R. 1996 No. 30

26A**(36)**, or which he is deemed to be liable to pay to the Collector for any income tax period under Regulation 27A**(37)**;

(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 26D(5)**(38)**, or which he is deemed to be liable to pay to the Collector in respect of any year under Regulation 27B**(39)**; or

(c) any amount of Class 1B contributions which an employer is liable to pay to the Collector in respect of any year in accordance with Regulation 26C(1A),

as if each of those amounts had been charged to tax 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 paragraphs (2) to (4) 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) Class 1B contributions which the employer is liable to pay to the Collector in respect of any year;

(d) a combination of those classes of contributions as specified in sub-paragraphs (a), (b) and (c) of this paragraph; or

(e) any of the contributions as specified in sub-paragraph (a), (b), (c) or (d) 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.

(3) For the purposes of—

(a) proceedings under section 66 of the Taxes Management Act 1970**(40)** (including proceedings under that section as applied by the provisions of this Regulation);

(b) summary proceedings,

the total amount of contributions, in addition to any tax which the employer is liable to pay to the Collector for any income tax period, referred to in paragraph (2) of this Regulation shall, subject to the provisions of the proviso to paragraph (1) of this Regulation, be one cause of action or one matter of complaint.

(4) Nothing in paragraph (2) or (3) of this Regulation shall prevent the bringing of separate proceedings for the recovery of each of the several amounts of—

---

**(36)** Regulation 26A was substituted by S.R. 1991 No. 310 and amended by S.R. 1995 No. 91 and S.R. 1996 No. 30

**(37)** Regulation 27A was inserted by S.R. 1985 No. 59 and amended by S.R. 1990 No. 110, S.R. 1991 No. 310 and S.R. 1995 No. 91

**(38)** Regulation 26D was inserted by S.R. 1992 No. 280 and amended by S.R. 1997 No. 163

**(39)** Regulation 27B was inserted by S.R. 1992 No. 41 and amended by S.R. 1992 No. 280, S.R. 1995 No. 91 and S.R. 1996 No. 433

**(40)** 1970 c. 9; section 66 was amended by Part II of Schedule 1 to the County Courts (Northern Ireland) Order 1980 (S.I. 1980/397 (N.I. 3)), paragraph 36 of Schedule 2 to the County Courts Act 1984 (c. 28), section 57(2) of the Finance Act 1984 (c. 43) and S.I. 1991/724

- (a) earnings-related contributions which the employer is liable to pay for any income tax period in respect of each of his several employees;
- (b) Class 1A contributions which the employer is liable to pay in respect of any year in respect of each of his several employees;
- (c) Class 1B contributions which the employer is liable to pay in respect of any year in respect of each of his several employees; or
- (d) tax which the employer is liable to pay for any income tax period in respect of each of his several employees.”.

(7) In Regulation 28A(41) (interest on overdue earnings-related contributions or Class 1A contributions)—

(a) in the shoulder note for “*or Class 1A contributions*” there shall be substituted “, *Class 1A contributions or Class 1B contributions*”;

(b) for paragraph (1) there shall be substituted the following paragraph—

“(1) Subject to Regulation 28D(42), where, in relation to the year ended 5th April 1993 or any subsequent year, an employer has not—

(a) 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;

(b) by 19th October next following the year in respect of which it was due paid a Class 1B contribution,

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(43) for the purpose of paragraph 6(3) of Schedule 1 to the Social Security Contributions and Benefits Act 1992(44) from the reckonable date until payment.”;

(c) in paragraph (2) for “or a Class 1A contribution” there shall be substituted “, a Class 1A contribution or a Class 1B contribution”;

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

“(3) For the purposes of this Regulation—

(a) “employer” means, in relation to a Class 1B contribution, the person liable to pay such a contribution in accordance with section 10A(45) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (Class 1B contributions);

(b) “the reckonable date” means, in relation to—

(i) an earnings-related contribution, the 14th day after the end of the year in respect of which it was due;

(ii) a Class 1A contribution, the 14th day after the end of the year in which it was due to be paid;

(iii) a Class 1B contribution, the 19th October next following the year in respect of which it was due.”.

---

(41) Regulation 28A was inserted by [S.R. 1993 No. 130](#)

(42) Regulation 28D was inserted by [S.R. 1993 No. 130](#)

(43) [1992 c. 7](#)

(44) [1992 c. 4](#)

(45) Section 10A was inserted by Article 50 of the Social Security (Northern Ireland) Order 1998 (S.I. [1998/1506 \(N.I. 10\)](#))

(8) For Regulation 28B(46) (payment of interest on repaid earnings-related contributions or Class 1A contributions) there shall be substituted the following Regulation—

**“Payment of interest on repaid earnings-related contributions, Class 1A contributions or Class 1B 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 not later than the year ended 5th April 1999 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 paragraph (1) 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.

(3) Where an earnings-related contribution, a Class 1A contribution or a Class 1B contribution paid by an employer in respect of the year ended 5th April 2000 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.

(4) For the purposes of paragraph (3) of this Regulation “the relevant date” is—

- (a) in the case of—
  - (i) an earnings-related contribution, the 14th day after the end of the year in respect of which that contribution was paid;
  - (ii) a Class 1A contribution, the 14th day after the end of the year in which that contribution was due to be paid, or
  - (iii) a Class 1B contribution, the 19th October next following the year in respect of which that contribution was paid; or
- (b) the date on which the earnings-related contribution, Class 1A contribution or Class 1B contribution was paid if that date is later than the date referred to in subparagraph (a) of this paragraph.”.

(9) For Regulation 28C(47) (repayment of interest) there shall be substituted the following Regulation—

**“Repayment of interest**

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

---

(46) Regulation 28B was inserted by [S.R. 1993 No. 130](#)

(47) Regulation 28C was inserted by [S.R. 1993 No. 130](#)

- (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, Class 1A contribution or Class 1B contribution in respect of which interest was paid is returned or repaid to him in accordance with the provisions of regulation 32 or 33A of the Main Regulations.”.
- (10) In Regulation 28D (remission of interest)—
- (a) in paragraph (2)(a) for “or a Class 1A contribution” there shall be substituted “, a Class 1A contribution or a Class 1B contribution”;
  - (b) after paragraph (2)(b) there shall be added the following sub-paragraph—
    - “(c) an appeal against a determination as to the amount of income tax in respect of which the person liable to pay a Class 1B contribution is accountable in accordance with a PAYE settlement agreement has been brought but not finally determined.”;
  - (c) after paragraph (3)(c)(ii) there shall be added the following head—
    - “(iii) paragraph (2)(c) of this Regulation, “the first relevant date” means the date on which the appeal against the determination as to the amount of income tax payable to the Collector is submitted to the Commissioners of Inland Revenue and “the second relevant date” means the date 14 days after that appeal is finally disposed of.”.
- (11) In Regulation 30(6)(48) (return by employer at end of year) “paragraphs (1) and (2) of” shall be omitted.
- (12) In Regulation 32 (inspection of employer’s records)—
- (a) in paragraphs (1)(aa) and (2)(aa)(49) after “Class 1A contributions” there shall be inserted “or Class 1B contributions”;
  - (b) in paragraph (2)(b)(50) for “or Class 1A contributions, or both” there shall be substituted “, Class 1A contributions or Class 1B contributions, or a combination”;
  - (c) in paragraph (4) “paragraph (1) and (2) of” shall be omitted;
  - (d) in paragraph (5)(51) after “Class 1A contribution” there shall be inserted “or Class 1B contribution”;
  - (e) after paragraph (5) there shall be added the following paragraph—
    - “(6) For the purposes of this Regulation “employer” means, in relation to a Class 1B contribution, the person liable to pay such a contribution in accordance with section 10A of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (Class 1B contributions).”.

### **Amendment of the Statutory Sick Pay (General) Regulations**

**11.** For paragraph (2) of regulation 17 of the Statutory Sick Pay (General) Regulations (Northern Ireland) 1982(52) (meaning of “earnings”) there shall be substituted the following paragraph—

“(2) For the purposes of section 159(2) of the Contributions and Benefits Act, the expression “earnings” refers to gross earnings and includes any remuneration or profit derived from a person’s employment except any payment or amount which is—

---

(48) Paragraph (6) was substituted by [S.R. 1992 No. 41](#) and amended by [S.R. 1992 No. 280](#)

(49) Paragraphs (1)(aa) and (2)(aa) were inserted by [S.R. 1992 No. 41](#)

(50) Sub-paragraph (b) was amended by [S.R. 1992 No. 41](#)

(51) Paragraph (5) was added by [S.R. 1981 No. 30](#) and amended by [S.R. 1984 No. 43](#), [S.R. 1992 No. 41](#) and [S.R. 1996 No. 433](#)

(52) [S.R. 1982 No. 263](#); paragraph (2) was substituted by [S.R. 1992 No. 453](#)

- (a) excluded from the computation of a person's earnings under regulation 19 (payments to be disregarded) or 19B (payments to directors to be disregarded) of the Social Security (Contributions) Regulations (Northern Ireland) 1979(53);
- (b) a chargeable emolument under section 10A of the Contributions and Benefits Act (Class 1B contributions), except where, in consequence of such a chargeable emolument being excluded from earnings, a person would not be entitled to statutory sick pay.”.

### **Amendment of the Statutory Maternity Pay (General) Regulations**

12. For paragraph (2) of regulation 20 of the Statutory Maternity Pay (General) Regulations (Northern Ireland) 1987(54) (meaning of “earnings”) there shall be substituted the following paragraph—

“(2) For the purposes of section 167(4) of the Contributions and Benefits Act, the expression “earnings” refers to gross earnings and includes any remuneration or profit derived from a woman's employment except any payment or amount which is—

- (a) excluded from the computation of a person's earnings under regulation 19 (payments to be disregarded) or 19B (payments to directors to be disregarded) of the Social Security (Contributions) Regulations (Northern Ireland) 1979;
- (b) a chargeable emolument under section 10A of the Contributions and Benefits Act (Class 1B contributions), except where, in consequence of such a chargeable emolument being excluded from earnings, a woman would not be entitled to statutory maternity pay.”.

### **Revocations**

13. The following regulations are hereby revoked—

- (a) the Contracting-out (Recovery of Class 1 Contributions) Regulations (Northern Ireland) 1982(55);
- (b) regulations 2(c), 5(a) and 10(2), (6) and (10) of the Social Security (Contributions) (Amendment) Regulations (Northern Ireland) 1992(56);
- (c) regulation 3(10) of the Social Security (Contributions) (Amendment No. 6) Regulations (Northern Ireland) 1992(57);
- (d) regulations 4(3)(b) and 5(3)(b) of the Social Security (Miscellaneous Provisions) (Amendment No. 3) Regulations (Northern Ireland) 1992(58);
- (e) regulation 7(4)(c) of the Social Security (Contributions) (Amendment No. 5) Regulations (Northern Ireland) 1996(59);
- (f) the Social Security (Contributions) (Amendment No. 4) Regulations (Northern Ireland) 1998(60);

---

(53) S.R. 1979 No. 186; relevant amending regulations are S.R. 1984 No. 43, S.R. 1987 Nos. 143, 348 and 468, S.R. 1988 No. 204, S.R. 1991 Nos. 106 and 490, S.R. 1993 Nos. 64, 114 and 437, S.R. 1995 No. 257, S.R. 1996 Nos. 89 and 566, S.R. 1997 Nos. 163 and 180 and S.R. 1998 Nos. 103 and 317

(54) S.R. 1987 No. 30; paragraph (2) was substituted by S.R. 1992 No. 453

(55) S.R. 1982 No. 267

(56) S.R. 1992 No. 41

(57) S.R. 1992 No. 280

(58) S.R. 1992 No. 453

(59) S.R. 1996 No. 433

(60) S.R. 1998 No. 332

---

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

---

(g) regulation 2(a), (b) and (d) of the Social Security (Contributions) (Amendment No. 5) Regulations (Northern Ireland) 1998(61).

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

L.S.

11th March 1999.

*John O'Neill*  
Assistant Secretary

The Commissioners of Inland Revenue hereby concur.

15th March 1999

*Nick Montagu*  
*G. H. Bush*  
Two of the Commissioners of Inland Revenue



---

## 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”), the Statutory Sick Pay (General) Regulations (Northern Ireland) 1982 and the Statutory Maternity Pay (General) Regulations (Northern Ireland) 1987.

Regulation 2 amends regulation 18 of the principal Regulations by adding new paragraphs (16) to (20) to provide for the calculation of earnings in respect of any payment by way of a gain arising from the exercise, assignment or release of a right to acquire shares in a body corporate and for matters incidental thereto. It also omits paragraphs (2A), (2B), (4), (5), (5A) and (9A) and makes consequential amendments to paragraphs (2), (7A) and (9).

Regulation 3(a) amends regulation 19(1) of the principal Regulations by omitting sub-paragraph (II) and by adding 6 new sub-paragraphs which exclude from the computation of a person’s earnings for the purposes of earnings-related contributions—

- (a) a payment by way of a gain realised by the exercise of a right to acquire shares where that right and those shares are not readily convertible assets (new sub-paragraph (zd));
- (b) a payment by way of the grant of a right on, or after, 6th April 1999 to acquire shares which is not capable of being exercised more than 10 years after it is obtained (new sub-paragraph (ze));
- (c) a payment by way of the conferment of a beneficial interest in conditional shares pursuant to the exercise of a right to acquire shares granted on, or after, 6th April 1999 (new sub-paragraph (zf));
- (d) a payment by way of the acquisition of conditional and convertible shares pursuant to a right to acquire shares granted before 9th April 1998 (new sub-paragraph (zg));
- (e) a payment by way of a gain realised by the assignment or release of a right to acquire shares where a subsequent right forms all or part of the consideration for that assignment or release (new sub-paragraph (zh));
- (f) a payment by way of a gain realised by the exercise, assignment or release of a right to acquire shares obtained before 6th April 1999 unless that right was received in consideration for the assignment or release of another right and was of a substantially greater total market value than that of the right it replaced (new sub-paragraph (zi)).

Regulation 3(b) adds a new paragraph (10) to regulation 19 of the principal Regulations to make incidental provision for the purposes of the new sub-paragraphs (zd), (zh) and (zi).

Regulation 4 inserts a new Part IIB into the principal Regulations (comprising new regulations 22I and 22J) to provide for the calculation of, and exception from liability for, Class 1B contributions.

Regulation 10 amends Schedule 1 to the principal Regulations—

- (a) to provide for the recovery of contributions following a payment to an employee, or ex-employee, consisting wholly or partially of non-monetary earnings in cases where there are no, or insufficient, monetary earnings from which such contributions could be deducted at the time of that payment; and
- (b) to extend the provisions of that Schedule to Class 1B contributions for the purposes of the payment and recovery of those contributions and the inspection of employer’s records.

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

Regulation 11 substitutes regulation 17(2) of the Statutory Sick Pay (General) Regulations (Northern Ireland) 1982 to provide for emoluments included in a PAYE settlement agreement to be excluded from the calculation of earnings for the purposes of statutory sick pay unless such exclusion results in a person failing to qualify for the benefit.

Regulation 12 substitutes regulation 20(2) of the Statutory Maternity Pay (General) Regulations (Northern Ireland) 1987 to provide for emoluments included in a PAYE settlement agreement to be excluded from the calculation of earnings for the purposes of statutory maternity pay unless such exclusion results in a woman failing to qualify for the benefit.

Regulations 5 to 9 make consequential amendments to regulations 31, 32, 46, 111 and 112 of the principal Regulations.

Regulation 13 contains revocations.

Sections 1(6) and 10A of, and paragraphs 5A, 6 and 8(1)(1) of Schedule 1 to, the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (“the Act”), some of the enabling provisions under which these Regulations are made, were either amended or inserted by Article 50 of, and paragraphs 38(3) and 58(7) to (9), (11) and (16) of Schedule 6 to, the Social Security (Northern Ireland) Order 1998 (“the Order”) which were brought into operation, for the purpose only of authorising the making of regulations, on 9th September 1998 and for all other purposes on 6th April 1999, by virtue of the Social Security (1998 Order) (Commencement No. 1) Order (Northern Ireland) 1998 (S.R. 1998 No. 312 (C. 15)) (“the Commencement Order”). Paragraph 3(5) of Schedule 1 to the Act, a further enabling provision, was added by Article 52(b) of the Order which was brought into operation on 9th September 1998 by virtue of the Commencement Order.

These Regulations correspond 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.