STATUTORY RULES OF NORTHERN IRELAND

2001 No. 102

SOCIAL SECURITY

The Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations (Northern Ireland) 2001

Made - - - -	*7th March 2001*
Coming into operation	*6th April 2001*

The Department for Social Development, in exercise of the powers conferred by sections 13(3), 22(5) and 171(1) to (4) of, and paragraph 8(1)(*d*) and (1A) of Schedule 1 to, the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**) and sections 158C and 165(1) and (3) to (6) of the Social Security Administration (Northern Ireland) Act 1992(**2**), and now vested in it(**3**), 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 (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations (Northern Ireland) 2001 and shall come into operation on 6th April 2001.

(2) In these Regulations—

"the Act" means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

"the Order" means the Jobseekers (Northern Ireland) Order 1995(**4**);

(**1**) 1992 c. 7; section 13(3) was amended by paragraph 15(3) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) ("the 1999 Order"); section 22(5) was amended by paragraph 5 of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)); section 171(2) was amended by paragraph 28(2) of Schedule 3 to the 1999 Order; paragraph 8(1) of Schedule 1 was amended, and sub-paragraph (1A) was inserted, by paragraph 38(2) and (3) of Schedule 3 to the 1999 Order and sub-paragraph (1A) was amended by paragraph 12 of Schedule 11 to the Welfare Reform and Pensions Act 1999 (c. 30)

(**2**) 1992 c. 8; section 158C was inserted by paragraph 6 of Schedule 1 to the Social Security Administration (Fraud) (Northern Ireland) Order 1997 (S.I. 1997/1182 (N.I. 11)) and amended by paragraph 34 of Schedule 1 to the 1999 Order; section 165(1) was amended by paragraph 49(2) of Schedule 3 to the 1999 Order and subsection (6) was amended by paragraph 86 of Schedule 6 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10))

(**3**) *See* Article 8(*b*) of S.R. 1999 No. 481

(**4**) S.I. 1995/2705 (N.I. 15)

"the Contributions Regulations" means the Social Security (Contributions) Regulations (Northern Ireland) 1979(**5**);

"contribution-based jobseeker's allowance" and "income-based jobseeker's allowance" have the meaning assigned to them in Article 3(4) of the Order (the jobseeker's allowance);

"contribution week" means a period of 7 days beginning with midnight between Saturday and Sunday;

"contributory benefit" includes a contribution-based jobseeker's allowance but not an income-based jobseeker's allowance;

"the Department" means the Department for Social Development;

"due date" means, in relation to any contribution which a person is—

(a) liable to pay, the date by which payment falls to be made in accordance with Part IV of the Contributions Regulations;

(b) entitled, but not liable, to pay, the date 42 days after the end of the year in respect of which it is paid;

"earnings factor" has the meaning assigned to it in section 21(5)(*c*) of the Act (contribution conditions);

"relevant benefit year" has the meaning assigned to it in—

(a) Article 4(4)(*b*) of the Order (the contribution-based conditions), in relation to a contribution-based jobseeker's allowance;

(b) paragraph 2(6)(*b*)(**6**) of Schedule 3 to the Act (contribution conditions for entitlement to benefit), in relation to short-term incapacity benefit;

"relevant time", in relation to short-term incapacity benefit, has the meaning assigned to it in paragraph 2(6)(*a*) of Schedule 3 to the Act;

"year" means tax year.

(3) The Interpretation Act (Northern Ireland) 1954(**7**) shall apply to these Regulations as it applies to an Act of the Assembly.

Appropriation of Class 3 contributions

2. Any person paying Class 3 contributions in one year may appropriate such contributions to the earnings factor of another year if such contributions are payable in respect of that other year or, in the absence of any such appropriation, the Inland Revenue may, with the consent of the contributor, make such appropriation.

Crediting of Class 3 contributions

3. Where, for any year, a contributor's earnings factor derived from—

(a) earnings upon which primary Class 1 contributions have been paid or treated as paid;

(b) credited earnings;

(c) Class 2 or Class 3 contributions paid by or credited to him, or

(d) any or all of such earnings and contributions,

(**5**) S.R. 1979 No. 186; relevant amending provisions are S.R. 1984 No. 43, S.R. 1987 Nos. 143 and 468, S.R. 1989 No. 112, S.R. 1992 Nos. 41 and 138, S.R. 1993 No. 59, S.R. 1995 No. 150, S.R. 1996 No. 430 and S.R. 1999 No. 117, S.I. 2000/2208, 2344 and 2743 and S.I. 2001/46

(**6**) Paragraph 2(6)(*b*) was amended by paragraph 38(2) of Schedule 1 to the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12))

(**7**) 1954 c. 33 (N.I.)

falls short of a figure which is 52 times that year's lower earnings limit for Class 1 contributions by an amount which is equal to, or less than, half that year's lower earnings limit, that contributor shall be credited with a Class 3 contribution for that year.

Treatment for the purpose of any contributory benefit of late paid contributions

4.—(1) Subject to the provisions of regulations 5 and 6 and regulation 40 of the Contributions Regulations (voluntary Class 2 contributions not paid within permitted period), for the purpose of entitlement to any contributory benefit, paragraphs (2) to (9) shall apply to contributions ("relevant contributions")—

(a) paid after the due date, or

(b) treated as paid after the due date under regulation 7(2).

(2) Subject to the provisions of paragraph (4), any relevant contribution other than one referred to in paragraph (3)—

(a) if paid—

(i) after the end of the 2nd year following the year in which liability for that contribution arises;

(ii) following the due date for that contribution in the case of a contribution which a person is entitled, but not liable, to pay,

shall be treated as not paid;

(b) if paid before the end of the said 2nd year, shall, subject to paragraphs (7) and (8), be treated as paid on the date on which payment of the contribution is made.

(3) Subject to the provisions of paragraph (4), any relevant Class 2 contribution payable in respect of a contribution week after 5th April 1983 or any relevant Class 3 contribution payable in respect of a year after 5th April 1982—

(a) if paid—

(i) after the end of the 6th year following the year in which liability for that contribution arises;

(ii) following the due date for that contribution in the case of a contribution which a person is entitled, but not liable, to pay,

shall be treated as not paid;

(b) if paid before the end of the said 6th year, shall, subject to paragraphs (7) and (8), be treated as paid on the date on which payment of the contribution is made.

(4) A Class 3 contribution payable by a person to whom regulation 27(3)(*b*)(ii) or (iii)(**8**) of the Contributions Regulations (Class 3 contributions) applies in respect of a year which includes a period of education, apprenticeship, training, imprisonment or detention in legal custody such as is specified in that regulation—

(a) if paid after the end of the 6th year specified in that regulation, shall be treated as not paid;

(b) if paid before the end of the said 6th year shall, subject to the provisions of paragraphs (7) and (8), be treated as paid on the date on which payment of the contribution is made.

(5) Notwithstanding the provisions of paragraph (4), for the purpose of entitlement to any contributory benefit, where—

(a) a Class 3 contribution other than one referred to in sub-paragraph (*b*) which is payable in respect of a year specified in sub-paragraph (*b*), is paid after—

(**8**) Head (iii) was inserted by regulation 9(*b*) of S.R. 1984 No. 43

(i) the due date, and

(ii) the end of the 2nd year following the year preceding that in which occurred the relevant time or, as the case may be, the relevant event,

that contribution shall be treated as not paid;

(b) in respect of a year after 5th April 1982, a Class 3 contribution which is payable in respect of a year specified in paragraph (4), is paid after—

(i) the due date, and

(ii) the end of the 6th year following the year preceding that in which occurred the relevant time or, as the case may be, the relevant event,

that contribution shall be treated as not paid.

(6) For the purposes of paragraph (5), "relevant event" means the date on which the person concerned attained pensionable age(**9**) or, as the case may be, died under that age.

(7) Notwithstanding the provisions of paragraphs (2), (3) and (4), in determining whether the relevant contribution conditions are satisfied in whole or in part for the purpose of entitlement to any contributory benefit, any relevant contribution which is paid within the time specified in paragraph (2)(*b*), (3)(*b*) or, as the case may be, (4)(*b*) shall be treated—

(a) for the purpose of entitlement in respect of any period before the date on which the payment of the contribution is made, as not paid, and

(b) subject to the provisions of paragraph (8), for the purpose of entitlement in respect of any other period, as paid on the date on which the payment of the contribution is made.

(8) For the purpose of determining whether the second contribution condition for entitlement to a contribution-based jobseeker's allowance or short-term incapacity benefit is satisfied in whole or in part, any relevant contribution shall be treated—

(a) if paid before the beginning of the relevant benefit year, as paid on the due date;

(b) if paid after the end of the benefit year immediately preceding the relevant benefit year, as not paid in relation to the benefit claimed in respect of any day before the expiry of a period of 42 days (including Sundays) commencing with the date on which the payment of that contribution is made, and, subject to the provisions of paragraphs (2)(*a*) and (3)(*a*), as paid at the expiry of that period in relation to entitlement to such benefit in respect of any other period.

(9) For the purposes of paragraph (8), "second contribution condition" in relation to—

(a) a contribution-based jobseeker's allowance is a reference to the condition specified in Article 4(1)(*b*)(**10**) of the Order (the contribution-based conditions);

(b) short-term incapacity benefit is a reference to the condition specified in paragraph 2(3) of Schedule 3 to the Act (contribution conditions for entitlement to benefit).

(10) This regulation shall not apply to Class 4 contributions.

Treatment for the purpose of any contributory benefit of late paid primary Class 1 contributions where there was no consent, connivance or negligence by the primary contributor

5.—(1) This regulation applies where a primary Class 1 contribution which is payable on a primary contributor's behalf by a secondary contributor—

(**9**) Definition of "pensionable age" in section 121(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 was substituted by paragraph 9(*a*) of Schedule 2 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))

(**10**) Article 4(1)(*a*) and (*b*) was modified by regulations 159 and 166 of S.R. 1996 No. 198

(a) is paid after the due date, or

(b) in relation to any claim for—

(i) a contribution-based jobseeker's allowance, is not paid before the beginning of the relevant benefit year, or

(ii) short-term incapacity benefit, is not paid before the relevant time,

and the delay in making payment is shown to the satisfaction of the Inland Revenue not to have been with the consent or connivance of, or attributable to any negligence on the part of, the primary contributor.

(2) Where paragraph (1) applies, the primary Class 1 contribution shall be treated—

(a) for the purpose of the first contribution condition of entitlement to a contribution-based jobseeker's allowance or short-term incapacity benefit, as paid on the day on which payment is made of the earnings in respect of which the contribution is payable, and

(b) for any other purpose relating to entitlement to any contributory benefit, as paid on the due date.

(3) For the purposes of this regulation—

(a) "first contribution condition" in relation to—

(i) a contribution-based jobseeker's allowance is a reference to the condition specified in Article 4(1)(*a*) of the Order (the contribution-based conditions);

(ii) short-term incapacity benefit is a reference to the condition specified in paragraph 2(2)(**11**) of Schedule 3 to the Act (contribution conditions for entitlement to benefit);

(b) "primary contributor" means the person liable to pay a primary Class 1 contribution in accordance with section 6(4)(*a*)(**12**) of the Act (liability for Class 1 contributions);

(c) "secondary contributor" means the person who, in respect of earnings from employed earner's employment, is liable to pay a secondary Class 1 contribution in accordance with section 6(4)(*b*) of the Act.

Treatment for the purpose of any contributory benefit of contributions under the Act paid late through ignorance or error

6.—(1) In the case of a contribution paid by or in respect of a person after the due date, where—

(a) the contribution is paid after the time when it would, under regulation 4 or 5, have been treated as paid for the purpose of entitlement to contributory benefit, and

(b) it is shown to the satisfaction of the Inland Revenue that the failure to pay the contribution before that time is attributable to ignorance or error on the part of that person or the person making the payment and that that ignorance or error was not due to any failure on the part of such person to exercise due care and diligence,

the Inland Revenue may direct that, for the purposes of those regulations, the contribution shall be treated as paid on such earlier day as the Inland Revenue may consider appropriate in the circumstances, and those regulations shall have effect subject to any such direction.

(2) This regulation shall not apply to a Class 4 contribution.

(**11**) Paragraph 2(2) is amended by Article 59(2) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))

(**12**) Section 6 was substituted by paragraph 2 of Schedule 10 to the Welfare Reform and Pensions Act 1999 and amended by section 81(3) of the Child Support, Pensions and Social Security Act 2000 (c. 19)