STATUTORY RULES OF NORTHERN IRELAND

1999 No. 171

SOCIAL SECURITY

The Social Security (Contributions) (Amendment No. 3) Regulations (Northern Ireland) 1999

Made - - - -	*31st March 1999*
Coming into operation	*20th April 1999*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by section 171(1) to (3) of, and paragraphs 7A(2) and 7B of Schedule 1 to, the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**) and sections 107 and 165(1) of the Social Security Administration (Northern Ireland) Act 1992(**2**) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Contributions) (Amendment No. 3) Regulations (Northern Ireland) 1999 and shall come into operation on 20th April 1999.

(2) In these Regulations "the principal Regulations" means the Social Security (Contributions) Regulations (Northern Ireland) 1979(**3**).

Substitution of regulation 47 of the principal Regulations

2. For regulation 47(**4**) of the principal Regulations (direct collection and recovery of earnings-related contributions or Class 1A contributions) there shall be substituted the following regulations—

"**Direct payment of a Class 1A contribution**

47. Where a Class 1A contribution is not paid to the Collector of Taxes in accordance with the provisions of Schedule 1 to these Regulations it may be paid to the Inland Revenue

(**1**) 1992 c. 7; paragraphs 7A and 7B were inserted by Articles 53(2) and 54 of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) and amended by paragraphs 4 and 5 of Schedule 8 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) and are amended by paragraphs 36 and 37 of Schedule 3 to that 1999 Order

(**2**) 1992 c. 8; section 107 was substituted by Article 56 of the Social Security (Northern Ireland) Order 1998 and is amended by paragraph 5 of Schedule 4 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999

(**3**) S.R. 1979 No. 186; relevant amending regulations are S.R. 1981 No. 30, S.R. 1984 No. 43, S.R. 1987 No. 468, S.R. 1988 No. 204, S.R. 1991 Nos. 310 and 404, S.R. 1992 Nos. 41 and 280, S.R. 1996 Nos. 188 and 433 and S.R. 1999 Nos. 117 and 118

(**4**) Regulation 47 was amended by S.R. 1992 No. 41

("a direct payment Class 1A contribution") in accordance with regulations 47A to 47K of these Regulations.

Due date for a direct payment Class 1A contribution

47A.—(1) Subject to regulation 47B(2) or 47C(2) of these Regulations, as the case may be, where a direct payment Class 1A contribution may be paid to the Inland Revenue by virtue of regulation 47 of these Regulations, an employer who is liable to pay such a contribution shall pay that contribution to them not later than 19th July in the year immediately following the end of the year in respect of which it is payable.

(2) A direct payment Class 1A contribution paid to the Inland Revenue in accordance with paragraph (1) of this regulation shall be shown in a return made to them in accordance with regulation 47J(1) of these Regulations.

Provisions relating to a direct payment Class 1A contribution due on succession to business

47B.—(1) The following provisions of this regulation shall apply in relation to the payment of a direct payment Class 1A contribution where—

(a) there is a change in the employer who is liable to pay emoluments to or for the benefit of all the persons who are employed in a business in respect of their employment in that business;

(b) the employees in question are those who ceased to be employed in that business before the change of employer occurred; and

(c) the amount of the Class 1A contribution is to be included in the return required by regulation 47J(2) of these Regulations.

(2) Not later than 14 days after the end of the relevant final income tax month, the employer shall pay to the Inland Revenue—

(a) any Class 1A contribution referred to in paragraph (1) of this regulation in respect of the relevant final year; and

(b) where the relevant final income tax month is the month beginning on 6th April, 6th May or 6th June, any Class 1A contribution referred to in paragraph (1) of this regulation in respect of the year immediately preceding the relevant final year.

(3) The employer shall include the amount of any Class 1A contribution which is payable in accordance with paragraph (2)(a) of this regulation in the return required by regulation 47J(1) of these Regulations for the relevant final year, by showing that amount in the particulars required under paragraph (2) of that regulation.

(4) In this regulation, unless the context otherwise requires—

(a) "business" includes any trade, concern or undertaking;

(b) "employer" means the employer before the change referred to in paragraph (1)(a) of this regulation;

(c) "relevant final income tax month" means the income tax month in which the employer has made any payments of emoluments which, by reason of the change of employer referred to in paragraph (1)(a) of this regulation were, in respect of the employment of all those persons who were employed by him in that income tax month, the final payments of emoluments to be made by him in the year in which those payments were made; and for these purposes "emoluments" means so much of a person's remuneration or profits derived from employed earner's employment

as constitutes earnings for the purposes of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

(d) "relevant final year" means the year in which the relevant final income tax month occurs.

Provisions relating to a direct payment Class 1A contribution due on cessation of business

47C.—(1) The following provisions of this regulation shall apply in relation to the payment of a direct payment Class 1A contribution where—

(a) an employer ceases to carry on business and upon that cessation no other person becomes liable to pay emoluments to or for the benefit of any employee in respect of his employment in that business;

(b) the employees are all those who were employed in that business at any time in the relevant final year or the year immediately preceding the relevant final year; and

(c) the amount of the Class 1A contribution is to be included in the return required by regulation 47J(3) of these Regulations.

(2) Not later than 14 days after the end of the relevant final income tax month, the employer shall pay to the Inland Revenue—

(a) any Class 1A contribution referred to in paragraph (1) of this regulation in respect of the relevant final year; and

(b) where the relevant final income tax month is the month beginning on 6th April, 6th May or 6th June, any Class 1A contribution referred to in paragraph (1) of this regulation in respect of the year immediately preceding the relevant final year.

(3) The employer shall include the amount of any Class 1A contribution which is payable in accordance with paragraph (2)(a) of this regulation in the return required by regulation 47J(1) of these Regulations for the relevant final year, by showing that amount in the particulars required under paragraph (3) of that regulation.

(4) In this regulation, unless the context otherwise requires—

(a) "business" includes any trade, concern or undertaking;

(b) "employer" means the employer before the cessation of business referred to in paragraph (1)(a) of this regulation;

(c) "relevant final income tax month" means the income tax month in which the employer has made any payments of emoluments which, by reason of the cessation of business referred to in paragraph (1)(a) of this regulation were, in respect of the employment of all those persons who were employed by him in that income tax month, the final payments of emoluments to be made by him in the year in which those payments were made; and for these purposes "emoluments" means so much of a person's remuneration or profits derived from employed earner's employment as constitutes earnings for the purposes of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

(d) "relevant final year" means the year in which the relevant final income tax month occurs.

Employer failing to pay a direct payment Class 1A contribution

47D.—(1) If—

(a) the employer has paid no amount of a direct payment Class 1A contribution to the Inland Revenue by the date which applies to him under regulation 47A(1), 47B(2) or 47C(2) of these Regulations, as the case may be; and

(b) the Inland Revenue are unaware of the amount, if any, which the employer is liable so to pay,

the Inland Revenue may give notice to the employer requiring him to render, within 14 days, a return in the prescribed form showing the amount of a Class 1A contribution which the employer is liable to pay to them under that regulation in respect of the year in question.

(2) A notice may be given by the Inland Revenue under paragraph (1) of this regulation notwithstanding that an amount of a Class 1A contribution has been paid to them by the employer under regulation 47A(1), 47B(2) or 47C(2) of these Regulations, as the case may be, in respect of the year in question, if they are not satisfied that the amount so paid is the full amount which the employer is liable to pay to them for that year; and the provisions of this regulation shall have effect accordingly.

Specified amount of a direct payment Class 1A contribution

47E.—(1) If, following the date which applies to him under regulation 47A(1), 47B(2) or 47C(2) of these Regulations, as the case may be, the employer has paid no amount of a direct payment Class 1A contribution to the Inland Revenue in respect of the year in question and there is reason to believe that the employer is liable so to pay, the Inland Revenue—

(a) in the case of the first year in which the employer is liable to pay such a contribution, upon consideration of any information which has been provided to them by the employer relating to his liability to pay such contributions; or

(b) thereafter, upon consideration of the employer's record of past payments,

may to the best of their judgement specify the amount of a Class 1A contribution which they consider 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 a Class 1A contribution or any part thereof is unpaid, the amount so unpaid—

(a) shall be deemed for the purposes of these Regulations to be an amount of a Class 1A contribution which the employer was liable to pay in respect of the year in question in accordance with regulation 47A(1), 47B(2) or 47C(2) of these Regulations, as the case may be; and

(b) may be certified by the Inland Revenue.

(3) The provisions of paragraph (2) of this regulation shall not apply if, during the period allowed in the notice—

(a) the employer pays to the Inland Revenue the full amount of a Class 1A contribution which he is liable to pay under regulation 47A(1), 47B(2) or 47C(2) of these Regulations, as the case may be, in respect of the year in question; or

(b) the employer satisfies the Inland Revenue that no amount of such a contribution is due.

(4) The production of a certificate such as is mentioned in paragraph (2)(b) of this regulation shall, until the contrary is established, be sufficient evidence that the employer is liable to pay to the Inland Revenue 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.

(5) A notice may be given by the Inland Revenue under paragraph (1) of this regulation notwithstanding that an amount of a Class 1A contribution has been paid to them by the

employer under regulation 47A(1), 47B(2) or 47C(2) of these Regulations, as the case may be, in respect of the year in question, if, after seeking the employer's explanation as to the amount of a Class 1A contribution paid, the Inland Revenue are not satisfied that the amount so paid is the full amount which the employer is liable to pay to them 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 Inland Revenue that no further amount of a Class 1A contribution is due in respect of that year.

(6) Where, during the period allowed in a notice given by the Inland Revenue under paragraph (1) of this regulation, the employer claims, but does not satisfy them, that the payment of a Class 1A contribution made in respect of the year specified therein is the full amount of a Class 1A contribution which he is liable to pay to the Inland Revenue in respect of that year, the employer may require them to inspect his documents and records as if they had called upon him to produce those documents and records in accordance with Regulation 32(1)(**5**) of Schedule 1 to these Regulations; and the provisions of that Regulation shall apply in relation to that inspection and the notice given by the Inland Revenue under paragraph (1) of this regulation shall thereafter be disregarded.

Interest on an overdue direct payment Class 1A contribution

47F.—(1) Where an employer has not by the date which applies to him under regulation 47A(1), 47B(2) or 47C(2) of these Regulations, as the case may be, paid a direct payment Class 1A contribution which he is liable to pay, any contribution not so paid shall carry interest at the rate applicable under paragraph 6(3)(**6**) 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(a) from the reckonable date until payment.

(2) Interest payable under this regulation shall be recoverable as if it were a Class 1A contribution in respect of which an employer is liable under regulation 47A(1), 47B(2) or 47C(2) of these Regulations, as the case may be, to pay to the Inland Revenue.

(3) A contribution to which paragraph (1) of this regulation applies shall carry interest from the reckonable date even if that date is a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882(**7**).

(4) A certificate of the Inland Revenue that any amount of interest payable under this regulation has not been paid to them, or, to the best of their knowledge and belief, to any person acting on their behalf, shall be sufficient evidence that the employer is liable to pay to them the amount of interest shown on the certificate and that the sum is unpaid and due to be paid; and any document purporting to be such a certificate shall be deemed to be such a certificate until the contrary is proved.

(5) For the purposes of this regulation, "the reckonable date" means the day after the date which applies to the employer under regulation 47A(1), 47B(2) or 47C(2) of these Regulations, as the case may be.

Payment of interest on a repaid direct payment Class 1A contribution

47G.—(1) Where—

(**5**) Regulation 32(1) was amended by S.R. 1981 No. 30, S.R. 1991 No. 310, S.R. 1992 Nos. 41 and 280 and S.R. 1999 No. 117
(**6**) 1992 c. 4
(**7**) 1882 c. 61; section 92 was amended by sections 3(1) and 4(4) of the Banking and Financial Dealings Act 1971 (c. 80)