STATUTORY RULES OF NORTHERN IRELAND

# 1996 No. 30

# SOCIAL SECURITY

## The Employer's Contributions Re-imbursement Regulations (Northern Ireland) 1996

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| *Made - - - -* | *6th February 1996* |
| *Coming into operation* | *6th April 1996* |

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 2(2) and (4), 29, 35(3) and (7) and 36(2) of the Jobseekers (Northern Ireland) Order 1995(**1**) 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 Employer's Contributions Re-imbursement Regulations (Northern Ireland) 1996 and shall come into operation on 6th April 1996.

(2) In these Regulations—

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

"benefit week" means a period of 7 days (including Sundays) ending on the weekday corresponding to the particular weekday specified in a written notice last given to a person by the Department for the purposes of claiming unemployment benefit;

"breaking period" means—

(a) any period of not more than 12 consecutive weeks in respect of which a person is not entitled to a qualifying benefit, or

(b) a period in respect of which a person is summoned to jury service;

"carer" means a person of the description specified in paragraph 4(1) of Schedule 1(**2**) to the Income Support Regulations;

"contracted-out rate" means, in relation to Class 1 contributions payable in respect of earnings paid to or for the benefit of an earner in contracted-out employment, the percentage for the time being applying in section 37(1)(*b*) of the Pension Schemes (Northern Ireland) Act 1993(**3**) for the calculation of the amount of those contributions;

(**1**) S.I.1995/2705 (N.I. 15); Article 2(2) is cited because of the powers conferred in the meaning of the expressions "pensionable age" and "week"
(**2**) Paragraph 4 was substituted by S.R. 1991 No. 338 and amended by S.R. 1992 No. 6
(**3**) 1993 c. 49

"the Contributions Regulations" means the Social Security (Contributions) Regulations (Northern Ireland) 1979(**4**);

"deductions certificate" means a certificate obtained from the Department in accordance with regulation 7;

"earnings" is to be construed in accordance with section 3 of the Benefits Act;

"employee" means a person who is—

(a) an employed earner within the meaning of section 2(1)(*a*) of the Benefits Act, or

(b) treated as such under section 116 of the Benefits Act or by regulations made under section 2(2), 117 or 119 of the Benefits Act, and

(c) over the age of 16;

"employer" means a person who in relation to an employee is a secondary contributor within the meaning of section 7(1) of the Benefits Act or who is treated as such under section 116 of the Benefits Act or by regulations made under section 7(2), 117 or 119 of the Benefits Act;

"the Income Support Regulations" means the Income Support (General) Regulations (Northern Ireland) 1987(**5**);

"income tax period" has the meaning specified in Regulation 2(1) of Schedule 1(**6**) to the Contributions Regulations;

"lone parent" has the meaning specified in regulation 2(1) of the Income Support Regulations;

"mariner" has the meaning specified in regulation 84 of the Contributions Regulations;

"non-contracted-out rate" has the meaning specified in regulation 1(2)(**7**) of the Contributions Regulations;

"pensionable age" has the meaning given under the rules in paragraph 1 of Schedule 2 to the Pensions (Northern Ireland) Order 1995(**8**);

"qualifying benefit" means—

(a) unemployment benefit;

(b) in the case of a person—

(i) who is treated as available for employment under regulation 9(**9**) of the Income Support Regulations, or

(ii) to whom paragraph 1, 4 or 11 of Schedule 1 to the Income Support Regulations applies,

income support;

"training allowance" means an allowance (whether by way of periodical grants or otherwise) payable—

(a) out of public funds by a government department or by or on behalf of the Department of Economic Development;

(b) to a person for his maintenance or in respect of a member of his family, and

(c) for the period, or part of the period, during which he is following a course of training or instruction provided by, or in pursuance of arrangements made with, a government

(**4**) S.R. 1979 No. 186; relevant amending regulations are S.R. 1981 No. 30, S.R. 1982 No. 69, S.R. 1984 No. 43, S.R. 1985 Nos. 59 and 260, S.R. 1987 No. 143, S.R. 1988 No. 121, S.R. 1989 No. 384, S.R. 1990 No. 110, S.R. 1991 No. 310 and S.R. 1992 No. 280
(**5**) S.R. 1987 No. 459; relevant amending regulations are S.R. 1991 No. 338, S.R. 1992 No. 6 and S.R. 1995 No. 67
(**6**) Definition of "income tax period" was inserted by S.R. 1991 No. 310
(**7**) Definition of "non-contracted-out rate" was amended by S.R. 1985 No. 260 and S.R. 1989 No. 384
(**8**) S.I. 1995/3213 (N.I. 22)
(**9**) Regulation 9 was amended by S.R. 1995 No. 67

department or approved by such department in relation to him or so provided or approved by or on behalf of the Department of Economic Development,

but it does not include an allowance paid by any government department to, or in respect of, a person by reason of the fact that he is following a course of full-time education, other than under provision or arrangements under sections 2 and 3 of the Disabled Persons (Employment) Act (Northern Ireland) 1945(**10**) or section 1(1) of the Employment and Training Act (Northern Ireland) 1950(**11**), or is training as a teacher;

"the Unemployment Regulations" means the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations (Northern Ireland) 1984(**12**);

"voyage period" has the meaning specified in regulation 84 of the Contributions Regulations;

"week" means a period of 7 consecutive days;

"year", except in regulation 5(4), means a period of 365 days or, where that period includes 29th February, 366 days.

(3) For the purposes of regulations 8 and 9 "the Department" shall include a reference to the Commissioners of Inland Revenue acting on its behalf.

**Circumstances in which a person is treated as entitled to a jobseeker's allowance for a continuous period of 2 years immediately before his employment**

**2.**—(1) Where this regulation applies, a person who would not otherwise satisfy the relevant condition shall be treated as satisfying that condition.

(2) This regulation applies where a person would have satisfied the relevant condition had the reference to "two years" been a reference to a period of two years within the meaning of regulation 1(2).

(3) This regulation applies where a person is entitled to a jobseeker's allowance for periods (in this regulation referred to as jobseeker's allowance periods) separated by breaking periods; and the jobseeker's allowance periods excluding the intervening breaking periods form in aggregate a period of not less than two years.

(4) This regulation applies where—

(a) a person has any one or more jobseeker's allowance periods, and

(b) he is also entitled to a qualifying benefit for one or more other periods (the additional periods) throughout which he is a person of a specified description, and

(c) the jobseeker's allowance periods plus the additional periods, form a continuous period of not less than two years.

(5) This regulation applies where, but for a breaking period occurring immediately after a jobseeker's allowance period or an additional period, a person would have satisfied the relevant condition.

(6) For the purposes of paragraph (4)(*b*) in determining whether a person has been entitled to a qualifying benefit for any period, any benefit week on any day of which that person was entitled to unemployment benefit shall be treated as a period throughout which that person was entitled to a qualifying benefit.

(7) For the purposes of paragraph (4)(*b*) a person is a person of a specified description if he is—

(a) undergoing a course of training for which a training allowance is payable;

(**10**) 1945 c. 6 (N.I.); sections 2 and 3 were amended by section 1 of the Disabled Persons (Employment) Act (Northern Ireland) 1960 (c. 4 (N.I.)) and Schedule 18 to the Education and Libraries (Northern Ireland) Order 1986 (S.I. 1986/594 (N.I. 3))

(**11**) 1950 c. 29 (N.I.); subsection (1) was substituted by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (S.I. 1988/1087 (N.I. 10))

(**12**) S.R. 1984 No. 245; relevant amending regulations are S.R. 1989 No. 437

(b) available or treated as available for employment under regulation 9 of the Income Support Regulations or under regulations made under section 25A(1)(*a*)(**13**) of the Benefits Act;

(c) a carer, or

(d) a lone parent.

(8) For the purposes of paragraph (4)(*c*) in determining whether there has been a continuous period of not less than two years where a person has jobseeker's allowance periods or additional periods separated by breaking periods, the jobseeker's allowance periods and the additional periods shall be aggregated together and treated as a single period, and the intervening breaking periods shall be excluded in the computation of that single period.

(9) In this regulation "the relevant condition" means the condition in Article 29(1) of the Order.

**Circumstances in which a person is to be treated as unemployed for a continuous period of 2 years immediately before his employment**

**3.**—(1) Where this regulation applies, a person who would not otherwise satisfy the relevant condition shall be treated as satisfying that condition.

(2) This regulation applies where a person would have satisfied the relevant condition had the reference to "two years" been a reference to a period of two years within the meaning of regulation 1(2).

(3) This regulation applies where, but for a breaking period occurring immediately after the period of unemployment, a person would have satisfied the relevant condition.

(4) This regulation applies where a person has periods of unemployment separated by breaking periods and those periods of unemployment excluding the intervening breaking periods form in aggregate a period of not less than two years.

(5) This regulation applies where a person would have satisfied the relevant condition but for his engagement in employment which is not treated as remunerative work for the purposes of regulation 5(1)(**14**) of the Income Support Regulations.

(6) This regulation applies where—

(a) a person would have satisfied the relevant condition but for his engagement in employment for any day, and

(b) that day would not be excluded as a day of unemployment in relation to him by the application of regulation 7(1)(*o*)(**15**) of the Unemployment Regulations.

(7) In this regulation "the relevant condition" means the condition in Article 29(2)(*a*) of the Order.

**Prescribed description of a person for the purposes of Article 29(2)(c) of the Order**

**4.**—(1) For the purposes of Article 29(2)(*c*) of the Order a person falls within a prescribed description of person if—

(a) he is in receipt of a qualifying benefit for a continuous period of not less than two years, and

(b) continuously for the whole of that period he satisfied any one or more of the following conditions—

(i) he is undergoing a course of training for which a training allowance is payable;

(**13**) Section 25A was inserted by paragraph 5 of Schedule 1 to the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12))

(**14**) Paragraph (1) was amended by S.R. 1991 No. 338

(**15**) Sub-paragraph (*o*) was added by S.R. 1989 No. 437

(ii) he is available or treated as available for employment under regulation 9 of the Income Support Regulations or under regulations made under section 25A(1)(*a*) of the Benefits Act;

(iii) he is a carer;

(iv) he is a lone parent.

(2) For the purposes of paragraph (1)(*a*) in determining whether a person has been entitled to a qualifying benefit for any period, any benefit week on any day of which that person was entitled to unemployment benefit shall be treated as a period throughout which that person was entitled to a qualifying benefit.

(3) For the purposes of paragraph (1) in determining whether there has been a continuous period of not less than two years where a person has periods throughout which he is a qualifying person separated by breaking periods, the periods throughout which the person is a qualifying person shall be aggregated together and treated as a single period, and the intervening breaking periods shall be excluded in the computation of that single period.

(4) In this regulation "qualifying person" means a person who is entitled to a qualifying benefit and is of a description specified in paragraph (1).

**Deductions from employer's contributions payments**

**5.**—(1) An employer—

(a) who employs a person who is a qualifying employee in relation to him for a continuous period of at least 13 weeks, and

(b) who has obtained a deductions certificate, and

(c) who is liable to pay Class 1 contributions in respect of earnings paid to or for the benefit of that qualifying employee in the relevant period,

shall be entitled to deduct an amount determined in accordance with this regulation from his contributions payments.

(2) The amount which an employer is entitled to deduct shall be where the Class 1 contributions specified in paragraph (1)(*c*) are payable—

(a) at the contracted-out rate, an amount equal to the amount of secondary Class 1 contributions which would be payable by that employer in respect of the earnings paid in the relevant period were those contributions payable at the non-contracted-out rate;

(b) at any other rate, an amount equal to the amount of secondary Class 1 contributions which would be payable by that employer in respect of the earnings paid in the relevant period.

(3) For the purposes of determining an amount which an employer is entitled to deduct under paragraph (2) no account shall be taken of any earnings paid to or for the benefit of the qualifying employee after the relevant period.

(4) In this regulation "the relevant period" means the period commencing with the first day of that qualifying employee's employment with that employer and ending—

(a) on the last day of such employment;

(b) on the day the qualifying employee reaches pensionable age, or

(c) in the following year on the day preceding the day corresponding to that first day of employment,

whichever shall first occur.