1992 No. 41

SOCIAL SECURITY

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

Made . . . . . 28th January 1992

Coming into operation . . 14th February 1992

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

Citation, commencement and interpretation

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

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

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

Amendment of regulation 31 of the principal regulations

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

(*a*) immediately before "Where" there shall be inserted "—(1)";

(*b*) after "than" there shall be inserted "Class 1A or";

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

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

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

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

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

(**d**) 1978 c. 30

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

Amendment of regulation 32 of the principal regulations

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

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

(*b*) in the case of—

(i) Class 1 contributions, or

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

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

Insertion of regulation 33A in the principal regulations

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

''*Repayment of Class 1A contributions*

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

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

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

(**a**) Inserted by regulation 4 of these regulations

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

(*b*) he had been unable to obtain information for that purpose from the earner because at the time when he made that calculation the earner—

(i) was absent from work because of the earner's sickness, injury, pregnancy or confinement,

(ii) was absent from Northern Ireland, or

(iii) was no longer employed in the employment by reason of which the car was made available; or

(*c*) he had become liable to pay that contribution by reason of a change of employer and the information available to him for the purpose of ascertaining the amount of that contribution was inaccurate or incomplete.

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

Amendment of regulation 46 of the principal regulations

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

(*a*) after ''contributions'' in the shoulder note and in each place where it occurs there shall be inserted ''and Class 1A contributions'';

(*b*) for ''purpose'' there shall be substituted ''purposes''.

Amendment of regulation 47 of the principal regulations

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

Amendment of regulation 50 of the principal regulations

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

Amendment of regulation 111 of the principal regulations

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

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

(*b*) in paragraph (1)(*b*) for "liability for secondary Class 1 contributions" there shall be substituted "liability to pay secondary Class 1 contributions or Class 1A contributions";

(*c*) in paragraph (2) for the words from "subject to the proviso" to "last entry into Northern Ireland" there shall be substituted "subject to the proviso that—

(*a*) no primary or secondary Class 1 contribution shall be payable in respect of the earnings of the employed earner for such employment; and

(*b*) no Class 1A contribution shall be payable in respect of any car which is made available to the employed earner or to a member of his family or household by reason of such employment,

after the date of the earner's last entry into Northern Ireland".

Amendment of regulation 112 of the principal regulations

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

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

Amendment of Schedule 1 to the principal regulations

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

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

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

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

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

"*Recording of Class 1A contributions*

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

(*a*) shall, if he has not already done so in accordance with or as mentioned in Regulation 6, prepare a deductions working sheet in respect of the year immediately following the year in respect of which that contribution is payable and in respect of the employee by reason of whose employment the car was made available; and

(*b*) shall record on the deductions working sheet for that employee, in addition to any particulars required under Regulation 13(6), the following particulars, namely—

(i) the appropriate category letter indicated by the Department for recording the amount of the Class 1A contributions payable by an employer, and

(ii) the amount of the Class 1A contribution which the employer has calculated as being payable by him in accordance with section 4A(4) of the Act in respect of the employee and car in question,

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

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

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

''*Payment of Class 1A contributions*

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

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

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

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

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

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

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

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

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