1978 No. 95

SOCIAL SECURITY

The Social Security (Contributions) (Amendment) Regulations (Northern Ireland) 1978

Made . . . . . 30*th March* 1978

Coming into operation . . . 6*th April* 1978

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by paragraphs 5(1) and 6(1)(*h*) and (*m*) of Schedule 1 to the Social Security (Northern Ireland) Act 1975(**a**), and of all other powers enabling it in that behalf, and with the concurrence of the Inland Revenue in so far as relates to regulations 4, 5 and 6 of these regulations, hereby makes the following regulations:

Citation, interpretation and commencement

1. These regulations which may be cited as the Social Security (Contributions) (Amendment) Regulations (Northern Ireland) 1978 shall be read as one with the Social Security (Contributions) Regulations (Northern Ireland) 1975(**b**), as amended(**c**), (hereinafter referred to as "the principal regulations") and shall come into operation on 6th April 1978.

Amendment of regulation 1(2) *of the principal regulations*

2. In regulation 1(2) of the principal regulations (interpretation) there shall be inserted the following definitions:

(*a*) after the definition of contracted-out percentage—

" '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 percentages for the time being applying in Article 29 of the Pensions Order for the calculation of the amount of those contributions;";

(*b*) after the definition of non-contracted-out employment—

" 'non-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 non-contracted-out employment, the percentages for the time being specified in section 4(6) of the Act for the calculation of the amount of those contributions;".

Insertion of new regulation 28*A in the principal regulations*

3. After regulation 28 of the principal regulations (return of contributions) there shall be inserted the following—

"*Return of Class* 1 *contributions paid at the non-contracted-out rate instead of at the contracted-out rate*

28A.—(1) Subject to the provisions of paragraphs (2) and (3) of this regulation and without prejudice to the provisions of Regulation 26(3) in Part IV of Schedule 2 to these regulations (payment of earnings-related

(a) 1975 c. 15
(b) S.R. 1975 No. 319 (II, p. 1492)
(c) The relevant amending regulations are S.R. 1976 No. 35 (I, p. 136) and S.R. 1977 No. 93

contributions by employer) where a secondary contributor has paid an amount on account of contributions at the non-contracted-out rate in respect of any employed earner's employment which amount he would have been liable to pay but for that employment being or, as the case may be, becoming contracted-out employment, the Department shall, on application of the secondary contributor, return to him the amount so paid after deducting the amount of Class 1 contributions payable at the contracted-out rate in respect of that employment.

(2) Any amount falling to be returned under the provisions of the last preceding paragraph which has been paid by the secondary contributor on behalf of an earner and recovered from him shall be returned to the earner, or with his consent in writing, to the secondary contributor.

(3) An application under paragraph (1) of this regulation shall be made in such manner as the Department shall approve, and within the period of 6 years from the end of the year in which the contracting-out certificate in respect of the employment was issued or, if the Department is satisfied that the secondary contributor had good cause for not making the application within the said period, within such longer period as the Department may allow.".

Amendment of Regulation 13 *in Parts II and III of Schedule* 2 *to the principal regulations*

4. In Regulation 13 in Parts II and III of Schedule 2 to the principal regulations—

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

"or

(iii) the underdeduction occurred as a result of the cancellation, variation or surrender of the contracting-out certificate issued in respect of the employment in respect of which the payment of emoluments is made, or

(iv) the underdeduction occurred as a result of the employment in respect of which the payment of emoluments is made not being treated or ceasing to be treated under Article 3(1) of the Social Security Pensions (1975 Order) (Commencement No. 11) Order (Northern Ireland) 1977(**d**) as contracted-out employment.";

(*b*) for sub-paragraph (*a*) of paragraph (3A) there shall be substituted the following—

"(*a*) the amount which by virtue of the provisions of that paragraph may be deducted from any payment, or from any payments which fall to be aggregated, shall—

(i) in a case to which only sub-paragraph (*b*)(iv) refers, be an amount in addition to, but not in excess of one half of, the amount deductible therefrom under the other provisions of these Regulations;

(ii) in any other case, be an amount in addition to but not in excess of the amount deductible therefrom under the other provisions of these Regulations; and".

(**d**) S.R. 1977 No. 380 (C. 23)