1961 No. 598

NATIONAL INSURANCE

The National Insurance (Collection of Graduated Contributions) Amendment Regulations, 1961

Made - - - -	*27th March*, 1961
Laid before Parliament	*30th March*, 1961
Coming into Operation	*6th April*, 1961

The Minister of Pensions and National Insurance, in conjunction with the Treasury and with the concurrence of the Commissioners of Inland Revenue, in exercise of powers conferred by sections 6 (3) and 8 (1) of the National Insurance Act, 1946(a), and by section 3 of the National Insurance Act, 1959(b), and of all other powers enabling him in that behalf, after considering the report of the National Insurance Advisory Committee on the preliminary draft submitted to them, hereby makes the following regulations:—

Citation, interpretation and commencement

1. These regulations, which may be cited as the National Insurance (Collection of Graduated Contributions) Amendment Regulations, 1961, shall be read as one with the National Insurance (Collection of Graduated Contributions) Regulations, 1960(c), (hereinafter referred to as "the principal regulations") and shall come into operation on the 6th April, 1961.

Amendment of regulation 2 of the principal regulations

2. Paragraph (2) of regulation 2 of the principal regulations (which paragraph excepts graduated contributions in respect of remuneration from a person's employment as a seaman from being paid, accounted for and recovered in like manner as and with income tax as provided by that regulation) shall be omitted.

Provisions to be added to the principal regulations

3. At the end of the Schedule to the principal regulations (which contains the Income Tax (Employments) Regulations, 1950(d), in the modified form in which they apply to and for the purpose of graduated contributions), the following provisions (which are further provisions of those regulations which are also to apply to graduated contributions, as modified for that purpose) shall be added and shall be included as Part V of that Schedule:—

"PART V. SPECIAL PROVISIONS APPLICABLE TO SEAMEN

34. *Interpretation of Part V.*—In this Part of these Regulations—

"employer" includes the master of a ship;

"seaman" means any person who has signed the agreement with the crew of a ship to which any determination of the National Maritime Board relating to remuneration applies, not being a member of Her

(a) 9 & 10 Geo. 6. c. 67. (b) 7 & 8 Eliz. 2. c. 47. (c) S.I. 1960/922 (1960 II, p. 2220).
(d) S.I. 1950/453 as amended by S.I. 1951/836, 1952/1758, 1954/1577, 1955/835, 1958/1166 (1950 I, p. 1069; 1951 I, p. 1122; 1952 I, p. 1220; 1954 I, p. 992; 1955 I, p. 1017; 1958 I, p. 1258).

Majesty's naval, military or air forces or a person in the employment of the British Transport Commission or of a railway company, and shall include any person who is the holder of a British Seafarer's Identity Card to which he is lawfully entitled; and, for the purpose of this definition—

(*a*) where the crew of a ship are engaged at a place outside the United Kingdom on terms which adopt any determination of the National Maritime Board relating to remuneration, that ship shall be deemed to be a ship to which that determination applies if the determination would have applied to the ship if the crew had been engaged in the United Kingdom;

(*b*) where an arrangement has been made for the purposes of deduction of tax from the emoluments of persons resident in the United Kingdom who are employed or engaged in sea-going service in any foreign ship, those persons shall be deemed to be seamen; and

(*c*) an apprentice or cadet whose name is entered on the agreement with the crew shall be deemed to be a person who has signed the agreement.

35. *Deduction of graduated contributions from seamen's emoluments.*—(1) Parts II and III of these Regulations shall not apply in the case of a seaman and every employer, on making any payment of a seaman's emoluments, may deduct graduated contributions therefrom in accordance with the provisions of this Part of these Regulations.

(2A) An employer shall not be entitled to recover any graduated contributions paid or to be paid by him on behalf of any seaman otherwise than by deduction in accordance with this Part of these Regulations.

(3A) On the occasion of the payment of any seaman's emoluments there may be deducted therefrom the amount, if any, of the graduated contributions based thereon which the seaman is liable to pay under those provisions of Part I of the National Insurance Act, 1959, which relate to graduated contributions or under those provisions as modified by Part II of the National Insurance (Mariners) Regulations, 1948(**a**) (which Part has effect by virtue of the National Insurance (Mariners) Amendment Regulations, 1960(**b**), and modifies the said provisions of the said Act in relation to graduated contributions for a seaman).

(4A) If by reason of an error made in good faith the employer, on making any payment of emoluments to a seaman, fails to deduct therefrom the full amount of graduated contributions which by virtue of these Regulations he is entitled to deduct, he may recover the amount so underdeducted by deduction from any subsequent payment of emoluments to that employee during the same year:

Provided that—

(*a*) the amount which may be deducted by virtue of the provisions of this paragraph from any payment shall be in addition to but shall not exceed the amount deductible therefrom under the other provisions of these Regulations; and

(*b*) for the purposes of Part IV of these Regulations and of Regulations 37 and 39 an additional amount which may be deducted by virtue of the provisions of this paragraph shall be treated as an amount deductible under these Regulations only in so far as the amount of the corresponding underdeduction has not been so treated.

(**a**) S.I. 1948/1467 (Rev. XVI, p. 112: 1948 I, p. 2785). (**b**) S.I. 1960/2431 (1960 II, p. 2344).

37. *Payment of graduated contributions to Collector.*—All amounts of graduated contributions which are deductible from any payment of emoluments under the provisions of this Part of these Regulations, together with an equal amount by way of employer's graduated contributions, shall be paid to the Collector within the time limited for the payment of income tax, if any, deductible from that payment of emoluments or, if income tax is not so deductible, the time which would be so limited if income tax were so deductible.

38. *Return to be rendered by employer.*—Every employer who makes any payment of emoluments to a seaman shall, within the time laid down in Regulation 37 for the payment of the graduated contributions, if any, which are deductible therefrom, render a return to the Collector in such form as may be authorised by the Commissioners of Inland Revenue showing as regards every payment of emoluments which he makes to the seaman—

(*a*) the seaman's name;

(*b*) the seaman's rank or rating and discharge book number;

(*c*) the seaman's National Insurance number;

(*d*) the total emoluments paid to the seaman by the employer for the period in respect of which the payment of emoluments is made;

(*e*) the number of employer's contributions which the employer is liable to pay under subsection (2) of Section 2 of the National Insurance Act, 1946 (which provides for the payment of weekly employer's contributions) in respect of the seaman for the period in respect of which the payment of emoluments is made;

(*f*) the total amount of graduated contributions which may be deducted from the emoluments otherwise than under paragraph (4A) of Regulation 35.

39. *Application of Part IV.*—(1) The provisions of Part IV of these Regulations shall apply in relation to seamen subject to the necessary modifications and in particular to the modifications set out in the following paragraphs of this Regulation.

(2) Paragraph (1) of Regulation 26 shall apply as if—

(*a*) for the reference to payment of graduated contributions within fourteen days of the end of every income tax month there were substituted a reference to payment of graduated contributions within the time limited in Regulation 37; and

(*b*) the words "other than amounts deductible by virtue of the proviso to paragraph (1) of Regulation 13 which he did not deduct" were omitted; and

(*c*) the proviso were omitted.

(3) Regulation 27 shall not apply, but the following provisions shall have effect where the employer fails to pay to the Collector within the time limited in Regulation 37 any amount of graduated contributions which he is liable under this Part of these Regulations to pay to the Collector, that is to say—

(*a*) The production of the return made by the employer under Regulation 38 shall be sufficient evidence that the amount of graduated contributions shown in that return as deductible by the employer is one half of the amount which the employer is liable to pay to the Collector; and

(*b*) If the amount of graduated contributions shown as deductible in the said return differs from the amount which the employer was entitled to deduct from the payments specified therein under this Part of these Regulations, a certificate of the Collector as to the amount properly deductible shall be sufficient evidence that that amount, and not the amount shown in the said return, is one half of the amount which the employer is liable to pay to the Collector; and any document purporting to be such a certificate as aforesaid shall be deemed to be such a certificate until the contrary is proved.

(4) Regulation 29 shall not apply in the case of seamen.".

Dated this twenty-third day of March, 1961.

John Boyd-Carpenter,
Minister of Pensions and National Insurance.

Dated this twenty-fourth day of March, 1961.

John Hill,
David Gibson-Watt,
Two of the Lords Commissioners of Her Majesty's Treasury.

The Commissioners of Inland Revenue hereby concur.

By Order of the Commissioners of Inland Revenue.

E. R. Brookes,
Secretary.

27th March, 1961.

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations extend the principal regulations so as to include graduated contributions payable in respect of seamen within the Pay-As-You-Earn Scheme for the purposes of payment, accounting and recovery.

The report of the National Insurance Advisory Committee on the preliminary draft of these Regulations, dated the 16th March, 1961, is contained in the House of Commons Paper No. 157 (Session 1960-61) published by Her Majesty's Stationery Office.