STATUTORY INSTRUMENTS

1962 No. 2374

NATIONAL INSURANCE

The National Insurance (Collection of Graduated Contributions) Amendment Regulations 1962

Made - - - -	*25th October* 1962
Laid before Parliament	*31st October* 1962
Coming into Operation	*1st November* 1962

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 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 and commencement

1. These regulations, which may be cited as the National Insurance (Collection of Graduated Contributions) Amendment Regulations 1962, shall come into operation on the 1st November 1962.

Amendments relating to the collection and recovery of graduated contributions

2.—(1) The National Insurance (Collection of Graduated Contributions) Regulations 1960(c) as amended(d), (hereinafter called "the principal regulations"), shall be further amended in accordance with the following paragraphs of this regulation.

(2) In regulation 2 (1) of the principal regulations (which provides that, subject to modifications, the Income Tax (Employments) Regulations 1950 shall apply to and for the purpose of graduated contributions) there shall be substituted for the words "Income Tax (Employments) Regulations 1950" the words "Income Tax (Employments) Regulations 1962"(e).

(3) The Schedule to these regulations shall be substituted for the Schedule to the principal regulations.

Revocation of regulations

3. The National Insurance (Collection of Graduated Contributions) Amendment Regulations 1961(d) are hereby revoked but this revocation shall not affect the previous operation thereof, or anything duly done or suffered or any right, privilege, obligation or liability acquired, accrued

(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. 1961/598 (1961 I, p. 1314).
(e) S.I. 1962/1003 (1962 II, p. 1144).

or incurred thereunder, nor shall it be construed as reviving any provisions not in force immediately before the coming into operation of these regulations.

Niall Macpherson,
Minister of Pensions and National Insurance.

24th October 1962.

Francis F. Pearson,
M. A. Hamilton,
Two of the Lords Commissioners of Her Majesty's Treasury.

25th October 1962.

The Commissioners of Inland Revenue hereby concur.

By Order of the Commissioners of Inland Revenue.

E. R. Brookes,
Secretary.

25th October 1962.

Regulation 2

SCHEDULE

CONTAINING THE PROVISIONS OF THE INCOME TAX (EMPLOYMENTS) REGULATIONS 1962 AS THEY APPLY TO GRADUATED CONTRIBUTIONS

PART I. GENERAL

2. *Interpretation.*—(1) In this Schedule, unless the context otherwise requires—

"aggregated" means aggregated and treated as a single payment, under section 2 (2) of the National Insurance Act 1959;

"Collector" means a Collector of Taxes;

"deduction card" means a deduction card in the form prescribed by the Commissioners of Inland Revenue or such other document corresponding to a deduction card as may be authorised by those Commissioners in any particular case;

"emoluments" means emoluments assessable to income tax under Schedule E (other than pensions), and references to payments of emoluments include references to payments on account of emoluments;

"employee" means any person in receipt of emoluments;

"employer" means any person paying emoluments;

"graduated contributions" has the same meaning as in the National Insurance Act 1959;

"income tax month" means the period beginning on the 6th day of any calendar month and ending on the 5th day of the following calendar month;

"Inspector" means an Inspector of Taxes;

"these Regulations" means the provisions contained in this Schedule;

"year" means year of assessment;

other expressions have the same meaning as in the Income Tax Acts.

3. *Intermediate employers.*—(1) Where an employee works under the general control and management of a person who is not his immediate employer, that person (referred to hereafter in this Regulation as "the principal employer") shall be deemed to be the employer for the purpose of these Regulations, and the immediate employer shall furnish the principal employer with such particulars of the employee's emoluments as may be necessary to enable the principal employer to comply with the provisions of these Regulations.

(2) If the employee's emoluments are actually paid to him by the immediate employer—

(*a*) the immediate employer shall be notified by the principal employer of the amount of graduated contributions which may be deducted when the emoluments are paid to the employee, and may deduct the amount so notified to him accordingly; and

(*b*) the principal employer may make a corresponding deduction on making to the immediate employer the payment out of which the said emoluments will be paid.

3A. *Employers' graduated contributions.*—If under these Regulations a person is required to pay any graduated contributions which, under section 1 (1) (*b*) (ii) of the National Insurance Act 1959, another person is liable to pay, his payment thereof shall be made as agent for that other person.

4. *Powers of Inspector and Collector.*—Anything which is authorised or required by these Regulations to be done by the Inspector or Collector shall be done by such Inspector or Collector respectively as the Commissioners of Inland Revenue may direct.

5. *Service by post.*—Any notice or deduction card which is authorised or required to be given, served or issued under these Regulations may be sent by post.

Parts II and III. Deduction of Graduated Contributions

6. *Deduction of graduated contributions.*—(1) Every employer, on making any payment of emoluments during any year to any employee in respect of whom he holds a deduction card for that year, may deduct graduated contributions in accordance with these Regulations.

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

14. *Calculation of deduction.*—(1) On the occasion of any payment of emoluments to the employee, the employer may deduct the amount of the graduated contributions based thereon which the employee is liable to pay under section 1 (1) (*b*) of the National Insurance Act 1959 from the emoluments on making the payment in question:

Provided that where 2 or more payments of emoluments fall to be aggregated the employer may deduct the amount of the graduated contributions based thereon which are payable by the employee either wholly from one such payment or partly from one and partly from the other or any one or more of the others.

(1A) If by reason of an error made in good faith the employer on making any payment of emoluments to an employee 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, or from any payments which fall to be aggregated, 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 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.

(6) The employer shall record, either on the deduction card or in such other form as may be authorised by the Commissioners of Inland Revenue, the following particulars regarding every payment of emoluments which he makes to the employee, namely—

(*a*) the date of the payment;

(*b*) the gross amount of the emoluments ; and

(*c*) the amount of graduated contributions which may be deducted from the emoluments otherwise than under paragraph (1A) of this Regulation:

Provided that where 2 or more payments fall to be aggregated, the employer, instead of recording the amount of graduated contributions which may be deducted from the emoluments comprised in each such payment, may record the total amount of the graduated contributions which may be deducted from those payments.

22. *Employee for whom deduction card not held.*—(1) If the employer makes any payment of emoluments to an employee in respect of whom he does not hold a deduction card and that payment is a payment of emoluments in respect of which graduated contributions are payable, he may deduct the amount of the graduated contributions based thereon which are payable by the employee and shall keep records on the prescribed card as if the payment was one to which Regulation 14 applied, and shall do likewise on making any subsequent payment of emoluments to the employee until a deduction card in respect of the employee is issued to him by the Inspector.

23. *Employee on fixed pay.*—(2) Where the employer has been authorised by the Inspector to deduct income tax from each payment of emoluments which he makes to an employee who is in receipt of a fixed salary or wage by reference only to the amount of that payment, he shall, if he ceases to employ the employee in question, forthwith return the deduction card, duly completed, to the Collector.

26. *Tax-free emoluments.*—Where the employer makes a payment to or for the benefit of the employee in respect of his income tax, the amount of the emoluments which the employer pays to the employee shall be deemed for the purposes of these Regulations to be such a sum as will include the amount assessable on the employee in respect of the payment made by the employer in respect of the employee's income tax.

PART IV. PAYMENT AND RECOVERY OF GRADUATED CONTRIBUTIONS, ETC.

29. *Payment of graduated contributions by employer.*—(1) Within 14 days of the end of every income tax month the employer shall pay to the Collector all amounts of graduated contributions deductible under these Regulations from emoluments paid by him during that income tax month, other than amounts deductible by virtue of the proviso to paragraph (1) of Regulation 14 which he did not deduct, together with an equal amount by way of employer's graduated contributions:

Provided that—

(*a*) the employer shall for the purposes of this paragraph be deemed to have deducted from the last of any number of payments of emoluments which fall to be aggregated the amount of graduated contributions deductible from those payments which he did not deduct from the earlier payments ; and

(*b*) where the Inspector has authorised the employer to deduct income tax from each payment of emoluments which he makes to an employee who is in receipt of a fixed salary or wage by reference only to the amount of that payment, payment to the Collector under this paragraph shall be made quarterly, that is to say, the graduated contributions deductible during the first 3 income tax months in any year shall be paid together with the corresponding employer's contributions not later than the 19th July in that year, the graduated contributions deductible during the second 3 income tax months shall be paid together with the corresponding employer's contributions not later than the 19th October, and so on.

(2) The Collector shall give the employer a receipt on the prescribed form for the total amount so paid.

(3) If the employer, by reason of an error made in good faith, has paid to the Collector on account of graduated contributions under this Regulation an amount which he was not liable so to pay, the amounts which he is liable so to pay subsequently, in respect of other payments of emoluments made by him during the same year, shall be reduced by the amount so overpaid:

Provided that if there was a corresponding overdeduction from any payment of emoluments to an employee the provisions of this paragraph shall apply only in so far as the employer has accounted to him therefor.

30. *Employer failing to pay graduated contributions.*—(1) If within 14 days of the end of any income tax month the employer has paid no amount of graduated contributions to the Collector under Regulation 29 for that income tax month 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 the time limited in the notice, a return showing the name of every employee to whom he made any payment of emoluments in the period from the preceding 6th April to the day (being the last day of an income tax month) limited by the notice, together with such particulars with regard to each such employee as the notice may require, being particulars of—

(*b*) the payments of emoluments made to him during that period ; and

(*c*) the total amount of the graduated contributions which the employer was entitled to deduct during that period, and any matter affecting the calculation of that amount.

(2) The Collector shall ascertain and certify the amount of graduated contributions which the employer is liable to pay to him in respect of the income tax month in question.

(3) The production of the return made by the employer under paragraph (1) of this Regulation and of the certificate of the Collector under paragraph (2) shall be sufficient evidence that the amount shown in the said certificate is the amount of graduated contributions which the employer is liable to pay to the Collector in respect of the income tax month in question ; 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) Where a notice given by the Collector under paragraph (1) of this Regulation extends to 2 or more consecutive income tax months, the provisions of these Regulations shall have effect as if the said consecutive income tax months were one income tax month.

(5) A notice may be given by the Collector under paragraph (1) of this Regulation notwithstanding that an amount of graduated contributions has been paid to him by the employer under Regulation 29 for any income tax month, if the Collector is not satisfied that the amount so paid is the full amount which the employer is liable to pay to him for that month, and the provisions of this Regulation shall have effect accordingly.

31. *Recovery of graduated contributions.*—(1) The provisions of the Income Tax Acts and of any Regulations under section 157 (pay as you earn) of the Income Tax Act 1952 relating to the recovery of tax shall apply to the recovery of any amount of graduated contributions which an employer is liable to pay to the Collector for any income tax month under Regulation 29 as if the said amount had been tax which the employer was liable to pay to the Collector for that month under that section or under any such Regulations:

Provided that, in the application of any provision limiting the amount which is recoverable summarily as a civil debt to proceedings taken by virtue of this Regulation, there shall be disregarded any amount of tax which may be made part of the matter of complaint in those proceedings.

(2) Proceedings may be brought for the recovery of the total amount of graduated contributions and of tax which the employer is liable to pay as aforesaid for any income tax month, without specifying the respective amounts of graduated contributions and of tax or distinguishing the amounts which he is liable to pay in respect of each employee and without specifying the employees in question, and for the purposes of summary proceedings the said total amount shall, subject to the provisions of the proviso to paragraph (1) of this Regulation, be one matter of complaint ; but nothing in this paragraph shall prevent the bringing of separate proceedings for the recovery of each of the several amounts of graduated contributions and of tax which the employer is liable to pay as aforesaid for any income tax month in respect of his several employees.

(3) A certificate of the Collector that any amount of graduated contributions such as is mentioned in paragraph (1) of this Regulation has not been paid to him, or, to the best of his knowledge and belief, to any other person to whom it might lawfully be paid, shall be sufficient evidence that the sum mentioned in the certificate is unpaid and is due to the Crown; 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) Summary proceedings commenced in the name of any Collector may be continued in the name of that or any other Collector.

32. *Return by employer at end of year.*—(1) Not later than 14 days after the end of the year the employer shall render to the Collector in such form as the Commissioners of Inland Revenue may approve or prescribe, a return in respect of each employee containing such particulars as the said Commissioners may require for the identification of the employee and showing the total amount of graduated contributions deductible from the emoluments paid by him to the employee during the year.

(2) The said returns shall be accompanied by a statement and declaration in the form approved or prescribed by the Commissioners of Inland Revenue containing a list of all deduction cards issued to the employer by the Inspector or prepared by the employer in accordance with Regulations, and of the prescribed cards prepared by him in accordance with Regulations in respect of employees for whom a deduction card was not subsequently issued by the Inspector, together with a certificate showing—

(*a*) the total amount of graduated contributions deductible by him in the case of each employee during that year;

(*b*) the total amount of graduated contributions deductible by him in respect of all his employees during that year; and

(*c*) the total amount of graduated contributions, based on payments made during that year, which he was liable to pay to the Collector under Regulation 29 in respect of all his employees.

(3) Where the employer is a body corporate, the declaration and the certificate referred to in paragraph (2) shall be signed either by the secretary or by a director of the body corporate.

(5) A return shall be made under this Regulation in respect of every employee in respect of whom a deduction card has been either issued to the employer by the Inspector or prepared by the employer in accordance with Regulations, or to whom the employer has at any time during the year made a payment of emoluments in respect of which graduated contributions were payable.

(6) If within 14 days of the end of any year an employer has failed to pay to the Collector the total amount of graduated contributions which he is liable so to pay, the Collector may prepare a certificate showing the amount of graduated contributions remaining unpaid for that year. To the amount shown in the said certificate the provisions of paragraphs (1) and (2) of Regulation 31 shall with any necessary modifications apply; and to the said certificate the provisions of paragraph (3) of Regulation 31 shall with any necessary modifications apply.

34. *Inspection of employer's records.*—(1) Every employer, whenever called upon to do so by any authorised officer of the Ministry of Pensions and National Insurance or of the Commissioners of Inland Revenue, shall produce to that officer for inspection, at the employer's premises,—

(*a*) all wages sheets, deduction cards, and other documents and records whatsoever relating to the calculation or payment of the emoluments of his employees in respect of the years or income tax months specified by such officer or to the deduction of graduated contributions or the calculation of the graduated contributions deductible from such emoluments; or

(*b*) such of those wages sheets, deduction cards or other documents and records as may be specified by the authorised officer.

(2) The Collector by reference to the information obtained from an inspection of the documents and records produced under paragraph (1) may on the occasion of each inspection prepare a certificate showing—

(*a*) the amount of graduated contributions which it appears from the documents and records so produced that the employer is liable to pay to the Collector for the years or income tax months covered by the inspection ; and

(*b*) any amount of such graduated contributions which has not been paid to him or, to the best of his knowledge and belief, to any other person to whom it might lawfully be paid.

(3) The production of a certificate such as is mentioned in paragraph (2) shall be sufficient evidence that the employer is liable to pay to the Collector in respect of the years or income tax months mentioned in the certificate the amount shown therein pursuant to paragraph (2) (*b*) ; 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) The provisions of paragraphs (1) and (2) of Regulation 31 shall with any necessary modifications apply to the amount shown in such a certificate.

35. *Death of employer.*—If an employer dies, anything which he would have been liable to do under these Regulations shall be done by his personal representative, or, in the case of an employer who paid emoluments on behalf of another person, by the person succeeding him or, if no person succeeds him, the person on whose behalf he paid emoluments.

36. *Succession to a business, etc.*—(1) This Regulation applies where there has been a change in the employer from whom an employee receives emoluments in respect of his employment in any trade, business, concern or undertaking, or in connection with any property, or from whom an employee receives any annuity other than a pension.

(2) Where this Regulation applies, in relation to any matter arising after the change, the employer after the change shall be liable to do anything which the employer before the change would have been liable to do under these Regulations if the change had not taken place :

Provided that the employer after the change shall not be liable for the payment of any graduated contributions which were deductible from emoluments paid to the employee before, unless they are also deductible from emoluments paid to the employee after, the change took place or of any corresponding employer's graduated contributions.

PART V. SPECIAL PROVISIONS APPLICABLE TO SEAMEN

37. *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 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 Seaman's Identity Card or a British Seaman's 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.

38. *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 40 and 42 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.

40. *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.

41. *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 40 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 section 2 (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 38.

42. *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.

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

(2) Paragraph (1) of Regulation 29 shall apply as if—

(*a*) for the reference to payment of graduated contributions within 14 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 40; and

(*b*) the words "other than amounts deductible by virtue of the proviso to paragraph (1) of Regulation 14 which he did not deduct" were omitted; and

(*c*) the proviso were omitted.

(3) Regulation 30 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 40 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 41 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 32 shall not apply in the case of seamen.

EXPLANATORY NOTE

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

These Regulations substitute for the Schedule to the principal Regulations (which sets out provisions of the Regulations dealing with the collection and recovery of Income Tax under Pay As You Earn as modified to apply for the purpose of graduated contributions) a new Schedule which makes the consequential amendments necessitated by the consolidation in the Income Tax (Employments) Regulations 1962 of the Income Tax provisions; the Regulations in the Schedule are again not numbered consecutively so that those provisions of the Income Tax (Employments) Regulations 1962 applied or adapted retain for graduated contributions purposes the numbers which they bear in the latter Regulations. The only amendment of substance is in Regulation 34 in the Schedule, corresponding to a similar provision in the Income Tax (Employments) Regulations 1962, which clarifies the powers of the Collector of Taxes to certify for recovery purposes, following an inspection of an employer's records, the amounts of graduated contributions unpaid by him.

The Regulations incorporate the additions made to the Schedule, in respect of seamen's graduated contributions, by the National Insurance (Collection of Graduated Contributions) Amendment Regulations 1961, and those Regulations are accordingly revoked.

The report of the National Insurance Advisory Committee on the preliminary draft of these Regulations, dated the 15th August 1962, is contained in the House of Commons Paper No. 1 (Session 1962-63) published by Her Majesty's Stationery Office.