1960 No. 922

The National Insurance (Collection of Graduated Contributions) Regulations, 1960

Made - - - - 25*th May*, 1960

Laid before Parliament 1*st June*, 1960

Coming into Operation in accordance with Regulation 1 (1)

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 sections 3, 9 (8) and 13 (2) 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, commencement and interpretation

1.—(1) These regulations, which may be cited as the National Insurance (Collection of Graduated Contributions) Regulations, 1960, shall come into operation on the first day of the income tax week appointed under the provisions of paragraph (*b*) of subsection (1) of section 1 of the Act of 1959 (by which liability for the payment of graduated contributions is to begin with such week as may be appointed by order of the Minister).

(2) In these regulations, save in the Schedule thereto, unless the context otherwise requires, " the Act of 1959 " means the National Insurance Act, 1959, and other expressions have the same meanings as in the National Insurance Acts, 1946 to 1959.

(3) References in these regulations to any enactments or regulations shall include references to such enactments or regulations as amended by any subsequent enactment, order or regulations, and to any enactments, orders or regulations which replace them by provisions which deal with the same subject matter and are (so far as material) to the like effect.

(4) The rules for the construction of Acts of Parliament contained in the Interpretation Act, 1889(**c**), shall apply to the interpretation of these regulations as they apply to the interpretation of an Act of Parliament.

Collection and recovery of graduated contributions

2.—(1) Subject to the provisions of regulation 3, graduated contributions shall be paid, accounted for and recovered in like manner as and with income tax deducted from the emoluments of an office or employment by virtue of regulations under section 157 (pay as you earn) of the Income Tax Act, 1952(**d**) ; and accordingly the Income Tax (Employments) Regulations, 1950(**e**), in the modified form in which they are set out in the Schedule hereto, shall apply to and for the purpose of graduated contributions.

(2) The provisions of paragraph (1) of this regulation shall not apply to or for the purpose of graduated contributions payable in respect of any payment of remuneration from a person's employment as a seaman ; and

(**a**) 9 & 10 Geo. 6. c. 67. (**b**) 7 & 8 Eliz. 2. c. 47. (**c**) 52 & 53 Vict. c. 63.
(**d**) 15 & 16 Geo. 6 & 1 Eliz. 2. c. 10.
(**e**) 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).

"seaman" has the same meaning in this paragraph as in regulation 34 of the said Income Tax (Employments) Regulations, 1950.

Direct collection and recovery of graduated contributions

3. The Minister may, if he thinks fit, and subject to such terms and conditions as he may impose, authorise any arrangements whereby graduated contributions are paid at times, or in a manner, other than those prescribed by paragraph (1) of regulation 2; and the provisions of that paragraph shall be without prejudice to any remedy otherwise available for the recovery of graduated contributions.

Payments in lieu of contributions

4. Payments in lieu of contributions under subsection (3) of section 7 of the Act of 1959 shall be made to the Minister.

Information as to non-participating employment

5.—(1) Not later than fourteen days after the end of each year an employer shall render to a Collector, either on the tax deduction card or in such other form as the Minister or the Commissioners of Inland Revenue may approve or direct, a return in respect of each employee employed by him in a non-participating employment at any time during that year containing such particulars as the Minister or the said Commissioners may direct, being particulars reasonably required for the purpose of ascertaining whether graduated contributions were payable in respect of any payment made to that employee during that year.

(2) The Minister or a Collector may at any time direct an employer to furnish, in such form as may be specified in the direction, such information in respect of all or any employees who are or have been employed by him in a non-participating employment as may be reasonably required for the purpose of ascertaining whether graduated contributions are or were payable in respect of any payments made to them; and the employer shall furnish such information within fourteen days of being so directed.

(3) In this regulation expressions specifically defined in the Schedule hereto have the meanings there attributed to them.

Dated this twenty-third day of May, 1960.

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

Dated this twenty-fourth day of May, 1960.

R. C. Brooman-White,
J. D. 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.

25th May, 1960.

SCHEDULE Regulation 2

CONTAINING THE PROVISIONS OF THE INCOME TAX (EMPLOYMENTS) REGULATIONS, 1950, 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 subsection (2) of section 2 of the National Insurance Act, 1959;

"Collector" means a Collector of Taxes;

"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 sixth day of any calendar month and ending on the fifth day of the following calendar month;

"Inspector" means an Inspector of Taxes;

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

"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 head (ii) of paragraph (*b*) of subsection (1) of section 1 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 tax 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 tax 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.

13. *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 paragraph (*b*) of subsection (1) of section 1 of the National Insurance Act, 1959, from the emoluments on making the payment in question :

Provided that where two 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 tax 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 two 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.

19. *Employee for whom tax 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 tax 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 13 applied, and shall do likewise on making any subsequent payment of emoluments to the employee until a tax deduction card in respect of the employee is issued to him by the Inspector.

20. *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 tax deduction card, duly completed, to the Collector.

23. *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.

26. *Payment of graduated contributions by employer.*—(1) Within fourteen 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 13 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 three 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 three 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.

27. *Employer failing to pay graduated contributions.*—(1) If within fourteen days of the end of any income tax month the employer has paid no amount of graduated contributions to the Collector under Regulation 26 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 sixth day of 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 two 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 26 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.

28. *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 26 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.

29. *Return by employer at end of year.*—(1) Not later than fourteen days after the end of the year the employer shall render to the Collector, either on the tax deduction card or in such other 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 tax 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 tax 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 26 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 tax 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 fourteen 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 28 shall apply ; and to the said certificate the provisions of paragraph (3) of Regulation 28 shall with any necessary modifications apply.

32. *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.

33. *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.

EXPLANATORY NOTE

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

These Regulations make provision for the payment of graduated contributions and of payments in lieu of contributions.

Graduated contributions (except those payable in respect of seamen) are brought within the Pay As You Earn scheme for purposes of payment, accounting and recovery, although the Minister may authorise other arrangements for payment. Employers may be required to give information needed to ascertain whether there is any liability for graduated contributions in respect of employees for whom such contributions have not been paid.

If at the end of an employee's service in a non-participating employment a payment in lieu of contributions becomes due it is to be made to the Minister.

The report of the National Insurance Advisory Committee on the preliminary draft of these Regulations, dated the 19th May, 1960, is contained in the House of Commons Paper No. 214 (Session 1959–60) published by Her Majesty's Stationery Office.