1992 No. 126

SOCIAL SECURITY

The Social Security (Contributions) (Amendment No. 3) Regulations (Northern Ireland) 1992

Made	*13th March 1992*
Coming into operation . .	*6th April 1992*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by section 4A(9) of the Social Security (Northern Ireland) Act 1975(**a**) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (Contributions) (Amendment No. 3) Regulations (Northern Ireland) 1992 and shall come into operation on 6th April 1992.

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

Insertion of Part IIA in the principal regulations

2. After Part II of the principal regulations (assessment of earnings-related contributions) there shall be inserted the following Part—

"PART IIA

EXCEPTIONS FROM LIABILITY FOR, AND REDUCTIONS OF, CLASS 1A CONTRIBUTIONS

Interpretation

22A. In this Part of these regulations, unless the context otherwise requires, "the 1988 Act" means the Income and Corporation Taxes Act 1988(**c**) and in the case of Schedule 6 to that Act as applied by section 4A of the Act.

Exception from liability for Class 1A contributions in respect of cars made available to members of an employed earner's family or household in certain circumstances

22B.—(1) Where in any year a car made available for private use to an employed earner (A) by reason of his own employment as an employed earner is, for the purposes of Chapter II of Part V of the 1988 Act (employees earning £8,500 or more and directors), deemed in pursuance

(a) 1975 c. 15; section 4A was inserted by Article 3(5) of the Social Security (Contributions) (Northern Ireland) Order 1991 (S.I. 1991/2294 (N.I. 22))
(b) S.R. 1979 No. 186, to which there are amendments not relevant to these regulations
(c) 1988 c. 1

of section 168(6)(*b*) of that Act to be made available to him by reason of another employed earner's (B) employment under the employer of A by virtue of A being a member of the family or household (within the meaning of section 168(4) of that Act) of B, the person who would, but for the provisions of this regulation, be liable to pay Class 1A contributions for that year in respect of the earners and car in question shall, in the further circumstances specified in paragraph (2) or (3) of this regulation, be excepted from liability to pay any Class 1A contribution arising in respect of B and the car.

(2) For the purposes of the last preceding paragraph, the further circumstances are that a Class 1A contribution is payable for that year in respect of the car and A.

(3) For the purposes of paragraph (1) of this regulation, the further circumstances are that no Class 1A contribution is payable for that year in respect of the car and A because A is not chargeable to tax as mentioned in section 4A(1) of the Act by reason that his employment as an employed earner under the employer concerned is not employment to which Chapter II of Part V of the 1988 Act applies and either—

(*a*) other employed earners under that employer—

(i) who are in similar employments to A, and

(ii) who are not relatives of any other employed earner under that employer, whose employment falls within section 167(1) of the 1988 Act(**a**) (employment to which Chapter II of Part V of that Act applies),

have, in that year, cars equivalent to that made available to A, made available to them on the same terms as that made available to A by reason of their own employments; or

(*b*) the making available for private use to a person by reason of his employment of a car equivalent to that made available to A is in accordance with normal commercial practice for employment of the type concerned.

(4) For the purposes of the last preceding paragraph, a person is a relative of another person if he is—

(*a*) the spouse of that other;

(*b*) a parent or remoter forebear, child or remoter issue, or brother or sister of that other or of the spouse of that other; or

(*c*) the spouse of a person falling within the last preceding sub-paragraph.

Reduction of certain Class 1A contributions payable in respect of 2 or more cars made available concurrently

22C.—(1) This regulation applies where the amount of any Class 1A contribution payable for any year includes an amount in respect of an increase in the cash equivalent of the benefit of the car by virtue of the application of paragraph 5(3) of Schedule 6 to the 1988 Act (increase in cash equivalent where 2 or more cars are made available concurrently).

(**a**) Section 167 was substituted by section 53(1) of the Finance Act 1989 (c. 26)

(2) Except in the circumstances specified in the next succeeding paragraph, where the last preceding paragraph applies the amount of any Class 1A contribution payable for that year by the person liable to pay such contribution shall be so reduced as to equal the amount which would have been payable if paragraph 5(3) had been omitted from Schedule 6 to the 1988 Act.

(3) For the purposes of the last preceding paragraph, the circumstances are that 2 or more cars are made available for private use by reason of—

(*a*) any one employed earner's employment;

(*b*) 2 or more employed earner's employments under the same employer; or

(*c*) different employed earner's employments under different employers who are associated.

(4) For the purposes of this regulation—

(*a*) 2 or more employers shall be treated as associated if—

(i) they are carrying on business in association, or

(ii) one has control of the other or others, or any person has control of both or all of them;

(*b*) references to an employer (the first employer) having control of another employer (the second employer) shall be construed as references to the first employer having control of the second employer either by himself or in conjunction with any person having control over the first employer;

(*c*) "control" means, except in relation to an employer which is a partnership, power to secure that the affairs of the employer are conducted in accordance with the wishes of the person concerned being, in relation to an employer which is a body corporate, power exercisable—

(i) by means of the holding of shares or the possession of voting power in or in relation to that or any other employer, or

(ii) by virtue of any powers conferred by the articles of association or other document regulating that or any other employer;

(*d*) "control" means, in relation to an employer which is a partnership, having the right to a share of more than one half of the assets, or of more than one half of the income, of the partnership.

Reduction of certain Class 1A contributions in the cases of a car made available by reason of 2 or more employments and of a car made available to 2 or more employed earners

22D.—(1) This regulation applies—

(*a*) where—

(i) a car is made available for private use to an employed earner by reason of 2 or more employed earner's employments, whether under the same employer or different employers, or

(ii) a car is made available for private use to 2 or more employed earners concurrently by reason of their respective employed earner's employments under the same employer; and

(*b*) where all of those employed earner's employments fall within section 167(1) of the 1988 Act (employment to which Chapter II of Part V of that Act applies).

(2) Where the last preceding paragraph applies—

(*a*) the amount of any Class 1A contribution which would be payable for the year by the person liable to pay such contribution shall, in the circumstances described in paragraph (3)(*a*) of this regulation, be so reduced as to equal the amount which would have been payable on the assumption mentioned in the said paragraph (3)(*a*);

(*b*) the amount of any Class 1A contribution which would be payable for the year by the person liable to pay such contribution shall, in the circumstances described in paragraph (3)(*b*) of this regulation, be so reduced as to equal the amount which would have been payable on the assumption mentioned in the said paragraph (3)(*b*).

(3) For the purposes of—

(*a*) paragraph (2)(*a*) of this regulation, the circumstances are that the aggregate use of the car for business travel in all the employed earner's employments concerned is not less than 18,000 miles (or such lower figure as would be applicable by virtue of paragraph 3(2) of Schedule 6 to the 1988 Act (reduction for periods where the car was unavailable for use) by reason of the car being unavailable within the meaning of paragraph 2(2) of that Schedule) and the assumption is that in each of those employments the car was used for business travel for at least 18,000 miles (or such lower figure as would be applicable by virtue of the said paragraph 3(2));

(*b*) paragraph (2)(*b*) of this regulation, the circumstances are that the aggregate use of the car for business travel in all the employed earner's employments concerned is more than 2,500 miles but less than 18,000 miles (or such lower figures as would be applicable by virtue of paragraphs 5(2) and 3(2) of Schedule 6 to the 1988 Act (reduction for periods where the car was unavailable for use) by reason of the car being unavailable within the meaning of paragraph 2(2) of that Schedule) and the assumption is that in each of those employments the car was used for business travel for more than 2,500 miles but less than 18,000 miles (or such lower figures as would be applicable by virtue of the said paragraphs 5(2) and 3(2)).

Reduction of certain Class 1A contributions on account of the number of employments in the cases of a car made available by reason of 2 or more employments and of a car made available to 2 or more employed earners

22E.—(1) This regulation applies—

(*a*) where—

(i) a car is made available for private use to an employed earner by reason of 2 or more employed earner's employments, whether under the same employer or different employers, or

(ii) a car is made available for private use to 2 or more employed earners concurrently by reason of their respective employed earner's employments under the same employer; and

(*b*) where all of those employed earner's employments fall within section 167(1) of the 1988 Act (employment to which Chapter II of Part V of that Act applies).

(2) Where the last preceding paragraph applies the amount of any Class 1A contribution payable for the year by the person liable to pay such contribution shall be reduced (or, where the last preceding regulation applies, shall be further reduced) by deducting therefrom an amount equal to the fraction $\frac{X - 1}{X}$ of the amount which would, but for the provisions of this regulation, be payable, where X is the total number of employments in respect of which the car is made available.

Reduction of certain Class 1A contributions in respect of cars made available to disabled employed earners

22F.—(1) This regulation applies where a car is made available by reason of his employment and on account of his disability to an employed earner who is disabled for purposes of or for purposes which include assisting, on account of his disability, his travelling between his home and place of employment.

(2) Where the last preceding paragraph applies—

(*a*) the amount of any Class 1A contribution which would be payable for the year by the person liable to pay such contribution shall, in the circumstances described in paragraph (3)(*a*) of this regulation, be so reduced as to equal the amount which would have been payable on the assumption mentioned in the said paragraph (3)(*a*);

(*b*) the amount of any Class 1A contribution which would be payable for the year by the person liable to pay such contribution shall, in the circumstances described in paragraph (3)(*b*) of this regulation, be so reduced as to equal the amount which would have been payable on the assumption mentioned in the said paragraph (3)(*b*).

(3) For the purposes of—

(*a*) paragraph (2)(*a*) of this regulation, the circumstances are that treating the private use of the car by the employed earner in travelling between his home and place of employment as business travel would increase the use of the car for the employed earner's business travel to an amount of not less than 18,000 miles (or such lower figure as is applicable by virtue of paragraph 3(2) of Schedule 6 to the 1988 Act (reduction for periods where the car was unavailable for use) by reason of the car being unavailable

within the meaning of paragraph 2(2) of that Schedule) and the assumption is that the employed earner's travelling between his home and place of employment is business travel;

(*b*) paragraph (2)(*b*) of this regulation, the circumstances are that treating the private use of the car by the employed earner in travelling between his home and place of employment as business travel would increase the use of the car for the employed earner's business travel to an amount of more than 2,500 miles but less than 18,000 miles (or such lower figures as are applicable by virtue of paragraphs 5(2) and 3(2) of Schedule 6 to the 1988 Act (reduction for periods where the car was unavailable for use) by reason of the car being unavailable within the meaning of paragraph 2(2) of that Schedule) and the assumption is that the employed earner's travelling between his home and place of employment is business travel.

(4) In this regulation and in the next succeeding regulation "disabled", in relation to a person, means that the person suffers from some permanent handicap resulting from an illness, injury or congenital condition; and "disability" shall be construed accordingly.

Exception from liability for Class 1A contributions in respect of cars made available to disabled employed earners for business and home to work travel only

22G.—(1) This regulation applies where—

(*a*) a car is made available by reason of his employment and on account of his disability to an employed earner who is disabled for purposes of or for purposes which include assisting, on account of his disability, his travelling between his home and place of employment;

(*b*) the terms on which the car is made available to the employed earner prohibit private use other than use by that employed earner in travelling between his home and place of employment; and

(*c*) no prohibited private use of the car has been made in that year.

(2) Where the last preceding paragraph applies the person who would, but for the provisions of this regulation, be liable to pay the Class 1A contribution for that year in respect of the employed earner and car in question shall be excepted from that liability.".

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 13th March 1992.

(L.S.) *A. N. Burns*
Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations further amend the Social Security (Contributions) Regulations (Northern Ireland) 1979 (''the principal regulations''). They make in relation to Northern Ireland only provision corresponding to provision contained in regulations made by the Secretary of State for Social Security in relation to Great Britain and accordingly, by virtue of section 10(2) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1980 (c. 30), are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee.

Regulation 2 of these regulations inserts regulations 22A to 22G (comprising Part IIA) into the principal regulations. The inserted regulations provide for exceptions from liability to pay, and reductions in the amount of, Class 1A contributions, in the circumstances specified in each regulation. They are consequential on amendments made to the Social Security (Northern Ireland) Act 1975 by the Social Security (Contributions) (Northern Ireland) Order 1991 (which introduced Class 1A contributions).

Regulation 22B provides for an exception from liability to pay a Class 1A contribution where a car which is made available to an employed earner by reason of his own employment is deemed to be made available to him by reason of the employment, under the same employer, of another employed earner if the circumstances specified in paragraph (2) or (3) of the regulation apply.

Regulation 22C provides for a reduction in the amounts of Class 1A contributions payable in respect of 2 or more cars made available for private use concurrently. The amounts are to be ascertained by disregarding any increase in the cash equivalent required under paragraph 5(3) of Schedule 6 to the Income and Corporation Taxes Act 1988 (''the 1988 Act'') except where the cars are made available by different employers who are not associated or by reason of an employment or employments under the same employer.

Regulations 22D and 22E provide for the reduction of the Class 1A contributions payable where one car is made available for private use to an employed earner by reason of 2 or more employments or is made available for private use to 2 or more employed earners concurrently under the same employer, and all the employments concerned fall within Chapter II of Part V of the 1988 Act.

Regulation 22D provides for the amounts of the Class 1A contributions to be ascertained by reference to the total business travel in all the qualifying employments where this amounts to at least 18,000 miles or to more than 2,500 miles but less than 18,000 miles (or such lower figures as are applicable by reason of the car's unavailability).

Regulation 22E provides for a reduction (or further reduction), by reference to the number of employments in respect of which the car is made available, in the amount of each Class 1A contribution payable.

Regulation 22F provides for the reduction of a Class 1A contribution payable in respect of a car made available to a disabled employed earner to assist his travel between his home and place of employment. The amount is to be ascertained by treating such private use as business travel where this would increase the business travel to an amount of at least 18,000 miles or to more than 2,500 miles but less than 18,000 miles (or such lower figures as are applicable by reason of the car's unavailability).

Regulation 22G provides for an exception from liability to pay a Class 1A contribution in respect of a car made available to a disabled employed earner to assist his travel between his home and place of employment if no other private use is permitted and no other such use takes place.