
GUERNSEY STATUTORY INSTRUMENT

1995 - No. 31

The Social Insurance (Contributions) (Amendment) Regulations, 1995

Made th September, 1995

Laid before the States

Coming into operation 1st January, 1996

THE GUERNSEY SOCIAL SECURITY AUTHORITY, in exercise of the powers conferred upon it by sections 8, 11, 20 and 116 of the Social Insurance (Guernsey) Law, 1978, as amended(a), hereby orders:-

Replacement of Regulations 10 and 11.

1. Regulations 10 and 11 of the Social Insurance (Contributions) (Guernsey) Regulations, 1978, as amended(b) (hereinafter referred to as the "principal Regulations") are repealed and the following substituted:

"Assessment of income-related Class 2 and Class 3 contributions

10. (1) In this Regulation and the next following Regulation:-

- (a) "assessable income" has the same meaning as for the purposes of the Income Tax Law;
- (b) "earned income" has, subject to the following provisions of this paragraph, the same meaning as for the purposes of the Income Tax Law;
- (c) "relevant contribution year" means the contribution year to which an application to pay a reduced rate of contribution relates;
- (d) "relevant income" means
 - (i) in relation to a share fisherman within the meaning of the Social Insurance (Classification) (Guernsey) Regulations, 1978, earnings from his employment in the fishing industry under a contract of service for the year of charge ending immediately before the relevant contribution year; or

(a) Ordres en Conseil Vol.XXVI,p.292; Vol.XXVII,pp.238, 307 and 392; No.IV of 1985; Vol XXIX pp.24, 148 and 422; No. V of 1990; No. XII of 1993; Ordinance No. XIV of 1993, Ordre en Conseil No. VI of 1995.

(b) S.I.1978 No.18; S.I.1979 Nos.1,14,26 and 34; S.I.1980 No.25; S.I.1981 Nos.13, 23 and 33; S.I.1982 No.25; S.I.1983 No.8; S.I.1986 No.3; S.I.1987 No.31; S.I.1988 No.8; S.I.1988 No.26; S.I.1991 No.38; S.I.1993 No. 31, S.I. 1994 No. 20.

- (ii) in relation to a self-employed person whose relevant earnings are derived (in whole or in part) from a body corporate in which that person, or his nominee, is, in the opinion of the Authority, the principal shareholder or one of the principal shareholders, all income arising from that body corporate included in the assessable income of that person for the year of charge ending immediately before the commencement of the relevant contribution year; or
 - (iii) in relation to any other self-employed person, the amount of the earned income included in the assessable income of that person for the year of charge ending immediately before the commencement of the relevant contribution year, other than income derived from any employment under a contract of service; or
 - (iv) where a person has become a self-employed or non-employed person during the course of either the relevant contribution year or one of the last two contribution years preceding the relevant contribution year, such amount as the Authority deems proper, in relation to the relevant contribution year, having regard to the nature of the income and the period throughout which it has or has been deemed to have, arisen; or
 - (v) in relation to a non-employed person, or one deemed to be non-employed by virtue of the operation of the Social Insurance (Classification) (Guernsey) Regulations, 1978, all income included in the assessable income of that person for the year of charge ending immediately before the commencement of the relevant contribution year, other than income derived from any employment, whether or not under a contract of service, in respect of which contributions have been paid under the Law; or
 - (vi) such amount as the Authority deems proper, having regard to all the circumstances of the case, in relation to the relevant contribution year, where the Authority is satisfied that it is just and equitable to disregard the relevant income as aforesaid;
- (e) "the Class 2 rate" means such percentage as shall for the time being be determined by the States by ordinance under subsection (2) of section six of the Law;
 - (f) "year of charge" has the same meaning as for the purposes of the Income Tax Law.

(2) A person who, being ordinarily resident in Guernsey, desires to pay a Class 2 or Class 3 contribution under and in accordance with the provisions of subsection (3) of sections six or eight of the Law during the whole or any part of any contribution year shall -

- (a) make application to the Authority,
 - (i) before the end of that contribution year, or
 - (ii) where the Authority is satisfied that there was good cause for the application to be made after the end of that contribution year, within such other period as the Authority may allow,

in such form as may for the time being be approved by the Authority, for the grant of a certificate of assessment under the next following Regulations, such application, once made, being deemed to relate also to future contribution years until notification is received to the contrary; and

- (b) furnish to the Authority such information and evidence as the Authority may require as to his relevant income.

(3) Subject to these Regulations and the Social Insurance (Classification) (Guernsey) Regulations, 1978, where, upon application being made to it under and in accordance with the last foregoing paragraph, the Authority is satisfied that the relevant income of the applicant is below the current upper annual earnings or income limit, as the case may be, the Authority shall grant to the applicant a certificate (hereafter in these Regulations referred to as a "certificate of assessment") in such form as may for the time being be approved by the Authority specifying the Class and amount of the contribution which the applicant shall be liable to pay in respect of each week of the period to be specified in the certificate, being an amount equal to the product of the rate appropriate to his Class and circumstances and one fifty-second of the relevant income of the applicant.

Re-assessment of income, refunds and additional contribution payments

11. (1) For the purpose of this Regulation -

- (a) where the repayment of sums overpaid or the payment of additional amounts is prescribed, the Authority shall not be required to repay, nor shall any person be required to pay any sum amounting in total to less than £5.00;
- (b) where a person was not liable to pay a contribution of the same Class for every week in any year, the Authority may direct that any repayment or payment shall be made in such lesser amount than the amount which would otherwise have been repayable or payable as the Authority shall consider to be just and equitable having regard to the extent of the period during which that person was a member of that Class in that year;
- (c) any assessment of relevant income shall be varied where that income has been re-assessed under the Income Tax Law, being income arising from a year of charge not more than six years earlier than the current year of charge.

(2) Where a person has paid contributions at the maximum rate, or at a reduced rate in accordance with a certificate of assessment issued by the Authority, whether by reference to an amount assessed under the Income Tax Law or an amount deemed proper by the Authority, and the amount of his relevant income has been assessed or re-assessed under the Income Tax Law or by the Authority and would result in a contribution rate different to that already paid, then, where the relevant income relates to a year of charge less than seven years before the year in which application is made, and subject to paragraph (1) the Authority may issue or vary a certificate so that either:

- (a) the Authority shall repay to that person an amount in respect of any week in respect of which a contribution has been paid by him, equal to the difference between the amount of contributions so paid and the amount specified in the certificate as so issued or varied, or

- (b) that person shall be liable to pay to the Authority in respect of any week in respect of which a contribution has been paid by him in the amount originally specified in the certificate, an amount equal to the difference between the amount of contributions so paid and the amount specified in the certificate as so varied.

(3) Where a certificate of assessment is granted by the Authority to a person who would, but for the provisions of paragraph 9 of column (B) of the First Schedule to the Social Insurance (Classification) (Guernsey) Regulations, 1978, be treated as a non-employed person, the amount to be specified by the Authority in the certificate as being the amount of the Class 2 contribution which that person shall be liable to pay in respect of each week of the period to be specified in the certificate in accordance with paragraph (3) of this Regulation shall be equal to the product of the Class 2 rate and the current lower weekly earnings limit."

Replacement of Regulation 18

2. Regulation 18 of the principal Regulations is repealed and the following substituted:

"18. (1) Every person who is, or is deemed by Regulations to be, an employer shall, before the expiry of the period specified in paragraph (1) or (3), as the case may be, of Regulation 19 of these Regulations, register with the Authority as such, and shall inform the Authority as to the means, being one or more of those specified by the Authority, by which he intends to record the earnings of each employee and the amount of Class 1 contributions due for each contribution quarter, such record being referred to hereafter as a "contribution schedule".

(2) Such schedule, whether produced manually or electronically, and whether contained on paper or such other medium as may be approved by the Authority, shall be in such form as the Authority may specify for that format for employees paid either weekly or monthly.

(3) Every employer shall deliver or send to the Authority's office the contribution schedule for that quarter so that the schedule, containing such information as the Authority may require for determining the amount of the contribution payable in respect of any employed person, is received within the fifteen days next following the expiration of each contribution quarter in which earnings are paid by him to any such person.

(4) Each completed contribution schedule shall either signed, or if not on paper, shall be accompanied by a document signed, by the employer or by any other person duly authorised by the employer in that behalf, containing a declaration by the employer or such other person that to the best of his belief the information contained in the contribution schedule is true."

Replacement of Regulation 33

3. Regulation 33 of the principal Regulations, having been repealed(c) is reinstated as the following:

"Conditions for the payment of a minimum Class 3 contribution.

33. (1) A person who has become liable under section 8(4) of the Law to pay a minimum Class 3 contribution shall be an employed person who is normally reliant on such employment for his livelihood, and if not such a person shall be liable either to pay a contribution in accordance with subsection (2) or to make application in accordance with subsection 3 of that section.

(2) It shall be an additional condition that a person excepted from liability to pay a contribution by Regulation 38 or 44, who is desirous of so doing in accordance with section 8(5) of the Law, shall be ordinarily resident in Guernsey;

(3) A person excepted from liability to pay a contribution other than as specified in paragraph (2), shall, if he wishes to pay a Class 3 contribution, be entitled, subject to Regulations, to do so only in accordance with subsections (2) and (3) of section 8 of the Law."

Replacement of Regulation 34

4. Regulation 34 of the principal Regulations is repealed and the following substituted:

" 34. a person who:

- (a) has attained the age of 60; and
- (b) is not, or is deemed not to be, employed or self-employed; and
- (c) has elected in such manner as the Authority may require not to be liable to pay contributions;

shall not be liable to pay a contribution, other than a non-employed health benefit contribution at such percentage rate as the States may, from time to time, by Ordinance prescribe, in respect of either:

- (i) any week falling between the week in which that election was made and that following the delivery of written notice to the Authority cancelling that election; or
- (ii) such other period as the Authority may, for good cause, allow."

Replacement of Regulation 41

5. Regulation 41 of the principal Regulations is repealed and the following substituted:

" 41. (1) An insured person who is not, or is deemed not to be, an employed or self-employed person shall, subject to the further provisions of this Regulation, be excepted from liability to pay a Class 3 contribution for any year in respect of which his relevant income is less than the current lower annual income limit.

(2) An insured person excepted from liability to pay a Class 3 contribution under paragraph (1) may, if he so wishes and subject to this Regulation, pay a minimum Class 3 contribution in respect of any week during which he is so excepted.

(3) It shall be a condition of exception under paragraph (1) that an application shall be made in accordance with Regulations 10 and 11 of these Regulations, and that such application shall continue in force throughout the period of exception.

(4) Notwithstanding paragraph (3), it shall be the duty of an insured person so excepted to notify the Authority without delay of any change in his circumstances which could affect his liability to pay a Class 3 contribution.

(5) Nothing in these Regulations shall preclude a person from receiving benefit, whilst excepted under the foregoing paragraphs of this Regulation, by virtue of reckonable contributions paid by or credited to him in respect of any period before the day on which he was so excepted.

(6) Where an applicant for exception under this Regulation is in receipt of an annual income which exceeds the amount referred to in paragraph (1) of this Regulation by reason only of the inclusion therein of any one or more of the following items, he shall be deemed for the purposes of this Regulation not to be in receipt of an income exceeding that amount:-

- (a) any payment of sick pay received from a friendly society or trade union;
- (b) any other sum which in the opinion of the Authority should be disregarded.

(7) Where an applicant for exception under this Regulation is in receipt of an annual income which, after the deduction therefrom of such, if any, of the items specified in the last foregoing paragraph as are included therein, exceeds the amount referred to in paragraph (1) of this Regulation by an amount no greater than the amount of the contributions which he would be liable to pay in a year if he were not excepted, he shall be deemed for the purposes of this Regulation not to be in receipt of an income exceeding the amount referred to in that paragraph.

Amendments

6. (a) In Regulation 58 of the principal Regulations, paragraph (1) is replaced by the following:

"(1) As regards any contribution year the lower weekly and monthly earnings limits shall relate to the lower annual income limit prescribed in accordance with section 8(4) of the Law, so that

- (a) the weekly limit shall be a sum equal to half of one fifty-second of that limit; and
 - (b) the monthly limit shall be a sum equal to half of one twelfth of that limit."
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- (b) In Regulation 61 of the principal Regulations after the words "Every Class 2 contribution", there is inserted ", other than a self-employed married woman's health benefit contribution,";
- (c) in Regulation 62 of the principal Regulations, after "Every Class 3 contribution" there is inserted ", other than a non-employed health benefit contribution,".

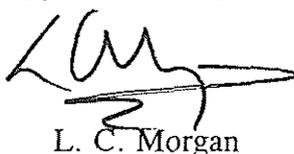
Citation

7. These Regulations may be cited as The Social Insurance (Contributions) (Amendment) Regulations, 1995.

Commencement

8. These Regulations shall come into force on the 1st January, 1996.

Dated this 29 day of September, 1995



L. C. Morgan

President of the Guernsey Social Security Authority,
for and on behalf of the Authority.

EXPLANATORY NOTE

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

Regulations 1 and 3 to 6 are consequential to the introduction of income-related Class 3 contributions and the States' decision that a contribution towards the Health Service should be paid by all employed, self-employed and non-employed married women and by non-employed persons aged 60 who have elected not to be liable to pay contributions.

Regulation 2 contains changes to reflect the electronic submission of employers' contribution schedules.