
GUERNSEY STATUTORY INSTRUMENT

2005 - No. 37

The Social Insurance (Contributions) (Amendment) Regulations, 2005

Made6th October, 2005

Laid before the States

Coming into operation6th October, 2005

THE SOCIAL SECURITY DEPARTMENT, in exercise of the powers conferred upon it by sections 6,8,11,15 and 116 of the Social Insurance (Guernsey) Law, 1978, as amended¹, and of all other powers enabling it in that behalf, hereby orders:-

Amendments

1. In the Social Insurance (Contributions) Regulations, 2000, as amended²:
 - (a) regulation 10 is revoked and replaced by the regulation set out at paragraph 1 of the Schedule to these regulations;
 - (b) regulation 11(1)(c) is revoked and replaced by the regulation set out at paragraph 2 of the Schedule to these regulations;
 - (c) regulation 12(1) is revoked and replaced by the regulation set out at paragraph 3 of the Schedule to these regulations;
 - (d) regulation 13 is revoked and replaced by the regulation set out at paragraph 4 of the Schedule to these regulations.

Interpretation

2. The Interpretation (Guernsey) Law, 1948³ applies to the interpretation of these regulations as it applies to the interpretation of a Guernsey enactment.

Citation

3. These Regulations may be cited as the Social Insurance (Contributions) (Amendment) Regulations, 2005.

¹ Ordres en Conseil Vol. XXVI, p. 292; Vol. XXVII, pp. 238, 307 and 392; Vol. XXIX, pp. 24, 148 and 422; No. V of 1990; Nos. V and XII of 1993; Ordinance No. XIV of 1993; Ordres en Conseil No. V of 1994, Nos. VI and XIII of 1995; No. I of 1998; No. VI of 1999; No. X of 2000; No. IX of 2001; No XXIV of 2003; No. XI of 2004.

² S.I. 1999 No. 49; S.I. 2001 No. 3; S.I. 2001 No. 43; S.I. 2003 No. 40.

³ Ordres en Conseil Vol. III, p. 355.

Commencement

4. These Regulations shall come into force on 6th October 2005.

Dated this 6th day of October, 2005.

Mary Lowe,
Minister for Social Security,
For and on behalf of the Social Security Department.

EXPLANATORY NOTE

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

In amending the references to the year in which earnings or income arose to reflect changes to the operation of the Income Tax Law, the opportunity has been taken to restructure Regulation 10 in the interests of clarity and to emphasise the Department's duty to consider also the wider interests of all contributors in special cases and where avoidance is suspected. There is also one consequential amendment and a number of references to repealed regulations have been corrected.

SCHEDULE

Regulation 1

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

10. (1) Any person ordinarily resident in Guernsey, who is desirous of paying a reduced rate of Class 2 or Class 3 contribution under and in accordance with the provisions of section 6(3) or section 8(3) of the Law in respect of the whole or any part of any contribution year shall, within such period as the Authority may allow,

(a) make application to the Authority in such form as may for the time being be approved by the Authority; and

(b) furnish to the Authority such information and evidence as the Authority may, in any particular case, require, as to his relevant income;

and any such application, once made, shall be deemed also to relate to future contribution years until notification is received to the contrary.

(2) Where, having received an application made in accordance with the preceding paragraph and having regard to the following provisions of this regulation, the Authority is satisfied that the relevant income of the applicant is below the relevant upper annual earnings limit or the relevant upper annual income limit, as the case may be, of the relevant contribution year, 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.

(3) 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) "income from business" has the same meaning as for the purposes of the Income Tax Law;

(d) "relevant contribution year" means the contribution year to which an application to pay a reduced rate of contribution relates;

(e) "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, -

(aa) in relation to any relevant contribution year before 2003, the year of charge ending immediately before that year; or

(bb) in relation to any relevant contribution year after and including 2003, the year of charge ending one year before that year; or

(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, -

(aa) in relation to any relevant contribution year before 2003, the year of charge ending immediately before that year; or

(bb) in relation to any relevant contribution year after and including 2003, the year of charge ending one year before that year; or

(iii) in relation to any other self-employed person, -

(aa) in respect of any relevant contribution year before 2003, the amount of the earned income, other than income derived from any employment under a contract of service, included in the assessable income of that person for the year of charge ending immediately before the commencement of the relevant contribution year; or

(bb) in respect of any relevant contribution year after and including 2003, the amount of the earned income other than income from business included in the assessable income of that person for the year of charge ending one year before the commencement of the relevant contribution year and in the case of income from business the amount of the earned income, other than income derived from any employment under a contract of service, included in the assessable income of that person for the year of charge ending immediately before the commencement of the relevant contribution year; or

(cc) in respect of any relevant contribution year after and including 2006, the amount of the earned income included in the assessable income of that person for the year of charge ending one year 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,

(aa) in respect of any relevant contribution year before 2003, all income (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) included in the assessable income of that person for the year of charge ending immediately before the commencement of the relevant contribution year; or

(bb) in respect of any relevant contribution year after and including 2003, all income other than income from business included in the assessable income of that person for the year of charge ending one year before the commencement of the relevant contribution year and, in the case of income from business, the amount of the income (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) included in the assessable income of that person for the year of charge ending immediately before the commencement of the relevant contribution year; or

(cc) in respect of any relevant contribution year after and including 2006, all income (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) included in the assessable income of that person for the year of charge ending one year before the commencement of the relevant contribution year; or

(vi) such amount in respect of any relevant contribution year as the Authority deems proper where, having regard to -

(aa) all the circumstances of a person including, without limitation, the apparent income or wealth of that person, and

(bb) all the circumstances of the general body of insured persons including, without limitation, rates of contribution and benefit payable by, to or, in respect of, insured persons generally,

the Authority is satisfied that it is just and equitable to disregard the relevant income derived by application of any provision of subparagraphs (i) to (v) to the circumstances of that person;

(f) "year of charge" has the same meaning as for the purposes of the Income Tax Law."

2. "(c) any assessment of relevant income shall be varied where that income has been re-assessed under the Income Tax Law, being income arising in a contribution year not more than six years earlier than the current contribution year."

3. "(1) Subject to the provisions of these regulations and of the Social Insurance (Benefits) Regulations, 2003, an insured person in receipt of benefit shall, in relation to any week of incapacity for work or unemployment:

(a) be entitled to be credited with a contribution of the class appropriate to the class of contribution which, at the date of the first day for which benefit is claimed he would otherwise be liable to pay; and

(b) be excepted from liability to pay a Class 2 or Class 3 contribution in respect of that week."

4. " Credits for maternity allowance

13. Subject to the provisions of these regulations and of the Social Insurance (Benefits) Regulations, 2003, a woman in receipt of a maternity allowance shall, in relation to any week for which benefit is paid:

- (a) be entitled to be credited with a contribution of the class appropriate to the class of contribution which, at the date of the first day for which benefit is claimed she would otherwise be liable to pay; and
- (b) be excepted from liability to pay a Class 2 or Class 3 contribution in respect of that week."