

GUERNSEY STATUTORY INSTRUMENT

2001 - No. 43

The Social Insurance (Contributions) (Amendment) (No. 2) Regulations, 2001

Made ... .. 5th November, 2001

Laid before the States ... ..

Coming into operation ... .. 1st January, 2002

**THE GUERNSEY SOCIAL SECURITY AUTHORITY**, in exercise of the powers conferred upon it by section 6 of the Social Insurance (Guernsey) Law, 1978, as amended<sup>a</sup>, and of all the powers enabling it in that behalf, hereby orders:-

**Amendment**

1. (a) Regulation 10(1) of the Social Insurance (Contributions) Regulations, 2000, as amended<sup>b</sup>, ("the principal regulations") is repealed and replaced by the following:

"(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) "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 -

<sup>a</sup> 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.

<sup>b</sup> S.I. 1999 No.49; S.I. 2001 No. 3.

(aa) in respect of any relevant contribution year before 2003; for the year of charge ending immediately before the relevant contribution year; or

(bb) in respect of any relevant contribution year after and including 2003; for the year of charge ending one year before the relevant contribution 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 -

(aa) in respect of any relevant contribution year before 2003; for the year of charge ending immediately before the relevant contribution year; or

(bb) in respect of any relevant contribution year after and including 2003; for the year of charge ending one year before the relevant contribution 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 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

(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 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 -

(aa) in respect of any relevant contribution year before 2003; 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

(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 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;

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

(b) in regulation 11(1)(c) of the principal regulations after the words "being income" there is inserted "other than business income, arising from a year of charge not more than seven years earlier than the current year of charge and, in the case of business, income";

(c) regulation 11(2) is replaced by the following:

" (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 from that already paid, then, where the relevant income, other than business income, relates to a year of charge less than eight years before the year in which application is made or in the case of business 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."

## Citation

2. These regulations may be cited as the Social Insurance (Contributions) (Amendment) (No. 2) Regulations, 2001.

**Commencement**

3. These regulations shall come into force on 1st January, 2002.

Dated this 5th day of November, 2001.



O D Le Tissier

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.)  
These regulations bring the rules for the assessment of the income of self-employed and non-employed persons into line with the changes to the Income Tax Law which will come into effect on 1st January 2002. The period over which the relevant income is assessed will be substantially unchanged, but will relate to a different year (or years) of charge for income tax purposes.