

## **ARRANGEMENT OF REGULATIONS**

### **Regulation**

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### **SCHEDULE**

**THE SOCIAL SECURITY (CONTRIBUTIONS) REGULATIONS MADE MAY 29, 1980 UNDER SECTIONS 19, 20, 21, 23 AND 44 OF THE SOCIAL SECURITY ORDINANCE**

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[1<sup>st</sup> July, 1980]

Short title.                    **1.** These Regulations may be cited as the Social Security (Contributions) Regulations.

Interpretation.  
50/2005                    **2.** In these Regulations\_\_\_\_

“appointed day” means the 1<sup>st</sup> of July 1980;

“the Board” means the Social Security Board appointed under section 4 of the Ordinance

“contribution week” means a week beginning on Monday.

“contribution year” means a period of 52 or 53 weeks beginning with the first Monday in any calendar year and ending on the Sunday immediately preceding the first Monday of the succeeding calendar-year;

“due year” means, in relation to any contribution, the date on which that contribution was due to be paid in accordance with Regulation 11 or the date on which the contribution would, if it had been payable have been due to be paid (as the case may be);

“insurable employment” means gainful employment which is under contract of service in which a person would be insured by virtue of the provisions of section 18 of the Ordinance;

“Registration Regulations” means the Social Security (Registration of Employers and Employees) Regulations;

“termination of employment” means the day on which the employment comes to an end, whether such termination is in accordance with the terms of the contract or not, and whether or not the employment is to be resumed at a later date; and

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“wages” has the meaning assigned to it in Regulation 4(3).

3. Any notice, application, card or other document which is authorized or required to be given, presented, issued or delivered under these Regulations may be sent by post. Notices etc. may be sent by post.

4. (1) Where a payment of wages is made to or for the benefit of an employee on or after the appointed day there shall be payable a contribution comprising –

Rate of  
contributions and  
upper wages  
limit  
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(a) a contribution by the employee at the rate of 4%; and

(b) a contribution by the employer at the rate of 4 ½%

of the amount of such wages;

Provided, however, that in case of an employee under the Crown the rate payable under paragraphs (a) shall be 3.5% and under paragraph (b) shall be 4% in lieu of the percentage stated therein.

(2) There shall be for every contribution year an upper wages limit for contributions, being the maximum amount of wages in respect of which such contributions are payable and the amount of such limit in respect of different pay periods shall be set out in the Schedule to these Regulations.

(3) The wages for an employee for the purpose of paragraph (1) shall consist of all gross earnings paid to on behalf of the employee including: -

(a) overtime payments;

(b) cost of living payments;

(c) commission or profits on sales;

(d) payments for night or shift work;

(e) holiday pay or other amounts set aside out of the employee's remuneration throughout the year or part of the year payable to him periodically, save not and except any pensions, gratuities, or similar benefits under a scheme of insurance or social security, paid to or on behalf of such employed person.

(4) In calculating the amount of a contribution due by or in respect of an employed person the amount of any cents in a person's wages shall be disregarded.

**5.** A contribution under the Ordinance shall be payable \_\_\_\_

- (a) in the case of an employee attaining the age of fifteen years, for the week in which that person reaches that age; and
- (b) in the case of an employee attaining the age of sixty-five years, for the week in which the employed person reaches that age;

Provided that a contribution shall not be paid in respect of or on behalf of an employee if such employee attains the age of sixty-five years on the Monday of the week in question:

Provided further that no contribution shall be payable by an employee who has on the appointed day reached sixty-four years of age.

**6.** (1) An employer shall be exempt from liability to pay contributions: -

- (a) for any contribution week in which no work is done by the employed person and that person receives no wages in respect of the period; or
- (b) for any contribution week in which the employed person is engaged as a full-time unpaid apprentice.

(2) Nothing in paragraph (1) shall be deemed to affect the liability of an employer to pay contributions for any contribution week in which an employee is on vacation if contributions are normally payable in respect of such a person.

**7.** (1) Every employer shall, on or before making any payment of wages to any employed person, deduct the contributions payable on behalf of that person in accordance with these Regulations.

(2) Where by reason of any error made in good faith an employer on making any payment of wages to an employee fails to deduct therefrom the contribution or any part thereof payable to such employee, may recover such contribution or part thereof from any wages payable to the employee during the ensuing year.

Liability for contributions on attaining ages fifteen and sixty-five.

Exemption from payment of contributions.

Recovery by employer of contributions paid on behalf of employed persons.

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**8.** Every employer shall record, in each contribution year in such form as may be authorised by the Director, the following particulars in respect of each of his employees \_\_\_\_

Manner of  
recording  
contributions

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- (a) the date of each payment of wages;
- (b) the amount of such wages;
- (c) the amount of contribution due in respect of the employer and employee in respect of such payment; and
- (d) the number of contribution weeks in which the employer was in insurable employment in the said contribution year.

**9.** If an employer makes any payment of wages to an employee in respect of whom such employer does not hold any other authorized document, and that payment is a payment of wages in respect of which contributions are payable, such employer shall deduct the contribution so payable and shall keep a record of the information referred to in Regulation 8 in respect of such payment.

No contribution  
document held  
by employer.

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**10.** (1) Within fourteen days of the end of each month an employer shall transmit to the Director together with the approved form the total amount of contributions due by the employer and his employees during the said month in compliance with the provisions of Regulation 4.

Payment of  
contribution by  
employer.  
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(2) In addition to any other requirements, an employer shall, where the service of an employee is terminated, transmit to the Director all contributions due in respect of that employee within fourteen days from the end of the month in which the said employment is terminated.

(3) If an employer, by reason of an error made in good faith, has paid to the Director by way of contributions any amount exceeding what was due at a particular time, the excess payment shall be set off against any contribution that falls due subsequently.

**11.** (1) If within the time prescribed by Regulation 10 \_\_\_\_

- (a) an employer has not paid any contribution which he is liable to pay to the Director for that month and the Director is unaware of the amount, if any, which the employer is liable to pay; or

Employer failing  
to pay  
contributions  
due.

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- (b) the employer has tendered in payment an amount which the Director has reasonable cause to believe is less than the employer is liable to pay in respect of any month,

the Director may give notice in writing to the employer requiring him to render, within the time specified in the notice (being not less than five days), a written return showing the name of every employee to whom he made any payment of wages in respect of any period specified in such notice, together with the following particulars regarding such employees\_\_

- (i) the amount of every payment of wages made during that period;
- (ii) the total amount of contributions which the employer was liable to deduct during the period;
- (iii) the total amount of contributions which was payable by the employer in addition to the amount deductible under subparagraph (ii); and
- (iv) such other details and information as will enable the Director to ascertain the correctness or otherwise of the amounts.

(2) The Director shall ascertain and certify the amount of contributions which the employer is liable to pay in respect of any period.

(3) The production of the return made by the employer under paragraph (1) and of the certificate of the Director under paragraph (2) shall be good evidence that the amount of contribution to which the employer is liable to pay to the Director in respect of the period specified therein, and any document purporting to be such a certificate shall be deemed to be such a certificate until the contrary is proved.

**12.** If within the time limit provided in Regulation 10 an employer has not paid any contribution which he is liable to pay for any particular month, he shall be liable to pay to the Director a surcharge equivalent to 5% of the amount of the contributions which he was liable to pay for that month:

Provided that the Director, may, if he is satisfied that the circumstances of the case so warrant, exempt an employer from the payment of the surcharge.

Surcharge for  
late or non-  
payment of  
contributions

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**13.** Non-payment of contributions not in conformity with Regulation 10, made by an employer, shall in no way affect the benefits that an employee is entitled to under the Ordinance.

Employer's non-payment of contributions not to affect employee's rights.

**14.** An employer who during any contribution period has no employees in his service shall send to the Director a statement to that effect within one month of his ceasing to employ any persons.

Nil Returns.

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**14A. (1)** Every employer who fails to transmit to the Director together with the approved form, the total amount of contributions due for each month by the employer and his employees under regulation 10 is guilty of an offence and is liable on summary conviction to pay a fine not exceeding two hundred and fifty dollars.

**14A. (2)** Every employer who fails upon the termination of the services of an employee, to transmit to the Director any contributions due in respect of that employee, under paragraph (2) of regulation 10 is guilty of an offence and is liable on summary conviction to pay a fine not exceeding two hundred and fifty dollars.

## **REFUNDS**

**15. (1)** Contributions paid by an insured person as a voluntary contributor, or by an employer under erroneous belief that such contributions were due, shall be refunded by the Board to the insured person or to the employer, as the case may be, if application to that effect is made in writing to the Board within the time specified in paragraph (5).

Refund of contributions paid in error.

(2) In calculating the amount of any repayment to be made under this Regulation to an employed person, a voluntary contributor or an employer, there shall be deducted \_

- (a) in the case of employer's contributions and contributions payable by or in respect of an insured person, the amount of contributions paid under erroneous belief as aforesaid which have been treated as paid on account of other contributions; and
- (b) in the case of contributions from an insured person or a voluntary contributor, the amount, if any, paid to that person (and to any other person on the basis of the erroneous belief) by way of benefit which would not have been paid had the contributions (in respect of which an application for their return is duly made) not been paid in the first instance.

(3) Contributions erroneously paid by an employer on behalf of an employed person and not recovered by the employer from that person may be repaid to the employer instead of to that person but if so recovered may be repaid to that person, or, with his consent in writing, to his employer.

(4) An application for the return of any contributions made under paragraph (1) shall be made in such form and in such manner as the Board may from time to time determine.

(5) Every application for a refund of contributions under paragraph (1) shall be made within three years from the date of such payment.

**16.** (1) Where an employed person attains the age of sixty-five years and for reasons beyond his control was unable to contribute more than twenty-six weekly contributions after he became insured under the Ordinance, he shall be entitled to a refund of that part of the contributions paid in respect of him within the said twenty-six weeks, and his employer shall be entitled to a similar refund.

(2) Where an employed person attains the age of sixty-five years and for reasons beyond his control was unable to contribute more than forty-nine weekly contributions after he became insured under the Ordinance, he shall be entitled to a refund of that element of the contributions paid in respect of him which represents invalidity, age, and survivor's benefits.

(3) An application for a refund under this Regulation shall be addressed to the office of the Board and shall be made\_

- (i) in respect of an application under paragraph (1), within three months from the date on which the employed person attained sixty-five years; and
- (ii) in respect of an application under paragraph (2), within two years from the date on which he attained the age of sixty-five years,

or such longer period as the Director may allow.

**17.** (1) Where a person is employed during any contribution year by two or more employers, each such employer shall be liable to pay contribution in proportion to the wages paid to such person by each such employer.

Refund of contributions to certain persons.

Employment by two or more employers.



(2) Where an employee to whom paragraph (1) applies has paid contributions on wages exceeding \$10,400 in any contribution year, such employee shall be entitled to a refund of the amount so paid on application to the Director.

## MISCELLANEOUS

**18.** An employer shall maintain a record showing in respect of each person employed by him\_ Records to be kept by employers.

(a) the date on which such employment commenced and the date of the termination of the employment. 50/2005

(b) The date and amount of each payment of wages; and

(c) The date and amount of each monthly payment of contributions to the Director under the provisions of Regulation 10.

**19.** (1) An employer shall, before the end of January of each year send to the Director, in such form as the Board may approve or prescribe, a return in respect of each person employed by him during the previous contribution year containing such particulars as the Board may require: Returns by employer.

Provided, however, where there is a change in the number of persons employed, or the employer has cease to employ any person, such employer shall, within one month of such change or ceasing to employ any person, notify the Director hereof.

(2) The return described in paragraph (1) shall contain a declaration and statement in form approved or prescribed by the Board.

(3) Where an employer is a body corporate, the declaration and certificate referred to in paragraph (e) shall be signed by a person duly authorized by the said body corporate.

(4) A return shall be made under this Regulation in respect of every employee in respect of whom a contribution card has been issued to the employer by the Director, or for whom the employer has at any time during the year made a payment of wages in respect of which contributions were payable.

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(5) If an employer has failed to pay the Director before the end of January of each year the total amount of contributions which such employer is liable to pay in respect of the previous contribution year, the Director may prepare a certificate showing the amount of contributions remaining unpaid and due to the Board for that previous year and such certificates shall be sufficient evidence in any Court that the sum mentioned in the Certificate is unpaid and due to the Board, and any document purporting to be such a certificate shall be deemed to be such a certificate issued by the Director until the contrary is proved.

Death of an employer.

**20.** If an employer dies, any obligation incurred under these Regulations shall be performed by his personal representative.

Succession to business

**21.** Where there is a change of employer of a business, trade or undertaking, any obligation incurred under these regulations before such change shall be performed by the person who was the employer before such change.

Issue of certificate to employee at end of year.

**22.** (1) Within thirty days from the end of a contribution year or from the date of termination of employment, an employer shall give to each employee a certificate showing in respect of the employment \_

- (a) the total amount of contributions deducted from the wages of employee during the contribution year;
- (b) the employee's total wages for the contribution year; and
- (c) the number of contributions weeks in the contribution year in which the employee was in insurable employment.

(2) The certificate specified in paragraph (1) shall be in such form as may be provided or approved by the Board.

Inspection of records by employee.

**23.** An employee shall be entitled to inspect the record specified in Regulation 18 in respect of him once in every period of three months.

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**SCHEDULE**

r. 4(2)

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**PAY PERIOD**

**APPROPRIATE WAGES LIMIT**

Weekly	\$ 585.00
Fortnightly	\$1,170.00
Semi Monthly	\$1,267.50
Four Weekly	\$2,340.00
Monthly	\$2,535.00

With effect from the first day of January, 2006, the wages limit for contribution shall be set out in this Schedule and the limit shall, after the year 2006, be increased annually using Consumer Price Index (CPI) as the index.