
DRAFT STATUTORY INSTRUMENTS

2007 No.

**The Social Security Contributions
(Consequential Provisions) Regulations 2007**

Amendment of the Social Security (Contributions) Regulations 2001

- 8.—(1) Schedule 4 is amended as follows.
- (2) In paragraph 1(2) (interpretation) insert the following definitions at the appropriate places—
- ““closed tax year” means any year preceding the current year and cognate expressions shall be construed accordingly;” and
- ““HMRC” means Her Majesty’s Revenue and Customs;”.
- (3) In paragraph 6 after sub-paragraph (1) insert—
- “(1A) Where a liability to pay retrospective contributions has arisen in respect of an employee, an employer shall amend the relevant deductions working sheet or where necessary prepare one in respect of that employee.”.
- (4) In paragraph 7—
- (a) after sub-paragraph (3) insert—
- “(3A) Where an amount has been treated as retrospective earnings paid to or for the benefit of an employee, the employer may deduct the retrospective contributions based on those earnings from any payment of general earnings made by him to that employee—
- (a) after the relevant retrospective contributions regulations come into force, and
- (b) during the same and the following year.
- This sub-paragraph is subject to sub-paragraph (5).”.
- (b) sub-paragraph (5)—
- (i) after “(3),” insert “(3A),”;
- (ii) in paragraph (b), after “any of those sub-paragraphs” insert “except sub-paragraph (3A)”.
- (5) In paragraph 10(1)—
- (a) in sub-paragraph (1) after “Subject to” insert “sub-paragraph (1A) and”;
- (b) after sub-paragraph (1) insert—
- “(1A) This paragraph does not apply in respect of amounts of retrospective earnings.”.
- (6) In paragraph 11(2)—
- (a) in sub-paragraph (1) after “Subject to” insert “sub-paragraph (1A) and”;
- (b) after sub-paragraph (1) insert—
- “(1A) This paragraph does not apply in respect of amounts of retrospective earnings.”;

(1) Paragraph 10 has been amended by regulation 32 of [S.I. 2004/770](#).

(2) Paragraph 11 has been amended by regulation 16 of [S.I. 2003/193](#), regulation 32 of [S.I. 2004/770](#) and regulation 9 of [S.I. 2006/576](#).

(c) in sub-paragraph (4)—

(i) in the definition of “N”, after paragraph (a) insert—

“(aa) any amount payable in respect of retrospective earnings;”;

(ii) for the definition of “P” substitute—

““P” is the amount which would be payable to HMRC under regulation 68 of the PAYE Regulations but disregarding any amount payable in respect of retrospective employment income (within the meaning of regulation 2 of those Regulations);”;

(7) After paragraph 11 insert—

“Payments of earnings-related contributions in respect of retrospective earnings

11A.—(1) This paragraph applies where there are retrospective earnings in respect of which contributions (whether primary or secondary contributions) are payable.

(2) The employer shall pay the contributions referred to in sub-paragraph (1) to HMRC within 14 days or, if payment is made in respect of the current year by an approved method of electronic communications, 17 days of the end of the tax month immediately following the tax month in which the relevant retrospective contributions regulations came into force.”.

(8) In paragraph 12, for “10 or 11” wherever it appears substitute “10, 11 or 11A”.

(9) In paragraph 17(3)—

(a) in sub-paragraph (1) after “Subject to” insert “sub-paragraph (4A) and”.

(b) in sub-paragraph (3)(b) after paragraph (ii) add—

“(iii) a contribution payable in respect of retrospective earnings relating to a tax year which is closed at the time that the relevant retrospective contributions regulations come into force, the 14th day after the end of the tax month immediately following the tax month in which those regulations came into force.”;

(c) after sub-paragraph (4) insert—

“(4A) Where an employer has not paid contributions in respect of retrospective earnings relating to a closed tax year by the date set out in paragraph 11A, any contribution not so paid shall carry interest at the rate applicable under paragraph 6(3) of Schedule 1 to the Act from the reckonable date until payment.”.

(10) In paragraph 19 after “shall be repaid to him” insert “if”.

(11) In paragraph 22(4) for “the Inland Revenue”, in each place where it occurs, substitute “HMRC”.

(12) After paragraph 22(2) insert—

“(2A) Where a liability arises to pay contributions in respect of retrospective earnings relating to a closed tax year, the employer shall render a replacement return, or where necessary prepare one, in respect of the employee for that closed tax year before 20th May following the end of the year in which the relevant retrospective contributions regulations came into force, in accordance with paragraphs (a) to (c) of sub-paragraph (1), setting out the revised earnings and earnings-related contributions.

(2B) The return required by sub-paragraph (2A) shall include a statement and declaration in a form prescribed by HMRC containing a list of all deductions working sheets in

(3) Paragraph 17 was amended by regulation 32(9) of S.I. 2004/770.

(4) paragraph 22 was relevantly amended by regulation 32(12)(b) of S.I. 2004/770.

accordance with paragraph 6(1A) of this Schedule in respect of that year, and shall also include a certificate showing—

- (a) the total amount of earnings-related contributions originally payable (in accordance with sub-paragraph (2)(a)) in respect of each employee to whom sub-paragraph (2A) applies;
- (b) the total amount of earnings-related contributions originally payable (in accordance with sub-paragraph (2)(b)) in respect of all employees to whom sub-paragraph (2A) applies;
- (c) the total amount of revised earnings-related contributions payable in respect of each of those employees;
- (d) the total amount of revised earnings-related contributions payable in respect of all those employees,
- (e) the difference between the amount certified in paragraph (b) and paragraph (d) of this sub-paragraph in respect of all of those employees;
- (f) in relation to any contracted-out employment the number notified by HMRC on the relevant contracting-out certificate as the employer's number.”.

(13) In paragraph 22(4)—

- (a) for “the declaration” substitute “the declarations”;
- (b) for “the certificate” substitute “the certificates”; and
- (c) for “sub-paragraph (2)” substitute “sub-paragraphs (2) and (2B)”.

(14) In paragraph 22(6) —

- (a) for “the return referred to in sub-paragraph (1)” substitute “the returns referred to in sub-paragraphs (1) and (2A)”;
- (b) in paragraph (b) for “the return” substitute “the returns”.

(15) In paragraph 22(7) at the end add “and (2A)”.

(16) In paragraph 31—

- (a) for “the Inland Revenue”, wherever it occurs, substitute “HMRC”; and
- (b) after sub-paragraph (7) insert—

“(7A) Where a liability arises to pay contributions in respect of retrospective earnings relating to a closed tax year, the employer shall render a replacement return for the closed tax year before 20th May following the end of the year in which the relevant retrospective contributions regulations came into force in accordance with sub-paragraph (7), setting out the revised earnings and earnings-related contributions.

(7B) Where sub-paragraph (7A) applies, the employer shall amend the relevant deductions working sheet or where necessary prepare one in accordance with sub-paragraph (2)”.

- (c) in sub-paragraph (8), for “(6) and (7)” substitute “(6), (7) and (7A)”.