

1985 No. 396

SOCIAL SECURITY

**The Social Security (Contributions) Amendment
Regulations 1985**

<i>Made</i> - - - - -	13th March 1985
<i>Laid before Parliament</i>	15th March 1985
<i>Coming into Operation</i>	6th April 1985

The Secretary of State for Social Services, with the concurrence of the Inland Revenue, in exercise of powers conferred upon him by paragraph 5(1)(a) and (b) of Schedule 1 to the Social Security Act 1975(a) and of all other powers enabling him in that behalf, after reference to the Social Security Advisory Committee(b), hereby makes the following regulations:—

Citation, interpretation and commencement

1. These regulations, which may be cited as the Social Security (Contributions) Amendment Regulations 1985, amend the Social Security (Contributions) Regulations 1979(c) (hereinafter referred to as “the principal regulations”) and shall come into operation on 6th April 1985.

Amendment of Regulation 26 of Schedule 1 to the principal regulations

2. At the beginning of regulation 26(1) of Schedule 1 to the principal regulations (payment of earnings-related contributions by the employer) there shall be inserted the words “Subject to the provisions of regulation 27A(8) of these Regulations,”.

Insertion of Regulation 27A in Schedule 1 to the principal regulations

3. After Regulation 27 of Schedule 1 to the principal regulations (employer failing to pay earnings-related contributions) there shall be inserted the following Regulation—

“Specified amount of earnings-related contributions payable by the employer

27A.—(1) If after 14 days following the end of any income tax month the employer has paid no amount of earnings-related contributions to the Collector under Regulation 26 for that income tax month, despite demand being made, and there is reason to believe that the employer is liable so to pay, the Collector, upon consideration of the employer’s record of past

(a) 1975 c. 14.

(b) See sections 9 and 10 of the Social Security Act 1980 (c. 30).

(c) S.I. 1979/591; the relevant amending instruments are S.I. 1981/82, 1983/395.

payments, may to the best of his judgement specify the amount of earnings-related contributions which he considers the employer is liable to pay and give notice to him of that amount.

(2) If, on the expiration of the period of 7 days allowed in the notice, the specified amount of earnings-related contributions or any part thereof is unpaid, the amount so unpaid shall be certified by the Collector and shall be deemed, for the purposes of these Regulations, to be an amount of earnings-related contributions which the employer was liable to pay for that income tax month in accordance with Regulation 26.

(3) The provisions of paragraph (2) of this Regulation shall not apply if, during the period allowed in the notice, the employer pays to the Collector the full amount of earnings-related contributions which the employer is liable to pay under Regulation 26 for that income tax month, or the employer satisfies the Collector that no amount of such contributions is due.

(4) The production of a certificate such as is mentioned in paragraph (2) of this Regulation shall, until the contrary is established, be sufficient evidence that the employer is liable to pay to the Collector the amount shown in the certificate; and any document purporting to be such a certificate as aforesaid shall be deemed to be such a certificate until the contrary is proved. To the amount shown in the said certificate the provisions of Regulation 28 shall with any necessary modifications apply.

(5) Where the employer has paid no amount of earnings-related contributions under Regulation 26 for any income tax months a notice may be given by the Collector under paragraph (1) of this Regulation which extends to two or more consecutive income tax months, and the provisions of these Regulations shall have effect as if the said consecutive income tax months were the latest income tax month specified in the notice.

(6) A notice may be given by the Collector under paragraph (1) of this Regulation notwithstanding that an amount of earnings-related contributions has been paid to him by the employer under Regulation 26 for any income tax month, if, after seeking the employer's explanation as to the amount of earnings-related contributions paid, the Collector is not satisfied that the amount so paid is the full amount which the employer is liable to pay to him for that month, and the provisions of this Regulation shall have effect accordingly, save that paragraph (2) of this Regulation shall not apply if, during the period allowed in the said notice, the employer satisfies the Collector that no further amount of earnings-related contributions is due for the relevant income tax month.

(7) Where, during the period allowed in a notice given by the Collector under paragraph (1) of this Regulation, the employer claims, but does not satisfy the Collector, that the payment of earnings-related contributions made in respect of any income tax month specified therein is the full amount of earnings-related contributions he is liable to pay to the Collector for that month, the employer may require the Collector to inspect the employer's documents and records as if the Collector had called upon the employer to produce those documents and records in accordance with paragraph (1) of Regulation 32 and the provisions of Regulation 32 shall

apply in relation to that inspection, and the notice given by the Collector under paragraph (1) of this Regulation shall thereafter be disregarded.

(8) Notwithstanding anything in this Regulation, if the employer pays any amount of earnings-related contributions certified by the Collector under this Regulation and that amount exceeds the amount which he would have been liable to pay in respect of that income tax month apart from this Regulation, he shall be entitled to set off such excess against any amount which he is liable to pay to the Collector under Regulation 26 for any subsequent income tax month.

(9) If, after the end of the year, the employer renders the returns, statement and declaration required by Regulation 30 and the total earnings-related contributions he has paid in respect of that year in accordance with the provisions of these Regulations exceeds the total amount of such contributions due for that year, any excess not otherwise recovered by set-off shall be repaid.”.

Amendment of Regulation 28 of Schedule 1 to the principal regulations

4. In Regulation 28(1) of Schedule 1 to the principal regulations (recovery of earnings-related contributions) after the words “under Regulation 26” there shall be inserted the words “or which he is deemed to be liable to pay to the Collector for any income tax month under Regulation 27A”.

Amendment of Regulations 30(1) and 51(5) and (6) of Schedule 1 to the principal regulations

5. In Regulations 30(1) (return by employer at end of year) and 51(5) and (6) (return of particulars) of Schedule 1 to the principal regulations after the words “render to the” wherever they appear there shall in each case be inserted the words “Inspector or, if so required to the”.

Signed by authority of the Secretary of State for Social Services

Tony Newton,
Minister of State,
Department of Health and Social Security.

12th March 1985.

The Commissioners of Inland Revenue hereby concur.
By Order of the Commissioners of Inland Revenue.

J. H. Gracey,
A. J. G. Isaac,
Two of the Commissioners of Inland Revenue.

13th March 1985.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations further amend the Social Security (Contributions) Regulations 1979 ("the principal regulations").

Regulation 2 makes an amendment to Regulation 26(1) of Schedule 1 to the principal regulations consequential on the insertion of Regulation 27A(8) into Schedule 1.

Regulation 3 inserts Regulation 27A into Schedule 1 to the principal regulations. The new regulation provides that where an employer has failed to pay earnings-related contributions in respect of earnings paid in an income tax month within 14 days of the end of that month, the Collector of Taxes may give a notice to the employer specifying the amount of earnings-related contributions which he considers is due in respect of that month. If, after the period of 7 days set out in the notice, the amount specified by the Collector, or any part thereof, remains unpaid, the Collector shall certify that, for the purposes of collection, the employer is liable to pay the sum specified, unless the employer satisfies the Collector that no amount of contributions is due. The Regulation makes similar provision for cases where an employer has paid an amount of earnings-related contributions in respect of an income tax month, but the Collector is not satisfied that the sum paid is correct. Where an employer does not pay the earnings-related contributions which he is liable to pay, or does not satisfy the Collector that he has met his full liability in respect of earnings-related contributions, provision is made for the recovery of sums due. Where an employer who is subject to a notice claims, but does not satisfy the Collector, that he has paid the full amount of earnings-related contributions due in respect of the income tax month the Regulation makes provision for the employer to require the Collector to inspect his wages records. The Regulation makes provision for the set-off of any excess earnings-related contributions paid in one income tax month as a result of the application of Regulation 27A, against liability for such contributions in any subsequent income tax month and also for the repayment at the end of the income tax year of any excess contributions paid during the year.

Regulation 4 makes a consequential amendment to Regulation 28(1) of Schedule 1 to the principal regulations.

Regulation 5 amends Regulations 30(1) and 51(5) and (6) of Schedule 1 to the principal regulations. The amendments provide that end of year returns and particulars in relation to employees making direct payment of primary Class 1 contributions should, from 6th April 1985, be rendered to the Inspector of Taxes, unless specifically required to be rendered to the Collector.

The Report of the Social Security Advisory Committee dated 24 January 1985 including codicil dated 6 March 1985 on the draft of these Regulations, together with a statement showing that the Regulations give effect to the Committee's recommendations, is contained in Command Paper (Cmnd. 9461) published by Her Majesty's Stationery Office.

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