
STATUTORY INSTRUMENTS

1993 No. 821

SOCIAL SECURITY

**The Social Security (Contributions)
Amendment (No. 5) Regulations 1993**

<i>Made</i>	- - - -	<i>22nd March 1993</i>
<i>Laid before Parliament</i>		<i>29th March 1993</i>
<i>Coming into force</i>	- -	<i>19th April 1993</i>

The Secretary of State for Social Security, with the concurrence of the Inland Revenue, in exercise of powers conferred by sections 1(4), 122(1) and 175(1) to (3) of, and paragraph 6 of Schedule 1 to, the Social Security Contributions and Benefits Act 1992⁽¹⁾ and of all other powers enabling him in that behalf, after agreement by the Social Security Advisory Committee that proposals to make these Regulations should not be referred to it ⁽²⁾, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Contributions) Amendment (No. 5) Regulations 1993 and shall come into force on 19th April 1993.

(2) In these Regulations “the principal Regulations” means the Social Security (Contributions) Regulations 1979 ⁽³⁾ and “Regulation” means a Regulation contained in Schedule 1 to the principal Regulations (which, with extensions and modifications, contains provisions of the Income Tax (Employments) Regulations 1993 ⁽⁴⁾ as they apply to earnings-related contributions and Class 1A contributions under the Social Security Contributions and Benefits Act 1992).

Insertion of Regulations 28A, 28B, 28C and 28D into Schedule 1 to the principal Regulations

2. In Schedule 1 to the principal Regulations, after Regulation 28 there shall be inserted the following Regulations—

“Interest on overdue earnings-related contributions or Class 1A contributions

28A.—(1) Subject to Regulation 28D, where, in relation to the year ended 5th April 1993 or any subsequent year, an employer has not within 14 days of the end of the year paid an earnings-

(1) 1992 c. 4; section 122(1) is cited because of the meaning ascribed to the word “prescribe”.
(2) See the Social Security Administration Act 1992 (c. 5), section 173(1)(b).
(3) S.I.1979/591; the relevant amending instruments are S.I. 1991/1632, 1992/97 and 1992/1440.
(4) S.I. 1993/744; consolidated S.I. 1973/334 and its subsequent amending regulations.

related contribution which he is liable to pay in respect of that year or a Class 1A contribution which he is liable to pay in that year, any contribution not so paid shall carry interest at the rate applicable under paragraph 6(3) of Schedule 1 to the Social Security Contributions and Benefits Act 1992 (5) from the reckonable date until payment.

(2) Interest payable under this Regulation shall be recoverable as if it were an earnings-related contribution or a Class 1A contribution, as the case may be, in respect of which an employer is liable under Regulation 26, 26A, 26C or 26D to pay to the Collector (6).

(3) For the purposes of this Regulation “the reckonable date” means, in relation to—

- (a) an earnings-related contribution, the fourteenth day after the end of the year in respect of which it was due;
- (b) a Class 1A contribution, the fourteenth day after the end of the year in which it was due to be paid.

(4) A contribution to which paragraph (1) of this Regulation applies shall carry interest from the reckonable date even if that date is a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882 (7).

(5) A certificate of the Collector that any amount of interest payable under this Regulation has not been paid to him, or, to the best of his knowledge and belief, to any other Collector or to any person acting on his behalf or on behalf of another Collector, shall be sufficient evidence that the employer is liable to pay to the Collector the amount of interest shown on the certificate and that the sum is unpaid and due to be paid, and any document purporting to be such a certificate shall be deemed to be a certificate until the contrary is proved.

Payment of interest on repaid earnings-related contributions or Class 1A contributions

28B.—(1) Where an earnings-related contribution or a Class 1A contribution paid by an employer in respect of the year ended 5th April 1993 or any subsequent year is repaid to him and that repayment is made after the relevant date, any such repaid contribution shall carry interest at the rate applicable under paragraph 6(3) of Schedule 1 to the Social Security Contributions and Benefits Act 1992 from the relevant date until the order for the repayment is issued.

(2) For the purposes of this Regulation “the relevant date” is—

- (a) in the case of an earnings-related contribution or a Class 1A contribution overpaid more than 12 months after the end of the year in respect of which the payment was made, the last day of the year in which it was paid;
- (b) in any other case, the last day of the year after the year in respect of which the contribution in question was paid.

Repayment of interest

28C. Where an employer has paid interest on an earnings-related contribution or a Class 1A contribution, that interest shall be repaid to him where—

- (a) the interest paid is found not to have been due to be paid, although the contribution in respect of which it was paid was due to be paid;

(5) 1992 c. 4.

(6) Regulations 26, 26A and 26B were substituted for Regulation 26 by S.I. 1991/1632 and Regulation 26A was amended by S.I. 1992/1440, Regulation 26C was inserted by S.I. 1992/97 and amended by S.I. 1992/1440 and Regulation 26D was inserted by S.I. 1992/1440.

(7) 1882 c. 61; section 92 was amended by sections 3(1) and (3) and 4(4) of the Banking and Financial Dealings Act 1971 (c. 80).

- (b) the earnings-related contribution or Class 1A contribution in respect of which interest was paid is returned or repaid to the employer in accordance with the provisions of regulation 32 or 33A of the Main Regulations.

Remission of interest

28D.—(1) Where interest is payable in accordance with Regulation 28A it shall be remitted for the period from the first relevant date until the second relevant date in the circumstances specified in paragraph (2) of this Regulation.

- (2) For the purposes of paragraph (1) of this Regulation, the circumstances are that—
 - (a) the liability to pay interest in respect of an earnings-related contribution or a Class 1A contribution arises as the result of an official error being made; or
 - (b)
 - (i) a question has arisen relating to an employer’s liability to pay an earnings-related contribution or a Class 1A contribution, or to his liability for, or the amount due from him in respect of, any interest calculated in accordance with Regulation 28A and that question is to be determined by the Secretary of State in accordance with section 17 of the Administration Act (adjudication by the Secretary of State); or
 - (ii) a question, being a question of law arising in connection with the determination by the Secretary of State of any question such as is mentioned in head (i) above, is referred for decision to the High Court or, in Scotland, to the Court of Session in accordance with section 18 of the Administration Act (appeal on a question of law).
- (3) In this Regulation—
 - (a) “the Administration Act” means the Social Security Administration Act 1992⁽⁸⁾;
 - (b) “an official error” means a mistake made, or something omitted to be done, by an officer of, or a person employed in relation to, the Inland Revenue or the Department of Social Security acting as such, where the employer or any person acting on his behalf has not caused, or materially contributed to, that mistake or omission;
 - (c) in the circumstances specified in—
 - (i) paragraph (2)(a) of this Regulation, “the first relevant date” means the reckonable date as defined in Regulation 28A(3) or, if later, the date on which the official error occurs and “the second relevant date” means the date fourteen days after the date on which the official error is rectified and the employer is advised in writing of its rectification;
 - (ii) paragraph (2)(b) of this Regulation, “the first relevant date” means the date on which the question for determination under section 17 of the Administration Act is submitted to the Secretary of State or, as the case may be, the question of law arising in connection with the determination of such a question is referred to a court under section 18 of the Administration Act and “the second relevant date” means the date fourteen days after the question is so determined, or the reference is finally disposed of, as the case may be.”.

⁽⁸⁾ 1992 c. 5.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Signed by authority of the Secretary of State for Social Security.

22nd March 1993

Ann Widdecombe,
Parliamentary Under-Secretary of State,
Department of Social Security

The Commissioners of Inland Revenue hereby concur.

22nd March 1993

L. J. H. Beighton,
S. C. T. Matheson,
Two of the Commissioners of Inland Revenue

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend Schedule 1 to the Social Security (Contributions) Regulations 1979 (“the principal Regulations”), which applies certain income tax provisions to Class 1 and Class 1A contributions under the Social Security Contributions and Benefits Act 1992.

Regulation 2 inserts four new Regulations into Schedule 1 to the principal Regulations—

- (a) Regulation 28A provides for interest to be payable on Class 1 contributions unpaid after the fourteenth day after the end of the tax year in respect of which they were due and on Class 1A contributions unpaid after the fourteenth day after the end of the tax year in which they were due to be paid;
- (b) Regulation 28B provides for interest to be payable to employers who have overpaid Class 1 or Class 1A contributions, where the repayment of those contributions is made more than a year after the end of the year in respect of which the payment was originally made;
- (c) Regulation 28C provides for interest paid by an employer to be repaid to him in certain circumstances and Regulation 28D provides for interest to be remitted in certain circumstances.