
STATUTORY INSTRUMENTS

2001 No. 1004

The Social Security (Contributions) Regulations 2001

PART 7

**COLLECTION OF CONTRIBUTIONS (OTHER THAN
CLASS 4 CONTRIBUTIONS) AND RELATED MATTERS**

Penalties for failure to make a return and incorrect returns

81.—(1) Where a person fraudulently or negligently makes an incorrect return of contributions referred to in regulation 80(1) the Board may, within 6 years after the date of making such a return or at any later time within 3 years of the final determination of the amount of a Class 1A contribution by reference to which the amount of the penalty is to be ascertained, impose a penalty not exceeding the difference between—

- (a) the amount payable by him in accordance with the regulations for the year to which the return relates; and
- (b) the amount which would have been so payable if the return had been correct.

(2) Any person who fails to make a return referred to in paragraph (1) by the date which applies to him under regulation 71(1), 72(2) or 73(2), may be liable—

- (a) within 6 years after the date of that failure, to a penalty of the relevant monthly amount for each month (or part of a month) during which the failure continues but excluding any month after the twelfth, or for which a penalty under this paragraph has already been imposed; and
- (b) if the failure continues beyond 12 months, to a penalty not exceeding so much of the amount payable by him in accordance with the regulations for the year to which the return relates as remains unpaid at the end of 19th July after the end of that year.

(3) The penalty referred to in paragraph (2)(b) is without prejudice to any penalty which may be imposed under paragraph (2)(a) and may be imposed within six years after the date of the failure referred to in paragraph (2) or at any later time within three years of the final determination of the amount of a Class 1A contribution by reference to which the amount of that penalty is to be ascertained.

(4) For the purposes of paragraph (2), “the relevant monthly amount” in the case of a failure to make a return is—

- (a) where the number of earners in respect of whom particulars of the amount of any Class 1A contribution payable should be included in the return is 50 or less, £100; or
- (b) where that number is greater than 50, £100 for each 50 such earners and an additional £100 where that number is not a multiple of 50.

(5) The total penalty payable under paragraph (2)(a) shall not exceed the total amount of Class 1A contributions payable in respect of the year to which the return in question relates.

(6) Any penalty imposed in accordance with this regulation shall be recoverable as if it were a Class 1A contribution which the employer is liable to pay to the Board under regulation 71.

(7) A penalty imposed in accordance with this regulation shall be due and payable at the end of 30 days beginning with the date on which notice of the decision to impose it was issued.

(8) The Board may, in their discretion, mitigate any penalty, or stay or compound any proceedings for any penalty, imposed in accordance with the provisions of this regulation, and may also, after judgment, further mitigate or entirely remit such a penalty.

(9) For the purposes of this regulation a person shall be deemed not to have failed to have done anything required to be done within a limited time if he—

- (a) did it within such further time as the Board allowed; or
- (b) had a reasonable excuse for the failure and if that excuse ceased, did it without unreasonable delay after that excuse ceased.