

SCHEDULE 4

[^{F1}Provisions derived from the Income Tax Acts and the Income Tax (Pay As You Earn) Regulations 2003]

Textual Amendments

- F1** Sch. 4 heading substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **29(2)**

PART III

PAYMENT AND RECOVERY OF EARNINGS-RELATED CONTRIBUTIONS, CLASS 1A CONTRIBUTIONS AND CLASS 1B CONTRIBUTIONS, ETC.

Payment of earnings-related contributions monthly by employer

10.—(1) Subject to [^{F1}sub-paragraph (1A) and] paragraph 11 and 15(8), the employer shall pay the amount specified in sub-paragraph (2) to the [^{F2}Inland Revenue] within 14 days [^{F3}or, if payment is made by an approved method of electronic communications in respect of earnings paid after 5th April 2004, within 17 days] of the end of every ^{F4}... tax month.

[^{F5}(1A) This paragraph does not apply in respect of amounts of retrospective earnings.]

(2) The amount specified in this sub-paragraph is the total amount of earnings-related contributions due in respect of [^{F6}general earnings] paid by the employer in that ^{F7}... tax month, other than amounts deductible under paragraph 7(2) which he did not deduct and amounts which he deducted under the Compensation of Employers Regulations and the Reimbursement Regulations.

(3) For the purposes of sub-paragraph (2), if two or more payments of [^{F8}general earnings] fall to be aggregated, the employer shall be treated as having deducted from the last of those payments the amount of any earnings-related contributions deductible from those payments which he did not deduct from the earlier payments.

Textual Amendments

- F1** Words in Sch. 4 para. 10(1) inserted (6.4.2007) by [The Social Security Contributions \(Consequential Provisions\) Regulations 2007 \(S.I. 2007/1056\)](#), regs. 1, **8(5)(a)**
- F2** Words in Sch. 4 para. 10(1) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(2)(a)(i)**
- F3** Words in Sch. 4 para. 10(1) inserted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(2)(a)(ii)**
- F4** Word in Sch. 4 para. 10(1) omitted (6.4.2004) by virtue of [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(2)(a)(iii)**
- F5** Sch. 4 para. 10(1A) inserted (6.4.2007) by [The Social Security Contributions \(Consequential Provisions\) Regulations 2007 \(S.I. 2007/1056\)](#), regs. 1, **8(5)(b)**
- F6** Words in Sch. 4 para. 10(2) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(2)(b)(i)**
- F7** Word in Sch. 4 para. 10(2) omitted (6.4.2004) by virtue of [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(2)(b)(ii)**

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Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001, PART III. (See end of Document for details)

F8 Words in Sch. 4 para. 10(3) substituted (6.4.2004) by **The Social Security (Contributions, Categorisation of Earners and Intermediaries) (Amendment) Regulations 2004 (S.I. 2004/770)**, regs. 1(1), **32(2)(c)**

Payments of earnings-related contributions quarterly by employer

11.—(1) Subject to ^{F9}sub-paragraph (1A) and] paragraph 15(8), the employer shall pay the amount specified in sub-paragraph (2) to the ^{F10}Inland Revenue] within 14 days of the end of every ^{F11}... tax quarter [^{F12}or, if payment is made by an approved method of electronic communications in respect of earnings paid after 5th April 2004, within 17 days of the end of every tax quarter] where—

- (a) the employer has reasonable grounds for believing that the condition specified in sub-paragraph (4) applies and chooses to pay the amount specified in sub-paragraph (2) quarterly; or

^{F13}(b)

^{F14}(1A) This paragraph does not apply in respect of amounts of retrospective earnings.]

(2) The amount specified in this sub-paragraph is the total amount of earnings-related contributions due in respect of ^{F15}general earnings] paid by the employer in that ^{F16}... tax quarter, other than amounts deductible under paragraph 7(2) which he did not deduct and amounts which he deducted under the Compensation of Employers Regulations and Reimbursement Regulations.

(3) For the purposes of sub-paragraph (2), where two or more payments ^{F17}of general earnings] fall to be aggregated, the employer shall be deemed to have deducted from the last of those payments the amount of any earnings-related contributions deductible from those payments which he did not deduct from the earlier payments.

^{F18}(4) The condition specified in this sub-paragraph is that for ^{F19}tax months] falling within the current year, the average monthly amount found by the formula below will be less than £1500.

The formula is—

$$[\sup{F20}(N + P + L + S) - (SP + CD)]$$

The expressions used in the formula have the following values.

N is the amount which would be payable to the ^{F21}Inland Revenue] under the Social Security Contributions and Benefits Act 1992 and these Regulations but disregarding—

- (a) any amount of secondary Class 1 contributions in respect of which liability has been transferred to the employed earner by an election made jointly by the employed earner and the secondary contributor for the purpose of paragraph 3B(1) of Schedule 1 to the Act (transfer of liability to be borne by the earner); and

(aa) ^{F22}any amount payable in respect of retrospective earnings;]

(c) ^{F23}...

^{F24}“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);]

L is the amount which would be payable to the ^{F21}Inland Revenue] under regulation 39(1) of the Education (Student Loans) (Repayment) Regulations 2000 (payment of repayments deducted to the Inland Revenue) if the reduction referred to in paragraph (3) of that regulation ^{F25}...were disregarded.

Status: Point in time view as at 06/04/2007.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001, PART III. (See end of Document for details)

S is the sum of the amounts which the employer would be liable to deduct, under section 559 of the Taxes Act and the Income Tax (Sub-contractors in the Construction Industry) Regulations 1993, from payments made by him.

F26
...

SP is the amount—

- (a) recoverable by the employer from [^{F27}the Inland Revenue], or
- (b) deductible from amounts for which the employer would otherwise be accountable to [^{F27}the Inland Revenue],

in respect of payments to his employees by way of statutory sick pay, statutory maternity pay, statutory paternity pay and statutory adoption pay.

CD is the amount which would be deducted by others from sums due to the employer, in his position as a sub-contractor, under section 559 of the Taxes Act.]

Textual Amendments

- F9** Words in Sch. 4 para. 11(1) inserted (6.4.2007) by [The Social Security Contributions \(Consequential Provisions\) Regulations 2007 \(S.I. 2007/1056\)](#), regs. 1, **8(6)(a)**
- F10** Words in Sch. 4 para. 11(1) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(3)(a)(i)**
- F11** Word in Sch. 4 para. 11(1) omitted (6.4.2004) by virtue of [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(3)(a)(ii)**
- F12** Words in Sch. 4 para. 11(1) inserted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(3)(a)(iii)**
- F13** Sch. 4 para. 11(1)(b) omitted (6.4.2004) by virtue of [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(3)(a)(iv)**
- F14** Sch. 4 para. 11(1A) inserted (6.4.2007) by [The Social Security Contributions \(Consequential Provisions\) Regulations 2007 \(S.I. 2007/1056\)](#), regs. 1, **8(6)(b)**
- F15** Words in Sch. 4 para. 11(2) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(3)(b)(i)**
- F16** Word in Sch. 4 para. 11(2) omitted (6.4.2004) by virtue of [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(3)(b)(ii)**
- F17** Words in Sch. 4 para. 11(3) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(3)(c)**
- F18** Sch. 4 para. 11(4) substituted (with effect in accordance with reg. 1(1) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment\) Regulations 2003 \(S.I. 2003/193\)](#), regs. 1(1), **16(4)**
- F19** Words in Sch. 4 para. 11(4) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(3)(d)(i)**
- F20** Words in Sch. 4 para. 11(4) substituted (6.4.2006) by [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2006 \(S.I. 2006/576\)](#), regs. 1, **9(2)(a)**
- F21** Words in Sch. 4 para. 11(4) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(3)(d)(ii)**
- F22** Sch. 4 para. 11(4)(aa) inserted (6.4.2007) by [The Social Security Contributions \(Consequential Provisions\) Regulations 2007 \(S.I. 2007/1056\)](#), regs. 1, **8(6)(c)(i)**
- F23** Words in Sch. 4 para. 11(4) omitted (6.4.2006) by virtue of [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2006 \(S.I. 2006/576\)](#), regs. 1, **9(2)(b)**
- F24** Words in Sch. 4 para. 11(4) substituted (6.4.2007) by [The Social Security Contributions \(Consequential Provisions\) Regulations 2007 \(S.I. 2007/1056\)](#), regs. 1, **8(6)(c)(ii)**

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Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001, PART III. (See end of Document for details)

- F25** Words in Sch. 4 para. 11(4) omitted (6.4.2006) by virtue of [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2006 \(S.I. 2006/576\)](#), regs. 1, **9(2)(d)**
- F26** Words in Sch. 4 para. 11(4) omitted (6.4.2006) by virtue of [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2006 \(S.I. 2006/576\)](#), regs. 1, **9(2)(e)**
- F27** Words in Sch. 4 para. 11(4) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(3)(d)(iv)**

[^{F28}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.]

Textual Amendments

- F28** [Sch. 4 para. 11A](#) inserted (6.4.2007) by [The Social Security Contributions \(Consequential Provisions\) Regulations 2007 \(S.I. 2007/1056\)](#), regs. 1, **8(7)**

Payment of earnings-related contributions by employer (further provisions)

12.—[^{F29}(1) The Inland Revenue shall give a receipt to the employer for the total amount paid under paragraph [^{F30}10, 11 or 11A] if so requested, but if a receipt is given for the total amount of earnings-related contributions and any tax paid at the same time, a separate receipt need not be given for earnings-related contributions.]

(2) Subject to sub-paragraph (3), if the employer has paid to the [^{F31}Inland Revenue] on account of earnings-related contributions under paragraph [^{F30}10, 11 or 11A] an amount which he was not liable to pay, or which has been refunded in accordance with regulation 2 of the Social Security (Refunds) (Repayment of Contractual Maternity Pay) Regulations 1990 (refunds of contributions)^{F32}, the amounts which he is liable to pay subsequently in respect of other payments of [^{F33}general earnings] made by him during the same year shall be reduced by the amount overpaid, so however that if there was a corresponding over-deduction from any payment of [^{F33}general earnings] to an employee, this paragraph shall apply only in so far as the employer has reimbursed the employee for that over-deduction.

(3) Sub-paragraph (2) applies only if—

- (a) the over-deduction occurred by reason of an error by the employer in good faith;
- (b) the over-deduction occurred as a result of the employment in respect of which the payment on account of earnings-related contributions is made being or, as the case may be, becoming contracted-out employment; or
- (c) a refund has been made under regulation 2 of the Social Security (Refunds) (Repayment of Contractual Maternity Pay) Regulations 1990.

Textual Amendments

- F29** [Sch. 4 para. 12\(1\)](#) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(4)(a)**

- F30** Words in Sch. 4 para. 12 substituted (6.4.2007) by The Social Security Contributions (Consequential Provisions) Regulations 2007 (S.I. 2007/1056), regs. 1, **8(8)**
- F31** Words in Sch. 4 para. 12(2) substituted (6.4.2004) by The Social Security (Contributions, Categorisation of Earners and Intermediaries) (Amendment) Regulations 2004 (S.I. 2004/770), regs. 1(1), **32(4)(b)(i)**
- F32** S.I. 1990/536.
- F33** Words in Sch. 4 para. 12(2) substituted (6.4.2004) by The Social Security (Contributions, Categorisation of Earners and Intermediaries) (Amendment) Regulations 2004 (S.I. 2004/770), regs. 1(1), **32(4)(b)(ii)**

Payment of Class 1B contributions

13.—(1) A person who is liable to pay a Class 1B contribution (“the employer”), shall pay that Class 1B contribution to the [^{F34}Inland Revenue] not later than 19th October [^{F35}or, if payment is made by an approved method of electronic communications in respect of earnings paid after 5th April 2004, not later than 22nd October] in the year immediately following the end of the year in respect of which that contribution is payable.

(2) If the employer has paid to the [^{F34}Inland Revenue] under this paragraph an amount in respect of Class 1B contributions which he was not liable to pay, he shall be entitled to deduct the amount overpaid from any payment in respect of secondary earnings-related contributions which he is liable to pay subsequently to the [^{F34}Inland Revenue] under paragraph 10 or 11 for any ^{F36}... tax period in the same year.

Textual Amendments

- F34** Words in Sch. 4 para. 13 substituted (6.4.2004) by The Social Security (Contributions, Categorisation of Earners and Intermediaries) (Amendment) Regulations 2004 (S.I. 2004/770), regs. 1(1), **32(5)(b)**
- F35** Words in Sch. 4 para. 13(1) inserted (6.4.2004) by The Social Security (Contributions, Categorisation of Earners and Intermediaries) (Amendment) Regulations 2004 (S.I. 2004/770), regs. 1(1), **32(5)(a)**
- F36** Word in Sch. 4 para. 13(2) omitted (6.4.2004) by virtue of The Social Security (Contributions, Categorisation of Earners and Intermediaries) (Amendment) Regulations 2004 (S.I. 2004/770), regs. 1(1), **32(5)(c)**

Employer failing to pay earnings-related contributions

14.—(1) If within [^{F37}17 days] of the end of any ^{F38}... tax period the employer has paid no amount of earnings-related contributions to the [^{F39}Inland Revenue] under paragraph 10 or 11 for that ^{F38}... tax period and the [^{F39}Inland Revenue] is unaware of the amount, if any, which the employer is liable so to pay, the [^{F39}Inland Revenue] may give notice to the employer requiring him to render, within 14 days, a return in the prescribed form showing the amount of earnings-related contributions which the employer is liable to pay to the [^{F39}Inland Revenue] under that paragraph in respect of the ^{F38}... tax period in question.

(2) Where a notice given by the [^{F39}Inland Revenue] under sub-paragraph (1) extends to two or more consequent income tax periods, the provisions of this Schedule shall have effect as if those ^{F38}... tax periods were one ^{F38}... tax period.

(3) If the [^{F39}Inland Revenue] is not satisfied that an amount of earnings-related contributions paid ^{F40}... under paragraph 10 or 11 for any ^{F38}... tax period is the full amount which the employer is liable to pay ^{F40}..., the [^{F39}Inland Revenue] may give a notice under sub-paragraph (1) despite the payment of that amount.

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Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001, PART III. (See end of Document for details)

Textual Amendments

- F37** Words in Sch. 4 para. 14(1) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(6)(a)**
- F38** Word in Sch. 4 para. 14 omitted (6.4.2004) by virtue of [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(6)(c)**
- F39** Words in Sch. 4 para. 14 substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(6)(b)**
- F40** Words in Sch. 4 para. 14(3) omitted (6.4.2004) by virtue of [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(6)(d)**

Specified amount of earnings-related contributions payable by the employer

15.—(1) If after [^{F41}17 days] following the end of any ^{F42}... tax period the employer has paid no amount of earnings-related contributions to the [^{F43}Inland Revenue] under paragraph 10 or 11 for that ^{F42}... tax period and there is reason to believe that the employer is liable to pay such contributions, the [^{F43}Inland Revenue], upon consideration of the employer's record of past payments, may to the best of [^{F44}their judgment] specify the amount of earnings-related contributions which [^{F45}they consider] 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—

- (a) shall be treated for the purposes of this Schedule as an amount of earnings-related contributions which the employer was liable to pay for that ^{F42}... tax period in accordance with paragraph 10 or 11; and
- (b) may be certified by the [^{F43}Inland Revenue].

(3) The provisions of sub-paragraph (2) shall not apply if, during the period allowed in the notice, the employer pays to the [^{F43}Inland Revenue] the full amount of earnings-related contributions which the employer is liable to pay under paragraph 10 or 11 for that ^{F42}... tax period, or the employer satisfies the [^{F43}Inland Revenue] that no amount of such contributions is due.

(4) The production of a certificate such as is mentioned in sub-paragraph (2) shall, until the contrary is established, be sufficient evidence that the employer is liable to pay to the [^{F43}Inland Revenue] the amount shown in it; and any document purporting to be such a certificate as aforesaid shall be deemed to be such a certificate until the contrary is proved.

Paragraph 16 shall apply, with any necessary modifications, to the amount shown in the certificate.

(5) Where the employer has paid no amount of earnings-related contributions under paragraph 10 or 11 for any ^{F42}... tax periods, a notice may be given by the [^{F43}Inland Revenue] under sub-paragraph (1) which extends to two or more consecutive ^{F42}... tax periods, and this Schedule shall have effect as if those ^{F42}... tax periods were the latest ^{F42}... tax period specified in the notice.

(6) A notice may be given by the [^{F43}Inland Revenue] under sub-paragraph (1) notwithstanding that an amount of earnings-related contributions has been paid ^{F46}... by the employer under paragraph 10 or 11 for any ^{F42}... tax period, if, after seeking the employer's explanation as to the amount of earnings-related contributions paid, the [^{F43}Inland Revenue] is not satisfied that the amount so paid is the full amount which the employer is liable to pay ^{F46}... for that period, and this paragraph shall have effect accordingly, save that sub-paragraph (2) shall not apply if, during the period allowed in

the notice, the employer satisfies the [^{F43}Inland Revenue] that no further amount of earnings-related contributions is due for the relevant ^{F42}... tax period.

(7) Where, during the period allowed in a notice given by the [^{F43}Inland Revenue] under sub-paragraph (1), the employer claims, but does not satisfy the [^{F43}Inland Revenue], that the payment of earnings-related contributions made in respect of any ^{F42}... tax period specified in the notice is the full amount of earnings-related contributions he is liable to pay to the [^{F43}Inland Revenue] for that period, the employer may require the [^{F43}Inland Revenue] to inspect the employer's documents and records as if the [^{F43}Inland Revenue] had called upon the employer to produce those documents and records in accordance with paragraph 26(1) and the provisions of paragraph 26 shall apply in relation to that inspection, and the notice given by the [^{F43}Inland Revenue] under sub-paragraph (1) shall be disregarded in relation to any subsequent time.

(8) Notwithstanding anything in this paragraph, if the employer pays any amount of earnings-related contributions certified by the [^{F43}Inland Revenue] under it and that amount exceeds the amount which he would have been liable to pay in respect of that ^{F42}... tax period apart from this paragraph, he shall be entitled to set off such excess against any amount which he is liable to pay to the [^{F43}Inland Revenue] under paragraph 10 or 11 for any subsequent ^{F42}... tax period.

(9) If, after the end of the year, the employer renders the return required by paragraph 22(1) and the total earnings-related contributions he has paid in respect of that year in accordance with this Schedule exceeds the total amount of such contributions due for that year, any excess not otherwise recovered by set-off shall be repaid.

Textual Amendments

- F41** Words in Sch. 4 para. 15(1) substituted (6.4.2004) by *The Social Security (Contributions, Categorisation of Earners and Intermediaries) (Amendment) Regulations 2004* (S.I. 2004/770), regs. 1(1), **32(7)(a)(i)**
- F42** Word in Sch. 4 para. 15 omitted (6.4.2004) by virtue of *The Social Security (Contributions, Categorisation of Earners and Intermediaries) (Amendment) Regulations 2004* (S.I. 2004/770), regs. 1(1), **32(7)(c)**
- F43** Words in Sch. 4 para. 15 substituted (6.4.2004) by *The Social Security (Contributions, Categorisation of Earners and Intermediaries) (Amendment) Regulations 2004* (S.I. 2004/770), regs. 1(1), **32(7)(b)**
- F44** Words in Sch. 4 para. 15(1) substituted (6.4.2004) by *The Social Security (Contributions, Categorisation of Earners and Intermediaries) (Amendment) Regulations 2004* (S.I. 2004/770), regs. 1(1), **32(7)(a)(ii)**
- F45** Words in Sch. 4 para. 15(1) substituted (6.4.2004) by *The Social Security (Contributions, Categorisation of Earners and Intermediaries) (Amendment) Regulations 2004* (S.I. 2004/770), regs. 1(1), **32(7)(a)(iii)**
- F46** Words in Sch. 4 para. 15(6) omitted (6.4.2004) by virtue of *The Social Security (Contributions, Categorisation of Earners and Intermediaries) (Amendment) Regulations 2004* (S.I. 2004/770), regs. 1(1), **32(7)(d)**

Recovery of earnings-related contributions or Class 1B contributions

16.—(1) The ^{F47}... Tax Acts and any regulations under ^{F48}^{F49}section 684 of ITEPA 2003 (PAYE regulations)] relating to the recovery of tax shall apply to the recovery of—

- (a) any amount of earnings-related contributions which an employer is liable to pay the [^{F50}Inland Revenue] for any ^{F47}... tax period in accordance with paragraph 10 or 11 or which he is treated as liable to the [^{F50}Inland Revenue] for any ^{F47}... tax period under paragraph 15; or
- (b) any amount of Class 1B contributions which an employer is liable to pay to the [^{F50}Inland Revenue] in respect of any year in accordance with paragraph 13(1),

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as if each of those amounts had been charged to tax by way of an assessment on the employer [^{F51}as employment income under ITEPA 2003].

(2) Sub-paragraph (1) is subject to the qualification that, in the application to any proceedings taken, by virtue of this paragraph, of any of the relevant provisions limiting the amount which is recoverable in those proceedings, there shall be disregarded any amount of tax which may, by virtue of sub-paragraphs (3) to (5), be included as part of the cause of action or matter of complaint in those proceedings.

(3) Proceedings may be brought for the recovery of the total amount of—

- (a) earnings-related contributions which the employer is liable to pay to the [^{F50}Inland Revenue] for any ^{F47}... tax period;
- (b) Class 1B contributions which the employer is liable to pay to the [^{F50}Inland Revenue] in respect of any year;
- (c) a combination of those classes of contributions as specified in heads (a) and (b); or
- (d) any of the contributions as specified in heads (a), (b), or (c) in addition to any tax which the employer is liable to pay to the [^{F50}Inland Revenue] for any ^{F47}... tax period,

without specifying the respective amount of those contributions and of tax, or distinguishing the amounts which the employer is liable to pay in respect of each employee and without specifying the employees in question.

(4) For the purposes of—

- (a) proceedings under section 66 of the Taxes Management Act 1970 ^{F52} (including proceedings under that section as applied by the provisions of this paragraph);
- (b) summary proceedings (including in Scotland proceedings in the sheriff court or in the sheriff's small debt court),

the total amount of contributions, in addition to any tax which the employer is liable to pay to the [^{F50}Inland Revenue] for any ^{F47}... tax period, referred to in sub-paragraph (3) shall, subject to sub-paragraph (2), be one cause of action or one matter of complaint.

(5) Nothing in sub-paragraph (3) or (4) shall prevent the bringing of separate proceedings for the recovery of each of the several amounts of—

- (a) earnings-related contributions which the employer is liable to pay for any ^{F47}... tax period in respect of each of his several employees;
- (b) Class 1B contributions which the employer is liable to pay in respect of any year in respect of each of his several employees; or
- (c) tax which the employer is liable to pay for any ^{F47}... tax period in respect of each of his several employees.

Textual Amendments

F47 Word in Sch. 4 para. 16 omitted (6.4.2004) by virtue of [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(8)(c)**

F48 Section 203 was amended by section 128 of, and paragraph 4 of Schedule 3 to, the [Finance Act 1988 \(c. 39\)](#), [section 45\(3\)](#) of the [Finance Act 1989 \(c. 26\)](#), [paragraph 38](#) of Part II of Schedule 19 and item (23) of Part V of Schedule 26 to, the [Finance Act 1994 \(c. 9\)](#) and section 119 of the [Finance Act 1998 \(c. 36\)](#).

F49 Words in Sch. 4 para. 16(1) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(8)(a)(i)**

- F50** Words in Sch. 4 para. 16 substituted (6.4.2004) by The Social Security (Contributions, Categorisation of Earners and Intermediaries) (Amendment) Regulations 2004 (S.I. 2004/770), regs. 1(1), **32(8)(b)**
- F51** Words in Sch. 4 para. 16(1) substituted (6.4.2004) by The Social Security (Contributions, Categorisation of Earners and Intermediaries) (Amendment) Regulations 2004 (S.I. 2004/770), regs. 1(1), **32(8)(a)(ii)**
- F52** 1970 c. 9. Section 66 was amended by Part II of the Schedule 1 to the County Courts (Northern Ireland) Order 1980 (S.I. 1980/397 (N.I. 3)), **section 57(2)** of the Finance Act 1984 (c. 43) and the Schedule to the High Court and County Courts Jurisdiction Order 1991 (S.I. 1991/724).

Interest on overdue earnings-related contributions or Class 1B contributions

17.—(1) [^{F53}Subject to [^{F54}sub-paragraph (4A) and] paragraph 21], where, in relation to the year ended 5th April 1993 or any subsequent year, an employer has not—

- (a) within 14 days [^{F55}or, if payment is made by an approved method of electronic communications in respect of earnings paid after 5th April 2004, 17 days] of the end of the year paid an earnings-related contribution which he is liable to pay in respect of that year; or
- (b) paid a Class 1B contribution by 19th October [^{F56}or, if payment is made by an approved method of electronic communications in respect of earnings paid after 5th April 2004, not later than 22nd October] next following the year in respect of which it was due,

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.

(2) Interest payable under this paragraph shall be recoverable as if it were an earnings-related contribution or a Class 1B contribution, as the case may be, in respect of which an employer is liable under paragraph 10, 11, or 13 to pay to the [^{F57}Inland Revenue].

(3) For the purposes of this paragraph—

- (a) “employer” means, in relation to a Class 1B contribution, the person liable to pay such a contribution in accordance with section 10A of the Act^{F58};
- (b) “the reckonable date” means, in relation to—
 - (i) an earnings-related contribution, the 14th day [^{F59}or, if payment was made by an approved method of electronic communications in respect of earnings paid after 5th April 2004, the 17th day] after the end of the year in respect of which it was due;
 - (ii) a Class 1B contribution, the 19th October [^{F60}or, if payment was made by an approved method of electronic communications in respect of earnings paid after 5th April 2004, the 22nd October] next following the year in respect of which it was due.
- [^{F61}(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.]

(4) A contribution to which sub-paragraph (1) applies shall carry interest from the reckonable date even if the date is a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882^{F62}.

[^{F63}(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.]

[^{F64}(5) A certificate of the Inland Revenue that, to the best of their knowledge and belief, any amount of interest payable under this paragraph has not been paid by an employer or employee is

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sufficient evidence that the amount mentioned in the certificate is unpaid and due to be paid, and any document purporting to be such a certificate shall be presumed to be a certificate until the contrary is proved.]

Textual Amendments

- F53** Words in Sch. 4 para. 17(1) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(9)(a)(i)**
- F54** Words in Sch. 4 para. 17(1) inserted (6.4.2007) by [The Social Security Contributions \(Consequential Provisions\) Regulations 2007 \(S.I. 2007/1056\)](#), regs. 1, **8(9)(a)**
- F55** Words in Sch. 4 para. 17(1)(a) inserted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(9)(a)(ii)**
- F56** Words in Sch. 4 para. 17(1)(b) inserted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(9)(a)(iii)**
- F57** Word in Sch. 4 para. 17(2) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(9)(b)**
- F58** Section 10A was inserted by section 53 of the [Social Security Act 1998 \(c. 14\)](#).
- F59** Words in Sch. 4 para. 17(3)(b)(i) inserted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(9)(c)(i)**
- F60** Words in Sch. 4 para. 17(3)(b)(ii) inserted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(9)(c)(ii)**
- F61** Sch. 4 para. 17(3)(b)(iii) added (6.4.2007) by [The Social Security Contributions \(Consequential Provisions\) Regulations 2007 \(S.I. 2007/1056\)](#), regs. 1, **8(9)(b)**
- F62** 1882 c. 61. Section 92 was amended by sections 3(1) and (3) and 4(4) of the [Banking and Financial Dealings Act 1971 \(c. 80\)](#).
- F63** Sch. 4 para. 17(4A) inserted (6.4.2007) by [The Social Security Contributions \(Consequential Provisions\) Regulations 2007 \(S.I. 2007/1056\)](#), regs. 1, **8(9)(c)**
- F64** Sch. 4 para. 17(5) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(9)(d)**

[^{F65}Application of paragraphs 16 and 17 in cases of wilful failure to pay

17A.—(1) If regulation 86(1)(a) applies paragraphs 16 and 17 shall apply to the employed earner to the extent of the primary contribution which the secondary contributor wilfully failed to pay.

(2) For the purpose of sub-paragraph (1) any reference in paragraph 16 and 17 to an employer shall be construed as a reference to the employed earner.]

Textual Amendments

- F65** Sch. 4 para. 17A inserted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(10)**

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

18.—(1) Where an earnings-related contribution paid by an employer in respect of the year ended 5th April 1993 or any subsequent year not later than the year ended 5th April 1999 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 Act from the relevant date until the order for the repayment is issued.

- (2) For the purposes of sub-paragraph (1) “the relevant date” is—
- (a) in the case of an earnings-related 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; and
 - (b) in any other case, the last day of the year after the year in respect of which the contribution in question was paid.

(3) Where an earnings-related contribution or a Class 1B contribution paid by an employer in respect of the year ended 5th April 2000 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 Act from the relevant date until the order for the repayment is issued.

- (4) For the purpose of sub-paragraph (3) “the relevant date” is—
- (a) in the case of—
 - (i) an earnings-related contribution, the 14th day after the end of the year in respect of which that contribution was paid; or
 - (ii) a Class 1B contribution, the 19th October next following the year in respect of which that contribution was paid; or
 - (b) the date on which the earnings-related contribution or Class 1B contribution was paid if that date is later than the date referred to in paragraph (a).

Repayment of interest

19. Where a secondary contributor or a person liable to pay a Class 1B contribution has paid interest on an earnings-related contribution or a Class 1B contribution, that interest shall be repaid to him [^{F66}if]—

- (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;
- (b) the earnings-related contribution or Class 1B contribution in respect of which interest was paid is returned or repaid to him in accordance with the provisions of regulation [^{F67}52, 52A or 55].

Textual Amendments

- F66** Word in Sch. 4 para. 19 inserted (6.4.2007) by [The Social Security Contributions \(Consequential Provisions\) Regulations 2007 \(S.I. 2007/1056\)](#), regs. 1, **8(10)**
- F67** Words in Sch. 4 para. 19(b) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(11)**

Remission of interest for official error

20.—(1) Where interest is payable in accordance with paragraph 17 it shall be remitted for the period commencing on the first relevant date and ending on the second relevant date in the circumstances specified in sub-paragraph (2).

(2) For the purposes of sub-paragraph (1), the circumstances are that the liability, or a greater liability, to pay interest in respect of an earnings-related contribution or a Class 1B contribution arises as the result of an official error being made.

- (3) In this paragraph—

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- (a) “an official error” means a mistake made, or something omitted to be done, by an officer of the Board, where the employer or any person acting on his behalf has not caused, or materially contributed to, that mistake or omission;
- (b) “the first relevant date” means the reckonable date as defined in paragraph 17(3) or, if later, the date on which the official error occurs;
- (c) “the second relevant date” means the date 14 days after the date on which the official error has been rectified and the employer is advised of its rectification.

Application of paragraphs 10, 12, 16, 17, 18, 19 and 20

21.—(1) This paragraph applies where—

- (a) secondary Class 1 contributions are payable in respect of [^{F68}relevant employment income; and]
- (b) an amount or proportion (as the case may be) of the liability of the secondary contributor to those contributions is transferred to the employed earner by an election made jointly by them for the purposes of paragraph 3B(1) of Schedule 1 to the Act ^{F69}.

(2) Paragraphs 10, 12, 16, 17, 18, 19 and 20 shall apply to the employed earner to the extent of the liability transferred by the election and, to that extent, those paragraphs shall not apply to the employer.

(3) For the purposes of sub-paragraph (2)—

- (a) any reference in paragraphs 10, 12, 16, 17, 18 and 20 to an employer; and
- (b) the reference in paragraph 19 to a secondary contributor,

shall be construed as a reference to the employed earner to whom the liability is transferred by the election.

Textual Amendments

F68 Words in Sch. 4 para. 21(1)(a) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2004 \(S.I. 2004/2096\)](#), regs. 1(1), 7(e)

F69 Paragraph 3B was inserted into Schedule 1 by section 77(2) of the Child Support, Pensions and Social Security Act 2000.

Return by employer at end of year

22.—(1) [^{F70}Before 20th May following the end of the year the employer shall render to [^{F71}HMRC] in such form as they may approve or prescribe], a return showing in respect of each employee, in respect of whom he was required at any time during the year to prepare or maintain a deductions working sheet in accordance with this Schedule—

- (a) such particulars as [^{F71}HMRC] may require for the identification of the employee,
- (b) the year to which the return relates,
- (c) in respect of each and under each of the category letters, the total amounts for the year shown under—
 - (i) each of [^{F72}sub-paragraphs (i) to (v)] severally of paragraph 7(13)(b) (such amounts being rounded down to the next whole pound if not already whole pounds) in the case of paragraphs (i) to (iii)),

^{F73}(ii)

^{F74}(iii)

(d) the total amount of any statutory maternity pay paid during the year; ^{F75}...

[^{F76}(da) the total amount of statutory paternity pay paid during the year;

(db) the total amount of statutory adoption pay paid during the year; and]

(e) the total amounts he is entitled to deduct under regulation 5 of the Reimbursement Regulations.

(2) The return required by sub-paragraph (1) shall include a statement and declaration in the form approved or prescribed by [^{F71}HMRC] containing a list of all deductions working sheets on which the employer was obliged to keep records in accordance with this Schedule in respect of that year, and shall also include a certificate showing—

(a) the total amount of earnings-related contributions payable by him in respect of each employee during that year;

(b) the total amount of earnings-related contributions payable in respect of all his employees during that year;

(c) in relation to any contracted-out employment the number notified by [^{F71}HMRC] on the relevant contracting-out certificate as the employer's number;

(d) in respect of statutory maternity pay paid during that year to all his employees, the total of amounts determined under regulation 3 of the Compensation of Employers Regulations and deducted by virtue of regulation 4 of those Regulations; ^{F77}...

[^{F78}(da) in respect of statutory paternity pay paid during that year to all his employees the total of the amounts determined under regulation 5 of the Statutory Paternity Pay and Statutory Adoption Pay (Administration) Regulations 2002;

(db) in respect of statutory adoption pay paid during that year to all his employees the total of the amounts determined under regulation 5 of the Statutory Paternity Pay and Statutory Adoption Pay (Administration) Regulations 2002; and]

(e) the total amount deducted under regulation 8 of the Reimbursement Regulations in respect of all his qualifying employees in that year.

[^{F79}(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 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,

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- (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.]
- (3) If paragraph 25 applies, the return required by sub-paragraph (1) and the certificate required by sub-paragraph (2) shall include the information specified in that paragraph.
- (4) If the employer is a body corporate, [F80the declarations] and [F81the certificates] referred to in [F82sub-paragraphs (2) and (2B)] shall be signed by the secretary or by a director of the body corporate.
- (5) If, within 14 days of the end of any year, an employer has failed to pay to the [F71HMRC] the total amount of earnings-related contributions which he is liable so to pay, the [F71HMRC] may prepare a certificate showing the amount of such contributions remaining unpaid for the year in question, excluding any amount deducted by the employer by virtue of the Compensation of Employers Regulations.
The provisions of paragraph 17 shall apply with any necessary modifications to the amount shown in that certificate.
- (6) Notwithstanding sub-paragraphs (2) to (5), [F83the returns referred to in sub-paragraphs (1) and (2A)] may be made in such other form as [F71HMRC] and the employer approve, and in that case—
- (a) sub-paragraphs (2) to (5) shall not apply; and
- (b) the making of [F84the returns] shall be subject to such conditions as [F71HMRC] may direct as to the method of making it.
- (7) Section 98A of the Taxes Management Act 1970 (penalties for late, fraudulent or negligent returns) F85 as modified by the provisions of paragraph 7 of Schedule 1 to the Act shall apply in relation to the requirement to make a return contained in sub-paragraph (1) [F86and (2A)].

Textual Amendments

- F70** Words in Sch. 4 para. 22(1) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(12)(a)**
- F71** Word in Sch. 4 para. 22 substituted (6.4.2007) by [The Social Security Contributions \(Consequential Provisions\) Regulations 2007 \(S.I. 2007/1056\)](#), regs. 1, **8(11)**
- F72** Words in Sch. 4 para. 22(1)(c)(i) substituted (with effect in accordance with reg. 1(1) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment\) Regulations 2003 \(S.I. 2003/193\)](#), regs. 1(1), **16(5)(a)(i)**
- F73** Sch. 4 para. 22(1)(c)(ii) omitted (with effect in accordance with reg. 1(1) of the amending S.I.) by virtue of [The Social Security \(Contributions\) \(Amendment\) Regulations 2003 \(S.I. 2003/193\)](#), regs. 1(1), **16(5)(a)(ii)**
- F74** Sch. 4 para. 22(1)(c)(iii) omitted (with effect in accordance with reg. 1(1) of the amending S.I.) by virtue of [The Social Security \(Contributions\) \(Amendment\) Regulations 2003 \(S.I. 2003/193\)](#), regs. 1(1), **16(5)(a)(ii)**
- F75** Word in Sch. 4 para. 22(1)(d) omitted (with effect in accordance with reg. 1(1) of the amending S.I.) by virtue of [The Social Security \(Contributions\) \(Amendment\) Regulations 2003 \(S.I. 2003/193\)](#), regs. 1(1), **16(5)(b)**
- F76** Sch. 4 para. 22(1)(da)-(db) inserted (with effect in accordance with reg. 1(1) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment\) Regulations 2003 \(S.I. 2003/193\)](#), regs. 1(1), **16(5)(b)**
- F77** Word in Sch. 4 para. 22(2)(d) omitted (with effect in accordance with reg. 1(1) of the amending S.I.) by virtue of [The Social Security \(Contributions\) \(Amendment\) Regulations 2003 \(S.I. 2003/193\)](#), regs. 1(1), **16(5)(c)**

- F78** Sch. 4 para. 22(2)(da)-(db) inserted (with effect in accordance with reg. 1(1) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment\) Regulations 2003 \(S.I. 2003/193\)](#), regs. 1(1), **16(5)(c)**
- F79** Sch. 4 para. 22(2A)(2B) inserted (6.4.2007) by [The Social Security Contributions \(Consequential Provisions\) Regulations 2007 \(S.I. 2007/1056\)](#), regs. 1, **8(12)**
- F80** Words in Sch. 4 para. 22(4) substituted (6.4.2007) by [The Social Security Contributions \(Consequential Provisions\) Regulations 2007 \(S.I. 2007/1056\)](#), regs. 1, **8(13)(a)**
- F81** Words in Sch. 4 para. 22(4) substituted (6.4.2007) by [The Social Security Contributions \(Consequential Provisions\) Regulations 2007 \(S.I. 2007/1056\)](#), regs. 1, **8(13)(b)**
- F82** Words in Sch. 4 para. 22(4) substituted (6.4.2007) by [The Social Security Contributions \(Consequential Provisions\) Regulations 2007 \(S.I. 2007/1056\)](#), regs. 1, **8(13)(c)**
- F83** Words in Sch. 4 para. 22(6) substituted (6.4.2007) by [The Social Security Contributions \(Consequential Provisions\) Regulations 2007 \(S.I. 2007/1056\)](#), regs. 1, **8(14)(a)**
- F84** Words in Sch. 4 para. 22(6)(b) substituted (6.4.2007) by [The Social Security Contributions \(Consequential Provisions\) Regulations 2007 \(S.I. 2007/1056\)](#), regs. 1, **8(14)(b)**
- F85** Section 98A was inserted by section 165(1) of the [Finance Act 1989 \(c. 26\)](#).
- F86** Words in Sch. 4 para. 22(7) added (6.4.2007) by [The Social Security Contributions \(Consequential Provisions\) Regulations 2007 \(S.I. 2007/1056\)](#), regs. 1, **8(15)**

[^{F87}Additional return by employer at end of year where liability transferred to employed earner: elections under paragraph 3B(1) of Schedule 1 to the Act.]

23.—(1) This paragraph applies where—

- (a) secondary Class 1 contributions are payable in respect of [^{F88}relevant employment income; and]
- (b) an amount or proportion (as the case may be) of the liability of the secondary contributor for those contributions is transferred to the employed earner by an election made jointly by them for the purposes of paragraph 3B(1) of Schedule 1 to the Act.

(2) [^{F89}Before 7th July after the end of the year the employer shall deliver to the Inland Revenue], in respect of each employed earner to whom any liability is transferred by the election, written particulars of the matters set out in sub-paragraph (3).

(3) The matters set out in this paragraph are—

- (a) the amount of the contributions referred to in sub-paragraph (1)(a);
- (b) the amount of the transferred liability; and
- (c) the date on which payment of the amount of the transferred liability was made to the [^{F90}Inland Revenue].

Textual Amendments

- F87** Sch. 4 para. 23 heading substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2004 \(S.I. 2004/2096\)](#), regs. 1(1), **7(d)**
- F88** Words in Sch. 4 para. 23(1)(a) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2004 \(S.I. 2004/2096\)](#), regs. 1(1), **7(e)**
- F89** Words in Sch. 4 para. 23(2) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(13)(b)**
- F90** Words in Sch. 4 para. 23(3)(c) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(13)(c)**

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Special return by employer at end of voyage period

24.—(1) This paragraph applies where earnings-related contributions are assessed in accordance with regulation 120(4) or (5) (earnings periods for mariners and apportionment of earnings).

(2) Not later than 14 days after the end of the voyage period the employer shall render to the [^{F91}Inland Revenue] in such form as the [^{F91}Inland Revenue] may authorise a return in respect of each mariner showing—

- (a) his name, discharge book number and national insurance number;
- (b) the earnings periods and the amounts of [^{F92}general earnings] apportioned to each such period in the voyage period;
- (c) the appropriate category letter for each apportionment of [^{F92}general earnings];
- (d) the amounts of all the earnings-related contributions payable on each apportionment of [^{F92}general earnings] otherwise than under paragraph 7(3);
- (e) the amounts of primary Class 1 contributions included in the amounts shown under paragraph (d) for each apportionment of [^{F92}general earnings];
- (f) where the employment is contracted-out employment for any part of the voyage period—
 - (i) the amounts of that part of the contributions shown under paragraph (e) which were payable on earnings above the primary threshold, if primary Class 1 contributions were payable at the reduced rate, and
 - (ii) the number notified by the [^{F91}Inland Revenue] on the relevant contracting-out certificate as the employer's number;
- (g) the total amount of any earnings in respect of which primary Class 1 contributions were payable, other than earnings from non-contracted-out employment in respect of which primary Class 1 contributions were payable at the reduced rate; and
- (h) the total amounts he is entitled to deduct under regulation 5 or 6 of the Reimbursement Regulations in relation to each apportionment of [^{F92}general earnings].

Textual Amendments

F91 Words in Sch. 4 para. 24 substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(14)(a)**

F92 Words in Sch. 4 para. 24 substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(14)(b)**

Return by employer of recovery under the Statutory Sick Pay Percentage Threshold Order

25.—(1) This paragraph applies where an employer recovers any amount in respect of statutory sick pay payments made by him in any ^{F93}... tax month in accordance with article 2 of the Statutory Sick Pay Percentage Threshold Order 1995 ^{F94} (right of employer to recover statutory sick pay).

(2) The information required pursuant to paragraph 23(3) to be included—

- (a) in the return, is, in respect of each employee, the total amount of statutory sick pay the employer paid in each ^{F93}... tax month in respect of which he made that recovery; and
- (b) in the certificate, is the total amount of statutory sick pay the employer recovered in the ^{F93}... tax year.

Textual Amendments

- F93** Word in Sch. 4 para. 25 omitted (6.4.2004) by virtue of [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(15)**
- F94** [S.I. 1995/512](#).

Inspection of employer's records

26.—(1) Every employer, whenever requested to do so by an officer authorised by the [^{F95}Inland Revenue], shall produce to that officer for inspection, at such time as the officer may reasonably require, at the specified place—

- (a) all wages sheets, deductions working sheets, and other documents and records of any kind or description relating to the calculation of payment of the [^{F96}general earnings] of his employees in respect of the years or ^{F97}... tax periods specified by the officer or to the amount of the earnings-related contributions payable in respect of those [^{F96}general earnings];
 - (b) all wages sheets, deductions working sheets, and other documents and records of any kind or description relating to the amount of any Class 1A contributions or Class 1B contributions payable by the employer in respect of the years specified by the officer; or
 - (c) such of those wage sheets, deductions working sheets, or other documents and records as may be specified by the officer.
- (2) In sub-paragraph (1) “the specified place” means—
- (a) such place in Great Britain, or, in the case of a request made in Northern Ireland, in Northern Ireland, as the employer and the officer may agree upon;
 - (b) in default of such agreement, the place in Great Britain, or, in the case of a request made in Northern Ireland, in Northern Ireland, at which the documents and records referred to in sub-paragraph (1)(a) or (b) are normally kept; or
 - (c) in default of such agreement and if there is no such place as is referred to in paragraph (b), the employer's principal place of business in Great Britain, or, in the case of a request made in Northern Ireland, in Northern Ireland.
- (3) The officer may—
- (a) take copies of, or make extracts from, any documents produced to him for inspection in accordance with sub-paragraph (1); and
 - (b) if it appears to him to be necessary to do so, at a reasonable time and for a reasonable period, remove any documents so produced, and, if he does so, shall provide a receipt for any documents so removed; and where a lien is claimed on a document produced in accordance with sub-paragraph (1), the removal of the document under this sub-paragraph shall not be regarded as breaking the lien;

and where a document removed in accordance with paragraph (b) is reasonably required for the proper conduct of a business the authorised officer shall, within seven days, provide a copy of the document, free of charge, to the person who produced it or caused it to be produced.

[^{F98}(3A) Where records are maintained by computer, the employer shall provide the officer with all facilities necessary for obtaining information from them.]

(4) [^{F99}The authorised officer may], on the occasion of each inspection, prepare a certificate, by reference to the information obtained from an inspection of the documents and records produced under sub-paragraph (1), showing—

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- (a) the amount of earnings-related contributions which it appears from the documents and records so produced that the employer is liable to pay to the [^{F100}Inland Revenue], excluding any amount deducted by the employer by virtue of the Compensation of Employers Regulations for the years or ^{F97}... tax periods covered by the inspection; or
- (b) the amount of any Class 1B contributions which it appears from the documents and records so produced that the employer is liable to pay to the [^{F100}Inland Revenue] for the years covered by the inspection, or such an amount in addition to an amount referred to in paragraph (a);

together with any amount of earnings-related contributions or Class 1B contributions or a combination of those classes of contributions, which has not been paid to him or, to the best of his knowledge and belief, to any other person to whom it might lawfully be paid.

(5) The production of a certificate mentioned in sub-paragraph (4) shall, unless the contrary is proved, be sufficient evidence that the employer is liable to pay to the [^{F100}Inland Revenue] in respect of the years or, as the case may be, ^{F97}... tax periods mentioned in the certificate, the amount shown in the certificate as unpaid; and any document purporting to be such a certificate shall be treated as such a certificate until the contrary is proved.

The provisions of paragraph 16 shall apply with any necessary modifications to the amount shown in such a certificate.

(6) For the purposes of sub-paragraph (1), the wages sheets, deductions working sheets (other than deductions working sheets issued under [^{F101}regulation 35 of the PAYE regulations]) and other documents and records mentioned in that sub-paragraph shall be retained by the employer for not less than three years after the end of the year to which they relate; and, in the case of any of those documents or records which contains any information relating to the amount of any Class 1A contribution or Class 1B contribution, for not less than three years after the end of the year in which that contribution became payable.

(7) Where an election has been made jointly by the secondary contributor and the employed earner for the purposes of paragraph 3B(1) of Schedule 1 to the Act, sub-paragraphs (1) to (3) shall apply to the records which the secondary contributor is obliged by paragraph 8 to maintain and, for the purposes of paragraph 3B of Schedule 1 to the Act, those records shall be retained by him throughout the period for which the election is in force and for six years after the end of that period.

(8) For the purposes of this paragraph, “employer”—

- (a) includes, in relation to a Class 1A contribution, the person liable to pay such a contribution in accordance with section 10ZA of the Act (liability of third party provider of benefits in kind) ^{F102}, and
- (b) means, in relation to a Class 1B contribution, the person liable to pay such a contribution in accordance with section 10A of the Act ^{F103}.

Textual Amendments

F95 Words in Sch. 4 para. 26(1) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(16)(d)**

F96 Words in Sch. 4 para. 26 substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(16)(a)**

F97 Word in Sch. 4 para. 26 omitted (6.4.2004) by virtue of [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(16)(b)**

F98 Sch. 4 para. 26(3A) inserted (with effect in accordance with reg. 1(1) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment\) Regulations 2003 \(S.I. 2003/193\)](#), regs. 1(1), **16(6)**

- F99** Words in Sch. 4 para. 26(4) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(16)(e)**
- F100** Words in Sch. 4 para. 26 substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(16)(c)**
- F101** Words in Sch. 4 para. 26(6) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(16)(f)**
- F102** Section 10ZA was inserted, as respects Great Britain by section 75 of the Child Support, Pensions and Social Security Act 2000.
- F103** See regulation 35(4) of [S.I. 2000/2207](#).

Death of an employer

27. If an employer dies, anything which he would have been liable to do under this Schedule shall be done by his personal representatives, or, in the case of an employer who paid [^{F104}general earnings] on behalf of another person, by the person succeeding him or, if no person succeeds him, the person on whose behalf he paid [^{F104}general earnings].

Textual Amendments

- F104** Words in Sch. 4 para. 27 substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(17)**

Succession to a business, etc

28.—(1) This paragraph applies where there has been a change in the employer from whom an employee receives [^{F104}general earnings] in respect of his employment in any trade, business, concern or undertaking, or in connection with any property, or from whom an employee receives any annuity other than a pension.

(2) Where this paragraph applies, in relation to any matter arising after the change, the employer after the change shall be liable to do anything which the employer before the change would have been liable to do under this Schedule if the change had not taken place.

(3) Sub-paragraph (2) is subject to the qualification that the employer after the change shall not be liable for the payment of any earnings-related contributions which were deductible from emoluments paid to the employee before, unless they are also deductible from emoluments paid to [^{F105}the employee after], the change took place, or of any corresponding employer's earnings-related contributions.

Textual Amendments

- F104** Words in Sch. 4 para. 27 substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(17)**
- F105** Words in Sch. 4 para. 28(3) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(18)**

Payments by cheque

29.—(1) Sub-paragraph (2) applies for the purposes of paragraphs 10, 11, 13, 15, 17 and 18.

(2) If any payment to the [^{F106}Inland Revenue] is made by cheque, and the cheque is paid on its first presentation to the banker on whom it is drawn, the payment shall be treated as made on the

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day on which the cheque was received by the [^{F106}Inland Revenue], and “pay”, “paid”, “unpaid” and “overpaid” shall be construed accordingly.

Textual Amendments

F106 Words in Sch. 4 para. 29 substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **32(19)**

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