
STATUTORY INSTRUMENTS

1999 No. 975

SOCIAL SECURITY

**The Social Security (Contributions)
Amendment (No. 3) Regulations 1999**

<i>Made</i>	- - - -	<i>25th March 1999</i>
<i>Laid before Parliament</i>		<i>30th March 1999</i>
<i>Coming into force</i>	- -	<i>20th April 1999</i>

The Secretary of State for Social Security, in exercise of powers conferred by sections 122(1)(1) and 175(1) to (3) of, and paragraphs 7A(2)(2) and 7B(3) of Schedule 1 to, the Social Security Contributions and Benefits Act 1992(4) and sections 113(5), 189(1) and 191(6) of the Social Security Administration Act 1992(7) and of all other powers enabling him in that behalf, by this instrument, which contains only regulations made by virtue of, or consequential upon, the Social Security Act 1998(8), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Contributions) Amendment (No. 3) Regulations 1999 and shall come into force on 20th April 1999.

(2) In these Regulations “the principal Regulations” means the Social Security (Contributions) Regulations 1979(9).

-
- (1) Section 122(1) is cited because of the meaning ascribed to the word “prescribe”.
(2) Paragraph 7A was inserted by section 56(2) of the Social Security Act 1998 (c. 14) and amended by paragraph 37 of Schedule 3, and paragraph 6 of Schedule 9, to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).
(3) Paragraph 7B was inserted by section 57 of the Social Security Act 1998 and amended by paragraph 38 of Schedule 3, and paragraph 7 of Schedule 9, to the Social Security Contributions (Transfer of Functions, etc.) Act 1999.
(4) 1992 c. 4.
(5) Section 113 was substituted by section 60 of the Social Security Act 1998 and amended by paragraph 5 of Schedule 5 to Social Security Contributions (Transfer of Functions, etc.) Act 1999.
(6) Section 191 is cited because of the meaning ascribed to the word “prescribe”.
(7) 1992 c. 5.
(8) See section 173(5)(b) of the Social Security Administration Act 1992.
(9) S.I. 1979/591; the relevant amending instruments are S.I. 1981/82, 1984/77, 1985/1398, 1987/2111, 1988/992, 1989/1677, 1991/1632 and 1935, 1992/97 and 1440, 1996/1245 and 2407 and 1999/567 and 568.

Substitution of regulation 47 of the principal Regulations

2. For regulation 47 of the principal Regulations (direct collection and recovery of earnings-related contributions or Class 1A contributions)(10), substitute—

“Direct payment of a Class 1A contribution

47. Where a Class 1A contribution is not paid to the Collector of Taxes in accordance with the provisions of Schedule 1 to these Regulations it may be paid to the Inland Revenue (“a direct payment Class 1A contribution”) in accordance with regulations 47A to 47K of these Regulations.

Due date for a direct payment Class 1A contribution

47A.—(1) Subject to regulation 47B(2) or 47C(2) of these Regulations, as the case may be, where a direct payment Class 1A contribution may be paid to the Inland Revenue by virtue of regulation 47 of these Regulations, an employer who is liable to pay such a contribution shall pay that contribution to them not later than 19th July in the year immediately following the end of the year in respect of which it is payable.

(2) A direct payment Class 1A contribution paid to the Inland Revenue in accordance with paragraph (1) of this regulation shall be shown in a return made to them in accordance with regulation 47J(1) of these Regulations.

Provisions relating to a direct payment Class 1A contribution due on succession to business

47B.—(1) The following provisions of this regulation shall apply in relation to the payment of a direct payment Class 1A contribution where—

- (a) there is a change in the employer who is liable to pay emoluments to or for the benefit of all the persons who are employed in a business in respect of their employment in that business;
- (b) the employees in question are those who ceased to be employed in that business before the change of employer occurred; and
- (c) the amount of the Class 1A contribution is to be included in the return required by regulation 47J(2) of these Regulations.

(2) Not later than 14 days after the end of the relevant final income tax month, the employer shall pay to the Inland Revenue—

- (a) any Class 1A contribution referred to in paragraph (1) of this regulation in respect of the relevant final year; and
- (b) where the relevant final income tax month is the month beginning on 6th April, 6th May or 6th June any Class 1A contribution referred to in paragraph (1) of this regulation in respect of the year immediately preceding the relevant final year.

(3) The employer shall include the amount of any Class 1A contribution which is payable in accordance with paragraph (2)(a) of this regulation in the return required by regulation 47J(1) of these Regulations for the relevant final year, by showing that amount in the particulars required under paragraph (2) of that regulation.

(4) In this regulation, unless the context otherwise requires—

- (a) “business” includes any trade, concern or undertaking;

(10) Regulation 47 was amended by regulation 6 of S.I. 1992/97.

- (b) “employer” means the employer before the change referred to in paragraph (1) (a) of this regulation;
- (c) “relevant final income tax month” means the income tax month in which the employer has made any payments of emoluments which, by reason of the change of employer referred to in paragraph (1)(a) of this regulation were, in respect of the employment of all those persons who were employed by him in that income tax month, the final payments of emoluments to be made by him in the year in which those payments were made; for these purposes “emoluments” means so much of a person’s remuneration or profits derived from employed earner’s employment as constitutes earnings for the purposes of the Social Security Contributions and Benefits Act 1992; and
- (d) “relevant final year” means the year in which the relevant final income tax month occurs.

Provisions relating to a direct payment Class 1A contribution due on cessation of business

47C.—(1) The following provisions of this regulation shall apply in relation to the payment of a direct payment Class 1A contribution where—

- (a) an employer ceases to carry on business and upon that cessation no other person becomes liable to pay emoluments to or for the benefit of any employee in respect of his employment in that business;
- (b) the employees are all those who were employed in that business at any time in the relevant final year or the year immediately preceding the relevant final year; and
- (c) the amount of the Class 1A contribution is to be included in the return required by regulation 47J(3) of these Regulations.

(2) Not later than 14 days after the end of the relevant final income tax month, the employer shall pay to the Inland Revenue—

- (a) any Class 1A contribution referred to in paragraph (1) of this regulation in respect of the relevant final year; and
- (b) where the relevant final income tax month is the month beginning on 6th April, 6th May or 6th June any Class 1A contribution referred to in paragraph (1) of this regulation in respect of the year immediately preceding the relevant final year.

(3) The employer shall include the amount of any Class 1A contribution which is payable in accordance with paragraph (2)(a) of this regulation in the return required by regulation 47J(1) of these Regulations for the relevant final year, by showing that amount in the particulars required under paragraph (3) of that regulation.

(4) In this regulation unless the context otherwise requires—

- (a) “business” includes any trade, concern or undertaking;
- (b) “employer” means the employer before the cessation of business referred to in paragraph (1)(a) of this regulation;
- (c) “relevant final income tax month” means the income tax month in which the employer has made any payments of emoluments which, by reason of the cessation of business referred to in paragraph (1)(a) of this regulation were, in respect of the employment of all those persons who were employed by him in that income tax month, the final payments of emoluments to be made by him in the year in which those payments were made; for these purposes “emoluments” means so much of a person’s remuneration or profits derived from employed

earner's employment as constitutes earnings for the purposes of the Social Security Contributions and Benefits Act 1992; and

- (d) "relevant final year" means the year in which the relevant final income tax month occurs.

Employer failing to pay a direct payment Class 1A contribution

47D.—(1) If—

- (a) the employer has paid no amount of a direct payment Class 1A contribution to the Inland Revenue by the date which applies to him under regulation 47A(1), 47B(2) or 47C(2) of these Regulations, as the case may be; and
- (b) the Inland Revenue is unaware of the amount, if any, which the employer is liable so to pay,

the 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 a Class 1A contribution which the employer is liable to pay to them under that regulation in respect of the year in question.

(2) A notice may be given by the Inland Revenue under paragraph (1) of this regulation notwithstanding that an amount of a Class 1A contribution has been paid to them by the employer under regulation 47A(1), 47B(2) or 47C(2) of these Regulations, as the case may be, in respect of the year in question, if they are not satisfied that the amount so paid is the full amount which the employer is liable to pay to them for that year and the provisions of this regulation shall have effect accordingly.

Specified amount of a direct payment Class 1A contribution

47E.—(1) If, following the date which applies to him under regulation 47A(1), 47B(2) or 47C(2) of these Regulations, as the case may be, the employer has paid no amount of a direct payment Class 1A contribution to the Inland Revenue in respect of the year in question and there is reason to believe that the employer is liable so to pay, the Inland Revenue—

- (a) in the case of the first year in which the employer is liable to pay such a contribution, upon consideration of any information which has been provided to them by the employer relating to his liability to pay such contributions; or
- (b) thereafter, upon consideration of the employer's record of past payments,

may to the best of their judgement specify the amount of a Class 1A contribution which 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 seven days allowed in the notice, the specified amount of a Class 1A contribution or any part thereof is unpaid, the amount so unpaid—

- (a) shall be deemed for the purposes of these Regulations to be an amount of a Class 1A contribution which the employer was liable to pay in respect of the year in question in accordance with regulation 47A(1), 47B(2) or 47C(2) of these Regulations, as the case may be; and
- (b) may be certified by the Inland Revenue.

(3) The provisions of paragraph (2) of this regulation shall not apply if, during the period allowed in the notice—

- (a) the employer pays to the Inland Revenue the full amount of a Class 1A contribution which he is liable to pay under regulation 47A(1), 47B(2) or 47C(2) of these Regulations, as the case may be, in respect of the year in question; or

(b) the employer satisfies the Inland Revenue that no amount of such a contribution is due.

(4) The production of a certificate such as is mentioned in paragraph (2)(b) of this regulation shall, until the contrary is established, be sufficient evidence that the employer is liable to pay to the Inland Revenue the amount shown in the certificate and any document purporting to be such a certificate shall be deemed to be such a certificate until the contrary is proved.

(5) A notice may be given by the Inland Revenue under paragraph (1) of this regulation notwithstanding that an amount of a Class 1A contribution has been paid to them by the employer under regulation 47A(1), 47B(2) or 47C(2) of these Regulations, as the case may be, in respect of the year in question, if, after seeking the employer's explanation as to the amount of a Class 1A contribution paid, the Inland Revenue are not satisfied that the amount so paid is the full amount which the employer is liable to pay to them in respect of that year; 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 Inland Revenue that no further amount of a Class 1A contribution is due in respect of that year.

(6) Where, during the period allowed in a notice given by the Inland Revenue under paragraph (1) of this regulation, the employer claims, but does not satisfy them, that the payment of a Class 1A contribution made in respect of the year specified therein is the full amount of a Class 1A contribution which he is liable to pay to the Inland Revenue in respect of that year, the employer may require them to inspect his documents and records as if they had called upon him to produce those documents and records in accordance with Regulation 32(1)(11) of Schedule 1 to these Regulations; the provisions of that regulation shall apply in relation to that inspection and the notice given by the Inland Revenue under paragraph (1) of this regulation shall thereafter be disregarded.

Interest on an overdue direct payment Class 1A contribution

47F.—(1) Where an employer has not by the date which applies to him under regulation 47A(1), 47B(2) or 47C(2) of these Regulations, as the case may be, paid a direct payment Class 1A contribution which he is liable to pay, 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 from the reckonable date until payment.

(2) Interest payable under this regulation shall be recoverable as if it were a Class 1A contribution in respect of which an employer is liable under regulation 47A(1), 47B(2) or 47C(2) of these Regulations, as the case may be, to pay to the Inland Revenue.

(3) 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(12).

(4) A certificate of the Inland Revenue that any amount of interest payable under this regulation has not been paid to them, or, to the best of their knowledge and belief, to any person acting on their behalf, shall be sufficient evidence that the employer is liable to pay to them 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.

(11) Regulation 32(1) was amended by regulation 8(a) of S.I. 1981/82, regulation 2(7) of S.I. 1991/1632, regulation 20(2) of S.I. 1992/97, regulation 15(2) of S.I. 1992/1440 and regulation 11(11)(a) of S.I. 1999/567.

(12) 1882 c. 61; section 92 was amended by section 4(4) of the Banking and Financial Dealings Act 1971 (c. 80).

(5) For the purposes of this regulation “the reckonable date” means the day after the date which applies to the employer under regulation 47A(1), 47B(2) or 47C(2), of these Regulations, as the case may be.

Payment of interest on a repaid direct payment Class 1A contribution

47G.—(1) Where—

- (a) a direct payment Class 1A contribution paid by an employer to the Inland Revenue in respect of the year ended 5th April 1999 or any subsequent year is repaid to him; and
- (b) 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” means the day after the date which applies to the employer under regulation 47A(1), 47B(2) or 47C(2) of these Regulations, as the case may be, or if later, the date on which that contribution was paid.

Repayment of interest paid on a direct payment Class 1A contribution

47H. Where an employer has paid interest on a direct payment 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;
- (b) the 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(13) or 33A(14) of these Regulations.

Remission of interest on a direct payment Class 1A contribution

47I.—(1) Where interest is payable in accordance with regulation 47F of these Regulations as a result of an official error being made it shall be remitted for the period from the first relevant date until the second relevant date.

(2) For the purposes of this regulation—

- (a) “official error” means a mistake made, or something omitted to be done, by an officer of, or person employed in relation to, the Inland Revenue acting as such, where the employer or any person acting on his behalf has not caused, or materially contributed to, that error or omission;
- (b) “the first relevant date” means the date defined in regulation 47F(5) of these Regulations 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 is rectified and the employer is advised in writing of its rectification.

(13) Regulation 32 was amended by regulation 11 of S.I. 1984/77, regulation 5(6) of S.I. 1985/1398, regulation 6 of S.I. 1987/2111, regulation 3 of S.I. 1988/992, regulation 3(5) of S.I. 1989/1677, regulation 3 of S.I. 1992/97, regulation 2 of S.I. 1992/1440, regulation 4 of S.I. 1996/1245, regulation 4 of S.I. 1996/2407, regulation 6 of S.I. 1999/567 and regulation 11 of S.I. 1999/568.

(14) Regulation 33A was inserted by regulation 4 of S.I. 1992/97 and amended by regulation 3 of S.I. 1992/1440.

Return by employer

47J.—(1) Where a direct payment Class 1A contribution is payable to the Inland Revenue in accordance with regulation 47A(1) of these Regulations not later than 105 days after the end of the year the employer shall render to them a return showing—

- (a) such particulars as they may require for the identification of the employer and employee;
- (b) the year to which the return relates;
- (c) the number of cars in respect of which a Class 1A contribution is payable; and
- (d) the amount of any Class 1A contribution payable in respect of that year.

(2) Where a direct payment Class 1A contribution is payable to the Inland Revenue in accordance with regulation 47B of these Regulations, not later than 14 days after the end of the relevant final income tax month as defined in that regulation, the employer shall render to them a return, showing—

- (a) such particulars as they may require for the identification of the employer and employee;
- (b) the date on which the change referred to in regulation 47B(1) of these Regulations occurred;
- (c) the number of cars in respect of which a Class 1A contribution is payable; and
- (d) the amount of a Class 1A contribution payable.

(3) Where a direct payment Class 1A contribution is payable to the Inland Revenue in accordance with regulation 47C of these Regulations, not later than 14 days after the end of the relevant final income tax month as defined in that regulation, the employer shall render to them a return, showing—

- (a) such particulars as they may require for the identification of the employer;
- (b) the date on which the cessation of business referred to in regulation 47C(1) of these Regulations occurred;
- (c) the number of cars in respect of which a Class 1A contribution is payable; and
- (d) the amount of a Class 1A contribution payable.

(4) Where the employer is a body corporate, the return referred to in this regulation shall be signed by the secretary or by a director of the body corporate.

(5) If, by the date which applies to him under regulation 47A(1), 47B(2) or 47C(2) of these Regulations, an employer has failed to pay a Class 1A contribution which he is liable so to pay, the Inland Revenue may prepare a certificate showing the total amount of a Class 1A contribution remaining unpaid in respect of the year in question and to the amount shown in the said certificate the provisions of paragraphs (1) and (2) of regulation 47F of these Regulations shall with any necessary modifications apply.

Penalties for incorrect and incomplete returns

47K.—(1) Where a person fraudulently or negligently makes an incorrect return of contributions referred to in regulation 47J of these Regulations, the Inland Revenue may, within six years after the date of making such a return 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 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) of this regulation by the date which applies to him under regulation 47A(1), 47B(2) or 47C(2) of these Regulations, as the case may be, may be liable—
 - (a) within six 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; the penalty referred to in this sub-paragraph shall be without prejudice to any penalty under sub-paragraph (a) of this paragraph and may be imposed within six years after the date of that failure 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 the penalty is to be ascertained.
- (3) For the purposes of paragraph (2) of this regulation, “the relevant monthly amount” in the case of a failure to make a return, where the number of cars in respect of which particulars should be included in the return—
 - (a) is 10 or less, is £100;
 - (b) where that number is greater than ten, is £100 for each 10 such cars and an additional £100 where that number is not a multiple of 10.
- (4) Any penalty imposed in accordance with this regulation shall be recoverable as if it were—
 - (a) a Class 1A contribution which the employer is liable to pay to the Inland Revenue under regulation 47A of these Regulations; or
 - (b) a Class 1A contribution which the employer is liable to pay to the Inland Revenue in accordance with the provisions of Schedule 1 to these Regulations,
 as the case may be.
- (5) A penalty imposed in accordance with the provisions of 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.
- (6) The Inland Revenue may, in its discretion, mitigate or remit any penalty imposed in accordance with the provisions of this regulation, or stay or compound any proceedings in respect of it.”

Substitution of regulation 132 of the principal Regulations

3. For regulation 132 of the principal Regulations (breach of regulations)(15), substitute—

“Breach of Regulations

132.—(1) Save as respects any requirement of the regulations contained in Case D of Part VIII of these Regulations (which deals with married women and widows) and regulation 47K of these Regulations (which provides for penalties in respect of incorrect and incomplete returns relating to a direct payment Class 1A contribution), if any person

(15) Regulation 132 was amended by regulation 4 of S.I. [1991/1935](#).

contravenes, or fails to comply with, any other requirement of these Regulations he may, for each contravention or failure, be liable to a penalty of £100.

(2) A penalty referred to in paragraph (1) of this regulation may be imposed by the Inland Revenue within 6 years after the date of such contravention or failure.

(3) Any penalty payable under this regulation shall be recoverable as if it were an earnings-related contribution, a Class 1A contribution, a Class 1B contribution or a Class 2 contribution, as the case may be, payable to the Inland Revenue.

(4) The Inland Revenue may, in their discretion, remit any penalty imposed in accordance with the provisions of this regulation, or stay or compound any proceedings in respect of it.”.

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

25th March 1999

Stephen C. Timms
Minister of State,
Department of Social Security

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

The regulations contained in this instrument are made by virtue of, or consequential upon, amendments made to the Social Security Contributions and Benefits Act 1992 (c. 4) and the Social Security Administration Act 1992 (c. 5) by the Social Security Act 1998 (c. 14). This instrument is made before the end of the period of 6 months beginning with the coming into force of sections 56(2), 57 and 60 of the Social Security Act 1998 on 4th March 1999. The Regulations are therefore exempt, by virtue of section 173(5)(b) of the Social Security Administration Act 1992 from reference to the Social Security Advisory Committee and have not been so referred.

These Regulations make further amendments to the Social Security (Contributions) Regulations 1979 (“the principal Regulations”).

Regulation 2 substitutes regulation 47 of the principal Regulations to make provision for the payment of a Class 1A contribution direct to the Inland Revenue rather than through the provisions of Schedule 1 to the principal Regulations (PAYE/contributions returns). The new provisions in regulations 47 to 47K provide for, inter alia, the payment of, and accounting to the Inland Revenue of such contributions, the charging of interest and the imposition of penalties in respect of their non-payment or late payment and interest on refunds of such contributions.

Regulation 3 substitutes regulation 132 of the principal Regulations to provide, subject to specified exceptions, a penalty of £100 for each contravention of, or failure to comply with, any provision of the principal Regulations and for the recovery and remission of that penalty by the Inland Revenue.

The costs to business of these amendments were covered in the Regulatory Impact Assessment for the Social Security Act 1998 in accordance with, and in consequence of which, these Regulations are made. That Assessment concluded that no costs would be imposed on compliant businesses as penalties would only be imposed on non-compliant ones. A copy of that Regulatory Impact Assessment has been placed in the libraries of both Houses of Parliament and can be obtained from the Department of Social Security, Better Regulation Unit, 3rd Floor, The Adelphi, 1—11 John Adam Street, London WC2N 6HT.