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STATUTORY INSTRUMENTS

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**2001 No. 1004**

**The Social Security (Contributions) Regulations 2001**

**[<sup>F1</sup>PART 7A**

**Electronic Communications**

**Textual Amendments**

- F1** Pt. 7A inserted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **23**

**Whether information has been delivered electronically**

**90A.**—(1) For the purposes of these Regulations, information is taken to have been delivered to an official computer system by an approved method of electronic communications only if it is accepted by that official computer system.

(2) References in these Regulations to information and to the delivery of information must be construed in accordance with section 135(8) of the Finance Act 2002 (mandatory e-filing).

**Proof of content of electronic delivery**

**90B.**—(1) A document certified by the Board to be a printed-out version of any information delivered by an approved method of electronic communications is evidence, unless the contrary is proved, that the information—

- (a) was delivered by an approved method of electronic communications on that occasion, and
- (b) constitutes everything which was delivered on that occasion.

(2) A document which purports to be a certificate given in accordance with paragraph (1) is presumed to be such a certificate unless the contrary is proved.

**Proof of identity of person sending or receiving electronic delivery**

**90C.** The identity of—

- (a) the person sending any information delivered by an approved method of electronic communications to the Board,
- (b) the person receiving any information delivered by an approved method of electronic communications by the Board,

is presumed, unless the contrary is proved, to be the person recorded as such on an official computer system.

**Information sent electronically on behalf of a person**

**90D.**—(1) Any information delivered by an approved method of electronic communications—

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- (a) to the Board, or
- (b) to an official computer system,

on behalf of a person is taken to have been delivered by that person.

(2) But this does not apply if the person proves that the information was delivered without the person's knowledge or connivance.

#### **Proof of delivery of information sent electronically**

**90E.**—(1) The use of an approved method of electronic communications is presumed, unless the contrary is proved, to have resulted in the delivery of information—

- (a) to the Board, if the delivery of the information has been recorded on an official computer system;
- (b) by the Board, if the despatch of the information has been recorded on an official computer system.

(2) The use of an approved method of electronic communications is presumed, unless the contrary is proved, not to have resulted in the delivery of information—

- (a) to the Board, if the delivery of the information has not been recorded on an official computer system;
- (b) by the Board, if the despatch of the information has not been recorded on an official computer system.

(3) The time of receipt or despatch of any information delivered by an approved method of electronic communications is presumed, unless the contrary is proved, to be the time recorded on an official computer system.

#### **Proof of payment sent electronically**

**90F.**—(1) The use of a method of electronic communications is presumed, unless the contrary is proved, to have resulted in the making of a payment—

- (a) to the Board, if the making of the payment has been recorded on an official computer system;
- (b) by the Board, if the despatch of the payment has been recorded on an official computer system.

(2) The use of a method of electronic communications is presumed, unless the contrary is proved, not to have resulted in the making of a payment—

- (a) to the Board, if the making of the payment has not been recorded on an official computer system;
- (b) by the Board, if the despatch of the payment has not been recorded on an official computer system.

(3) The time of receipt or despatch of any payment sent by a method of electronic communications is presumed, unless the contrary is proved, to be the time recorded on an official computer system.

#### **Use of unauthorised method of electronic communications**

**90G.**—(1) This regulation applies to information which is required to be delivered to the Board or to an official computer system under a provision of these Regulations.

(2) The use of a method of electronic communications for the purpose of delivering such information is conclusively presumed not to have resulted in the delivery of that information, unless

that method of electronic communications is for the time being approved for delivery of that kind under that provision.

### Mandatory electronic payment

**90H.**—<sup>F2</sup>(1) An employer who is a large employer within the meaning of regulation <sup>F3</sup>198A (large employers)] of the PAYE Regulations must pay the specified payment using an approved method of electronic communications]

(2) Paragraph (1) applies regardless of whether a payment of tax is due under regulation <sup>F4</sup>67G or] 68 of the PAYE Regulations (payment and recovery of tax by employer).

(3) If the Board have given a direction under regulation 199(3) of the PAYE Regulations requiring a particular method of electronic communications to be used in the case of an employer, he must use that method.

[  
<sup>F5</sup>(4) This regulation does not apply to a payment of contributions, whether primary or secondary, in respect of retrospective earnings where those earnings relate to a tax year which is closed (see paragraph 1(2) of Schedule 4) at the time the relevant retrospective contributions regulations come into force ]

[  
<sup>F6</sup>(5) A specified payment is not treated as received in full by HMRC on or before the date by which that specified payment is required in accordance with paragraph 10 or paragraph 11 of Schedule 4 unless it is made in a manner which secures (in a case where the specified payment is made otherwise than in cash) that, on or before that date, all transactions can be completed which need to be completed before the whole amount of the specified payment becomes available to the Commissioners for Her Majesty's Revenue and Customs.]

#### Textual Amendments

- F2** Reg. 90H(1) substituted (6.4.2010) (with application in accordance with reg. 1(3) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2010 \(S.I. 2010/721\)](#), regs. 1(2), **5(a)**
- F3** Words in reg. 90H(1) substituted (6.4.2010) (with application in accordance with reg. 1(4) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2010 \(S.I. 2010/721\)](#), regs. 1(2), **5(b)**
- F4** Words in reg. 90H(2) inserted (6.4.2012) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2012 \(S.I. 2012/821\)](#), regs. 1(1), **4**
- F5** Reg. 90H(4) added (6.4.2007) by [The Social Security Contributions \(Consequential Provisions\) Regulations 2007 \(S.I. 2007/1056\)](#), regs. 1, **6**
- F6** Reg. 90H(5) inserted (6.4.2010) (with application in accordance with reg. 1(3) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2010 \(S.I. 2010/721\)](#), regs. 1(2), **5(c)**

### Employer in default if specified payment not received by applicable due date

<sup>F7</sup>**90I.** .....

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**Textual Amendments**

**F7** Reg. 90I omitted (6.4.2010) (with application in accordance with reg. 1(3) of the amending S.I.) by virtue of [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2010 \(S.I. 2010/721\)](#), regs. 1(2), **6(a)**

**Default notice and appeal**

<sup>F8</sup>**90J.** . . . . .

**Textual Amendments**

**F8** Reg. 90J omitted (6.4.2010) (with application in accordance with reg. 1(3) of the amending S.I.) by virtue of [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2010 \(S.I. 2010/721\)](#), regs. 1(2), **6(b)**

**Default surcharge**

<sup>F9</sup>**90K.** . . . . .

**Textual Amendments**

**F9** Reg. 90K omitted (6.4.2010) (with application in accordance with reg. 1(3) of the amending S.I.) by virtue of [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2010 \(S.I. 2010/721\)](#), regs. 1(2), **6(c)**

**Surcharge notice and appeal**

<sup>F10</sup>**90L.** . . . . .

**Textual Amendments**

**F10** Reg. 90L omitted (6.4.2010) (with application in accordance with reg. 1(3) of the amending S.I.) by virtue of [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2010 \(S.I. 2010/721\)](#), regs. 1(2), **6(d)**

**[<sup>F11</sup>Paragraph 22 return and specified payments]**

**90M.** In this Part—

[<sup>F12</sup>“paragraph 22 return” means the return and accompanying information required by paragraph 22 of Schedule 4 (return by employer at the end of the year);]

[<sup>F13</sup>“specified payments” means payments of earnings-related contributions under paragraph 10 (payments made monthly by employer) or paragraph 11 (payments made quarterly by employer) of Schedule 4.]

**Textual Amendments**

- F11** Reg. 90M heading substituted (13.8.2009) (with effect in accordance with reg. 1(4) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2009 \(S.I. 2009/2028\)](#), regs. 1(2), **4**
- F12** Words in reg. 90M substituted (13.8.2009) (with effect in accordance with reg. 1(4) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2009 \(S.I. 2009/2028\)](#), regs. 1(2), **5(a)**
- F13** Words in reg. 90M substituted (6.4.2010) (with application in accordance with reg. 1(3) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2010 \(S.I. 2010/721\)](#), regs. 1(2), **7**

**[F14]Mandatory use of electronic communications**

- 90N.**—(1) An employer (as to which see regulation 90NA) must deliver a paragraph 22 return to an official computer system using an approved method of electronic communications.
- (2) If the Commissioners for Her Majesty’s Revenue and Customs have made a direction under regulation [F15]205(2) of the PAYE Regulations requiring a particular method of electronic communication to be used in the case of an employer, the employer must use that method.
- (3) This regulation does not apply to a return in respect of retrospective earnings where those earnings relate to a tax year which is closed (see paragraph 1(2) of Schedule 4) at the time the relevant retrospective contributions regulations come into force.

**Textual Amendments**

- F14** Regs. 90N 90NA substituted for reg. 90N (with application in accordance with reg. 1(3) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2010 \(S.I. 2010/721\)](#), regs. 1(2), **8(1)**
- F15** Word in reg. 90N(2) substituted (6.4.2010) (with application in accordance with reg. 1(4) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2010 \(S.I. 2010/721\)](#), regs. 1(2), **8(2)**

**Employers**

- 90NA.**—(1) For the purposes of regulation 90N, the following shall not be regarded as employers—
- (a) an individual who is a practising member of a religious society or order whose beliefs are incompatible with the use of electronic communications,
  - (b) a partnership, if all the partners fall within sub-paragraph (a),
  - (c) a company, if all the directors and company secretary fall within sub-paragraph (a),
  - <sup>F16</sup>(d) .....; and
  - (e) a care and support employer.
- (2) In paragraph (1)(c), “company” means a body corporate or unincorporated association but does not include a partnership.
- (3) In paragraph (1)(e), a “care and support employer” means an individual (“the employer”) who employs a person to provide domestic or personal services at or from the employer’s home where—
- (a) the services are provided to the employer or a member of the employer’s family,

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- (b) the recipient of the services has a physical or mental disability, or is elderly or infirm,
- (c) the employer has not received an incentive payment in respect of the last 3 tax years, and
- (d) it is the employer who delivers the paragraph 22 return (and not some other person on the employer's behalf).

(4) In this regulation “incentive payment” means an incentive payment received under the Income Tax (Incentive Payments for Voluntary Electronic Communication of PAYE Returns) Regulations 2003.]

#### Textual Amendments

- F14** Regs. 90N 90NA substituted for reg. 90N (with application in accordance with reg. 1(3) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2010 \(S.I. 2010/721\)](#), regs. 1(2), **8(1)**
- F16** Reg. 90NA(1)(d) omitted (with effect in accordance with reg. 1(3) of the amending S.I.) by virtue of [The Social Security \(Contributions\) \(Amendment and Application of Schedule 38 to the Finance Act 2012\) Regulations 2013 \(S.I. 2013/622\)](#), regs. 1, **3**

#### Standards of accuracy and completeness

**90O.**—(1) [<sup>F17</sup>Any paragraph 22 return] delivered by a method of electronic communications must meet the standards of accuracy or completeness set by specific or general directions given by the Board.

(2) [<sup>F17</sup>Any paragraph 22 return] which fails to meet those standards must be treated as not having been delivered.

#### Textual Amendments

- F17** Words in reg. 90O substituted (13.8.2009) (with effect in accordance with reg. 1(4) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2009 \(S.I. 2009/2028\)](#), regs. 1(2), **7**

#### Penalties and appeals

**90P.**—(1) An employer who fails to deliver [<sup>F18</sup>a paragraph 22 return] or any part of it in accordance with regulation 90N is liable to a penalty.

[<sup>F19</sup>(2) Table 2 sets out the penalties for employers for the tax year ending 5th April 2010, depending on the number of employees for whom particulars should have been included with the paragraph 22 return.

**Table 2**

**Penalties: tax year ending 5th April 2010**

| 1 Number of employees for whom particulars should have been included with the return | 2 Penalty |
|--|-----------|
| 1-5  | 0         |

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|              |       |
|--------------|-------|
| 6-49         | £100  |
| 50-249       | £600  |
| 250-399      | £900  |
| 400-499      | £1200 |
| 500-599      | £1500 |
| 600-699      | £1800 |
| 700-799      | £2100 |
| 800-899      | £2400 |
| 900-999      | £2700 |
| 1000 or more | £3000 |

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(2A) Table 3 sets out the penalties for employers for the tax years ending 5th April 2011 and subsequent years, depending on the number of employees for whom particulars should have been included with the paragraph 22 return.

**Table 3**

**Penalties: tax year ending 5th April 2011 and subsequent years**

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| 1 Number of employees for whom particulars should have been included with the return | 2 Penalty |
|--|-----------|
| 1-5  | £100      |
| 6-49   | £300      |
| 50-249   | £600      |
| 250-399  | £900      |
| 400-499  | £1200     |
| 500-599  | £1500     |
| 600-699  | £1800     |
| 700-799  | £2100     |
| 800-899  | £2400     |
| 900-999  | £2700     |
| 1000 or more   | £3000]    |

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- (3) An employer is not liable to a penalty if the employer had—
  - (a) a reasonable excuse for failing to comply with regulation 90N which had not ceased at the time the [<sup>F20</sup>paragraph 22 return] was delivered, or
  - [<sup>F21</sup>(b) been subject to a penalty for failing to deliver the return and accompanying information required by regulation 73 of the PAYE Regulations (annual return of relevant payments liable to deduction of tax (Forms P35 and P14)) in accordance with regulation 205 (mandatory use of electronic communication) of those Regulations.]
- (4) A notice of appeal against a determination under section 100 of the Management Act of a penalty under this paragraph can only be on the grounds that—
  - (a) the employer did comply with regulation 90N,
    - [ the employer is not regarded as an employer for the purposes of regulation 90N,]
  - [<sup>F22</sup>(aa)
  - (b) the amount of the penalty is incorrect, or
  - (c) paragraph (3) applies.
- (5) Section 103A of the Management Act (interest on penalties) applies to penalties payable under this paragraph.

**Textual Amendments**

**F18** Words in reg. 90P(1) substituted (13.8.2009) (with effect in accordance with reg. 1(4) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2009 \(S.I. 2009/2028\)](#), regs. 1(2), **8(a)**

**F19** Reg. 90P(2)(2A) substituted for reg. 90P(2) (13.8.2009) (with effect in accordance with reg. 1(4) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2009 \(S.I. 2009/2028\)](#), regs. 1(2), **8(b)**

**F20** Words in reg. 90P(3)(a) substituted (13.8.2009) (with effect in accordance with reg. 1(4) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2009 \(S.I. 2009/2028\)](#), regs. 1(2), **8(c)(i)**

**F21** Reg. 90P(3)(b) substituted (6.4.2010) (with application in accordance with reg. 1(4) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2010 \(S.I. 2010/721\)](#), regs. 1(2), **9(a)**

**F22** Reg. 90P(4)(aa) inserted (6.4.2010) (with application in accordance with reg. 1(3) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2010 \(S.I. 2010/721\)](#), regs. 1(2), **9(b)**

**Appeals: supplementary provisions**

**90Q.**—[<sup>F23</sup>(1) Section 31A(5) of the Management Act applies to appeals under regulation 90J as it applies to an appeal under section 31 of that Act.]

- [<sup>F24</sup>(2) .....
- [<sup>F24</sup>(3) .....

**Textual Amendments**

**F23** Reg. 90Q(1) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 75(1)**



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**F24** Reg. 90Q(2)(3) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 75(2)**

### **Interpretation**

**90R.** In this Part “the Management Act” means the Taxes Management Act 1970.]

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**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 3 Pt. 10 para. 2930 inserted by [S.I. 2024/289 reg. 2](#)
- Sch. 4 para. 21AE inserted by [S.I. 2024/306 reg. 2\(4\)](#)
- reg. 7(3A) inserted by [S.I. 2024/306 reg. 2\(3\)\(b\)](#)