

1952-10 Social Security (Employment Injuries Insurance)

Subsidiary Legislation made under ss.2 and 50.

Employment Injuries (Contributions) Regulations 2001

LN.2001/032

Commencement **19.4.2001**

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Citation.

1. These Regulations may be cited as the Employment Injuries (Contributions) Regulations 2001.

Interpretation.

2. In these Regulations–

“contribution quarter” means a period of 13 or 14 contribution weeks as the case may be;

“contribution schedule” has the meaning assigned thereto by regulation 4;

“due date” means the date on which a contribution would have been due to be paid had it been payable;

“inspector” means any person appointed by the Minister under section 43 of the Act;

“termination of employment” means the day on which the employment actually comes to an end, whether such termination is in accordance with the terms of the contract or not and whether or not the employment is to be resumed at a later date.

“week” means a contribution week.

Issue of social insurance registration certificates to employed persons, etc.

3.(1) Every person who is employed in insurable employment shall, not later than the expiration of the week in which he becomes so employed, apply to the Director for a social insurance registration certificate (hereafter in these regulations referred to as a “registration certificate”) and shall obtain the certificate from the Director in such manner as he may direct.

(2) A registration certificate issued to any person under this regulation shall be in such form as the Director may direct and shall be in one of the following forms, that is to say–

- (a) the form relating to employed persons who are liable to pay contributions at the full rate;
- (b) the form relating to employed persons who are liable to pay contributions at reduced rates; and
- (c) the form relating to employed persons who are not liable to pay contributions.

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whichever is appropriate to the case of that person.

(3) A registration certificate shall be issued by the Director without charge and, when issued, shall remain the property of the Crown.

(4) Every employer liable to pay contributions in respect of an employed person shall, immediately after that person's entry into his employment, obtain from that person the registration certificate issued to that person under these regulations; and it shall be the duty of that person to deliver his registration certificate, or to cause the same to be delivered, to his employer accordingly.

(5) The employer, on obtaining a registration certificate from or in respect of an employed person, shall become responsible for the custody of the certificate for so long as the employment by him of that person continues or until the certificate is required to be returned to the Director under the provisions of these regulations.

(6) An insured person shall be responsible for the custody of his registration certificate whenever it is not in the possession of the Director or of his employer.

(7) Where an insured person is employed by two or more employers in any contribution week, the first employer employing him in that week shall be treated as his employer for the purposes of the provisions of the Act relating to contributions.

Contribution schedules as respects employed persons.

4.(1) Every employer liable to pay contributions in respect of an insured person shall, immediately after the date of the insured person's entry into the employment, register with the Director or such other person as he may require, and shall inform the Director as to the means, being one or more of those specified by the Director, by which he intends to record the amount of contributions due for each employee for each contribution quarter, such record being referred to hereafter as a "contribution schedule"

(2) Such schedule, whether produced manually or electronically, or whether contained on paper or such other medium as may be approved by the director, shall be in such form as the director may specify for that format for employees paid either weekly or monthly.

(3) The employer, on obtaining the contribution schedule, shall become responsible for the custody thereof so long as the employment continues or until the contribution schedule is delivered to the Director or such other person as he may require, or retained by an inspector, in accordance with these regulations or any other regulations made under the Act.

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(4) The person for the time being responsible for the custody of the contribution schedule in accordance with these regulations, or any person having in his possession or under his control any contribution schedule issued in respect of an insured person, shall produce it for inspection at any reasonable time when required so to do by an inspector, and if so required shall deliver up the contribution schedule to the inspector who may, if he thinks fit, retain it. The inspector shall acknowledge receipt in writing for any contribution schedule retained by him.

(5) If an insured person desires to inspect his contribution schedule whilst it is in the custody of the employer, the employer shall give him a reasonable opportunity of so doing either within or immediately before or after working hours:

Provided that no insured person shall be entitled by virtue of this provision to inspect his contribution schedule more than once in any one month nor except at such time as may be fixed by the employer for the purpose.

(6) Where the contribution schedule of an insured person is in the custody of an employer at the time it is lost or destroyed, or is defaced in any material particular, his employer shall obtain a new contribution schedule from the Director as soon as may be.

(7) Every employer shall deliver to the Director or such other person as he may require the contribution schedule for that quarter so that the schedule, containing such information as the Director may require for determining the periods and the amount of the contribution payable in respect of any employed person, is received within the fifteen days next following the expiration of each contribution quarter in which wages or other pecuniary remuneration are paid by him to any such person.

(8) Each completed contribution schedule shall either be signed, or if not on paper, shall be accompanied by a document signed, by the self-employed person or by any other person duly authorised by him in that behalf, containing a declaration by the self-employed person or such other person that to the best of his belief the information contained in the contribution schedule is true.

Payment of contributions.

5.(1) Where the wages or pecuniary remuneration of an insured person are paid weekly, his employer shall record on the appropriate contribution schedule for the contribution quarter in which those contributions are due the class, number of contributions and total amount due within seven days next following the expiration of the week in which the wages or remuneration are paid.

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(2) Where the wages or pecuniary remuneration of an insured person are paid monthly, his employer shall record on the appropriate contribution schedule for the contribution quarter in which those contributions are due the class, number of contributions and total amount within seven days next following the expiration of the week in which the wages or remuneration are paid.

(3) An employer shall pay to the director within fifteen days next following the expiration of that month the amount due for the contributions recorded in accordance with the foregoing provisions of this regulation as being payable in respect of every insured person in his employment.

(4) Where an insured person's remuneration for any period is paid in advance by an employer, the employer shall pay contributions in advance in respect of that remuneration for the period.

Assessments by Director of contributions owing.

6.(1) Where it appears to the Director that any employer liable to pay contributions under these regulations has not done so, or has done so at an amount less than that which ought reasonably to have been paid, the Director may assess such person at such amount or additional amount as according to his judgment ought to have been paid.

(2) The Director shall cause to be served personally on or sent by registered post to each employer to whom sub-regulation (1) applies, a notice stating the amount of contributions payable by him, the place at which such payment should be made, and informing him of his rights under this regulation

(3) If any employer disputes an assessment made under sub-regulation (1) he may appeal against that assessment by notice in writing addressed to the Director within 14 days from the date of the service of the notice of assessment.

(4) If the employer disputing the assessment was prevented from making the appeal within the specified period owing to absence from Gibraltar, sickness or other reasonable cause, he may apply to the Director for the appeal to be brought out of time: and where the Director is satisfied that the applicant was so prevented and that the application was made thereafter without unreasonable delay the Director shall consent to the application.

(5) Notice of any amended assessment as determined on an appeal under sub-regulation (3) shall be served by the Director on the appellant, either personally or by registered post; and any additional contributions shall be due and payable in full within one month after such service.

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(6) Where no valid appeal has been lodged within the time limit set out in this sub-regulation (3) or where the amount of such contribution has been determined or confirmed on appeal, the assessment as made or agreed to or determined or confirmed on appeal as the case may be, shall be final and conclusive for all purposes relating to the principal Act.

Contribution Schedules not to be assigned, defaced, etc.

7. No person shall deface or destroy any contribution schedule or, save as authorised by the Director, alter, amend or erase any of the figures therein contained.

Disposal of contribution schedule on termination of employment, etc.

8.(1) An employer shall, on the termination of the employment, forthwith return the contribution schedule together with a remittance for the contributions payable to the Director or such other person as he may direct.

(2) Where the employment is terminated by the insured person without any notice or intimation to the employer, the contribution schedule shall be returned together with a remittance for the contributions payable to the Director or such other person as he may direct, within seven days of the termination of employment.

(3) On the death of an insured person, the employer, shall forthwith return the contribution schedule together with any payment due to the Director.

Return of contributions paid in error.

9. Subject to the provisions of these regulations, any contributions paid under the Act by a person or his employer under the erroneous belief that the contributions were payable shall be returned by the Director to that person or his employer, as the case may require, if application to that effect is made in writing to the Director within the appropriate time specified in regulation 10.

Application for return of contributions.

10.(1) A person desiring to apply for the return of any contribution paid under such erroneous belief shall make the application in such form and in such manner as the Director may from time to time determine and—

- (a) if the contribution was paid at the due date, within two years from the date on which that contribution was paid; or

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- (b) if the contribution was paid at a later date than the due date, within two years from the due date or within twelve months from the date of actual payment of the contribution, whichever period ends later.
- (2) On the death of an insured person, the employer, shall forthwith return the contribution schedule together with any payment due to the Director.

Deductions from repayments.

11. In calculating the amount of any repayment to be made under regulation 9, there shall be deducted, in the case of an employed person's contributions, where the contributions were paid under the erroneous belief that his employment was insurable employment, the aggregate sum awarded under such erroneous belief and received (whether by him or by any other person) by way of benefit—

- (a) in respect of an injury or disease caused to or contracted by him, being an injury caused by accident arising out of and in the course of that employment or a disease or injury due to the nature of that employment; and
- (b) since the date on which the first contribution so paid within the period specified in regulation 10 was paid.

Return of contributions paid by employer.

12. Contributions erroneously paid by an employer on behalf of any person and not recovered from him may be repaid to the employer instead of to that person, but if so recovered may be repaid to that person or, with his consent in writing, to his employer.

Penalty.

13. A person responsible for any act or omission contrary to the provisions of these regulations shall be liable on summary conviction to a fine at level 1 on the standard scale, or where the offence consists of continuing any such contravention after conviction thereof, a fine at level 1 on the standard scale together with a further fine at one half of level 1 on the standard scale for every week or part thereof on which it is so continued.

Revocation.

14. The Employment Injuries (Contributions) Regulations are revoked.