

THE LAWS OF THE BRITISH VIRGIN ISLANDS

*Social Security*

*Cap 266*

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*Social Security (Self-Employed Persons) Regulations, 1994*

**ARRANGEMENT OF REGULATIONS**

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**SCHEDULE**

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**THE SOCIAL SECURITY (SELF-EMPLOYED PERSONS) REGULATIONS,  
1994 MADE UNDER SECTION 44 OF THE SOCIAL SECURITY ORDINANCE.**

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Citation and  
Commencement.

**1.** These Regulations may be cited as the Social Security (Self-Employed Persons) Regulations, 1994 and are deemed to have come into operation on the 1<sup>st</sup> day of January 1991.

Interpretation.

**2.** For the purposes of these Regulations\_\_

“appointed date” means the 1<sup>st</sup> day of January, 1991;

“contribution year” has the meaning assigned to it by the Social Security (Contributions) Regulations;

“insurable earnings” means the wages of an insured person determined in accordance with Regulation 4 of the Social Security (Contributions) Regulations

Rate of  
contributions.

**3.** (1) The contribution payable by a self-employed person on behalf of himself shall be based on his earnings as a self-employed person during the period of one year immediately preceding the year in which the contribution is due.

(2) The rate of contribution for a self-employed person is 8 per centum of his insurable earnings.

Determination by  
the Director.

**4.** (1) Where a self-employed person has been engaged in self-employment for a period not exceeding one year, he shall furnish to the Director such information and evidence relating to his income as the Director may require, and the Director may determine the amount of the contribution that the self-employed person shall pay based upon that information and evidence.

(2) The determination of the Director under sub-regulation (1), shall be communicated to the insured person in writing.

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Exemptions  
from liability  
for  
contributions  
because of  
prior non-  
payment.

**5.** Notwithstanding anything to the contrary contained in these Regulations, a self-employed person who failed to pay contributions on behalf of himself during any period prior to the date of the making of these Regulations, is not required to, but may, at any time prior to the 31<sup>st</sup> of December, 1995 pay contributions on behalf of himself for such period or for any part thereof.

Exemption  
from liability  
for  
contributions  
because of age.

**6.** Contributions are not payable by a self-employed person who has, on or before the appointed date, attained the age of sixty-four years.

Exemption from  
liability for  
contributions  
because of  
limited income.

**7.** (1) A self-employed person may be exempted from payment of contributions under these Regulations during any period when \_

(a) he is not in receipt of income exceeding \$8,316.00 per annum; or

(b) by virtue of paragraph (4), he is deemed not to be in receipt of an income exceeding this amount.

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(2) A person who desires to be exempted under paragraph (1) from payment of contributions shall make an application therefore to the Director and, if the application is granted, the Director shall issue to the applicant a certificate of exemption exempting him from payment of contributions.

(3) A person \_

(a) who makes an application under sub-regulation (2) shall furnish to the Director such information and evidence relating to his income as the Director may require; and

(b) such other information and evidence and at such intervals as the Director may specify..

(4) Where an applicant for a certificate of exemption is in receipt of an income exceeding \$8,316.00 per annum, by reason of his receiving payment of a benefit specified in the schedule, he shall be deemed for the purpose of sub-regulation (1) not to be in receipt of income exceeding \$8,316.00 per annum.

Schedule.

**8.** (1) A certificate of exemption issued under sub-regulation (2) of regulation 7, subject to any conditions which may be attached thereto, shall not be valid for any period prior to the beginning of the contribution year in which the application for exemption is made.

Duration of  
certificate of  
exemption.

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(2) If the holder of a certificate of exemption issued under sub-regulation (2) of regulation 7 contravenes any of the conditions contained therein the certificate shall cease to be in force from the date of the contravention and it shall be the duty of the holder of the certificate to return the certificate to the Director forthwith.

Notice of cancellation of certificate of exemption.

**9.** A person to whom a certificate of exemption is issued may give notice to the Director at any time while it is in force that he desires it to be cancelled, and, where notice is so given, the certificate ceases to have effect from such date as the Director may determine.

Production of certificate for inspection.

**10.** The holder of a certificate of exemption shall, where called upon to do so by an officer of the Board, produce for inspection the certificate of exemption.

Saving of right to benefit accruing before coming into force of certificate.

**11.** While a certificate of exemption is in force, nothing in these Regulations shall prevent a person from receiving benefit payable by virtue of contributions paid by him in respect of any period before the day on which the certificate of exemption became effective.

Conditions to be satisfied for sickness benefit.

**12.** (1) Sickness benefit is payable to a self-employed person who\_

- (a) has been insured for not less than 26 contributory weeks after the appointed date;
- (b) has paid not less than 39 contributions in respect of himself in any contribution year immediately preceding the year in which benefit is claimed; and
- (c) has paid contributions in respect of eight weeks insurable employment in the 13 contribution weeks immediately preceding the contribution week in which the first day of incapacity for work occurred.

(2) Notwithstanding paragraph (1), where a self-employed person has been insured for less than 26 contributory weeks commencing on or after the appointed date, but had been an insured person pursuant to section 18 of the Ordinance, that portion of the period when the person was so insured which if taken into account would satisfy the required number of weeks under paragraph (1), shall be included for the purpose of that sub-regulation.

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**13.** (1) Maternity benefit is payable to a self-employed woman who\_

Conditions to be satisfied for maternity benefit.

- (a) has been insured for not less than 26 contributory weeks after the appointed date.
- (b) has paid not less than 39 contributions in respect of herself in the contribution year immediately preceding the year in which benefit is claimed; and
- (c) has paid not less than 20 contributions in the 39 contribution weeks immediately preceding the contribution week in which occurs the day that commences 6 weeks before the expected date of confinement or in which occurs the last day on which the woman worked prior the date of confinement.

(2) Notwithstanding paragraph (a) of sub-regulation (1), where a self-employed person has been insured for less than 26 contribution weeks commencing on or after the appointed date but, had been insured previously as an insured person pursuant to section 18 of the Ordinance, that portion of the period, which, when the person was so insured, if taken into account would satisfy the required number of weeks under paragraph (a) of sub-regulation (1), shall be included for the purposes of these Regulations.

**14.** For the purposes of these Regulations \_

Application of the Social Security (Registration of Employers and Employees) Regulations and the Social Security (Contributions) Regulations.

- (a) any responsibility with which an employer is charged under the Social Security (Registration of Employers and Employees) Regulations, and the Social Security (Contributions) Regulations, shall be construed as a responsibility with which a self-employed person is charged; and
- (b) the Social Security (Registration of Employers and Employees) Regulations, and the Social Security (Contributions) Regulations, shall *mutatis mutandis*, apply for the purpose of giving effect to these Regulations.

**15.** Regulation 32 of the Social Security (Benefits) Regulations, has effect in relation to self-employed insured persons under these Regulations as it does in relation to employed persons under those Regulations.

Application of regulation 32 of the Social Security (Benefits) Regulations.

**16.** The Social Security (Self-Employed Persons) Regulations 1990 are revoked.

Revocation of S.I. No. 17 of 1990.

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**SCHEDULE**

**Regulation 7 (4)**

**Benefits**

1. Any payment by way of Sickness Benefit under the Ordinance.
2. Any payment by way of Maternity Benefit under the Ordinance.
3. Any payment by way of Employment Injury under the Ordinance.
4. Any payment received on account of the death of any person by way of a pension or benefit payable to or in respect of a child.
5. Any payment by way of disablement pension under the Ordinance.
6. Any weekly payment by way of compensation under the Workmen's Compensation Ordinance, cap 302.

Made by the Minster this 27<sup>th</sup> day of January, 1994.

H.L. STOUTT,  
Minister responsible for Social Security.