



# Social Security Act 1973

## 1973 CHAPTER 38

### PART I

#### THE BASIC SCHEME

#### CHAPTER I:

#### CONTRIBUTIONS

##### *Preliminary*

### **1 Outline of basic scheme contributory system.**

- (1) The funds required—
- (a) for paying such benefits under Chapter II below as are payable out of the National Insurance Fund and not out of other public money;
  - (b) for the making of payments under Chapter III below towards the cost of the national health service and into the Redundancy Fund; and
  - (c) for paying benefit under the Industrial Injuries Acts and the Old Cases Acts, shall be provided by means of contributions payable to the Secretary of State by earners, employers and others, together with the Treasury supplements specified in subsection (5) below.
- (2) Contributions under this Part of this Act shall be of the following four classes—
- Class 1, earnings-related, payable under section 2, being—
    - (a) primary Class 1 contributions from employed earners, and
    - (b) secondary Class 1 contributions from employers and other persons paying earnings;
  - Class 2, flat-rate, payable weekly under section 3 by self-employed earners;
  - Class 3, payable under section 4 by earners and others voluntarily with a view to providing entitlement to benefit, or making up entitlement; and

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Class 4, payable under section 5 in respect of the profits or gains of a trade, profession or vocation, or in respect of equivalent earnings.

- (3) The amounts and rates of contributions in this Chapter and the other figures therein which affect the liability of contributors shall be subject to regulations under Chapter III and, to the extent provided for by sections 7 and 8 of this Act, to alteration by orders made by the Secretary of State from year to year under those sections.
- (4) Schedule 1 to this Act—
- (a) shall have effect with respect to the computation, collection and recovery of contributions of Classes 1, 2 and 3, and otherwise with respect to contributions of those classes; and
  - (b) shall also, to the extent provided by regulations made under section 5(10) of this Act, have effect with respect to the computation, collection and recovery of Class 4 contributions, and otherwise with respect to such contributions, where under that subsection provision is made for contributions of that class to be recovered by the Secretary of State and not by the Inland Revenue under section 5(1) to (3).
- (5) Subject to section 41(2) below (mariners, etc.), there shall by way of supplement to contributions be paid out of money provided by Parliament, in such manner and at such times as the Treasury may determine, amounts the total of which for any year is equal to 18 per cent, of so much of all contributions (of the four classes) paid in that year as remains after deducting the appropriate national health service allocation and the appropriate allocation to the Redundancy Fund.
- (6) In respect of any period beginning on or after the appointed day no contributions shall be payable—
- (a) under section 1 of the National Health Service Contributions Act 1965 ; or
  - (b) under section 2(1)(a) of the Industrial Injuries Act; or
  - (c) under section 27 of the Redundancy Payments Act 1965 ;
- nor shall there be payable the Treasury supplement under section 2(1)(b) of the Industrial Injuries Act.
- (7) In this Act "employed earner" means a person who is gainfully employed in Great Britain either under a contract of service, or in an office (including elective office) with emoluments chargeable to income tax under Schedule E; and " self-employed earner " means a person who is gainfully employed in Great Britain otherwise than in employed earner's employment (whether or not he is also employed in such employment).
- (8) Regulations may provide—
- (a) for employment of any prescribed description to be disregarded in relation to liability for contributions otherwise arising from employment of that description;
  - (b) for a person in employment of any prescribed description to be treated, for the purposes of this Act, as falling within one or other of the categories of earner defined in subsection (7) above, notwithstanding that he would not fall within that category apart from the regulations.
- (9) For the purposes of this Act, a person shall be treated as a self-employed earner as respects any week during any part of which he is such an earner (without prejudice to Ms being also treated as an employed earner as respects that week by reference to any other employment of his).

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- (10) No person shall—
- (a) be liable to pay Class 1 or Class 2 contributions unless he fulfils prescribed conditions as to residence or presence in Great Britain ;
  - (b) be entitled to pay Class 3 contributions unless he fulfils such conditions; or
  - (c) be entitled to pay Class 1 or Class 2 contributions other than those which he is liable to pay, except so far as he is permitted by regulations to pay them.

*The four classes of contributions*

**2 Class 1 contributions.**

- (1) For the purposes of this Act, there shall for every year (which in this Part of this Act means an income tax year, except where it is otherwise stated, or the context is one relating to a person's age) be—
- (a) a lower earnings limit for Class 1 contributions, being the level of weekly earnings at which employed earners become liable for such contributions in respect of the earnings from their employments ; and
  - (b) an upper earnings limit for Class 1 contributions, being the maximum amount of weekly earnings in respect of which such contributions are payable ;
- and the lower and upper earnings limits shall be respectively £8 and £48.
- (2) Where in any income tax week earnings are paid to or for the benefit of an earner in respect of any one employment of his, being employed earner's employment, and—
- (a) he is over school-leaving age ; and
  - (b) the amount paid is equal to or exceeds the current lower earnings limit (or the prescribed equivalent in the case of earners paid otherwise than weekly),
- there shall be payable, in accordance with this section (and, except as provided by this Act, without regard to any other payment of earnings to or for the benefit of the earner in respect of any other employment), a primary and a secondary Class 1 contribution.
- (3) The primary contribution shall be payable by the earner and the secondary contribution shall be payable by the secondary Class 1 contributor.
- (4) Subject to subsection (5) below, the secondary contributor, in relation to any payment of earnings to or for the benefit of an employed earner, is—
- (a) in the case of an earner employed under a contract of service, his employer;
  - (b) in the case of an earner employed in an office with emoluments, either—
    - (i) such person as may be prescribed in relation to that office, or
    - (ii) if no person is prescribed, the government department, public authority or body of persons responsible for paying the emoluments of the office.
- (5) In relation to employed earners who—
- (a) are paid earnings in an income tax week by more than one person in respect of different employments; or
  - (b) work under the general control or management of a person other than their immediate employer,
- and in relation to any other case for which it appears to the Secretary of State that such provision is needed, regulations may provide that for the purposes of this section the

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prescribed person is to be treated as the secondary Class 1 contributor in respect of earnings paid to or for the benefit of an earner.

- (6) The amount of a Class 1 contribution shall be a percentage of so much of the earnings paid in the week, in respect of the employment in question, as does not exceed the current upper earnings limit (or the prescribed equivalent in the case of earners paid otherwise than weekly); and (subject to regulations under Chapter III)—
- (a) the primary contribution shall be 5.25 per cent, or 0.6 per cent., according to whether the earner is liable to contribute at the standard rate or the reduced rate; and
  - (b) the secondary contribution shall be 7.5 per cent.
- (7) An employed earner liable for a primary Class 1 contribution shall be liable to contribute at the standard rate except where the earner—
- (a) is over pensionable age and has retired from regular employment; or
  - (b) although over pensionable age, has not retired from regular employment, and at the time when he attained pensionable age did not satisfy the contribution conditions for a Category A retirement pension; or
  - (c) is a married woman or widow who has elected, in accordance with regulations under section 42(2) or (4) of this Act, to contribute at the reduced rate and has not revoked her election;

and in any of those cases the earner shall be liable to contribute at the reduced rate.

### **3 Class 2 contributions.**

- (1) Subject to the provisions of this section, every self-employed earner shall, if he is over school-leaving age, be liable to pay Class 2 contributions at the rate of £1.68 a week.
- (2) Class 2 contributions shall not be payable—
- (a) by an earner who is over pensionable age and has retired from regular employment; or
  - (b) by an earner who, although over pensionable age, has not retired from regular employment and at the time when he attained pensionable age did not satisfy the contribution conditions for a Category A retirement pension; or
  - (c) by a married woman or widow who has elected, in accordance with regulations under section 42(2) or (4) of this Act, to be under no liability for Class 2 contributions and has not revoked her election.
- (3) The Secretary of State may by order direct that, in the year beginning with the appointed day or in any of the 4 subsequent years, the weekly rate of Class 2 contributions shall for women be a specified rate lower than the rate for other Class 2 contributors in respect of that year.
- (4) Regulations may make provision so that an earner is liable for a weekly rate of Class 2 contributions higher than that specified in subsection (1) above where—
- (a) in respect of any employment of his, he is treated by regulations under section 1(8)(b) of this Act as being a self-employed earner ; and
  - (b) in any period or periods he has earnings from that employment and—
    - (i) those earnings are such that (disregarding their amount) he would be liable for Class 1 contributions in respect of them if he were not so treated in respect of the employment, and

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(ii) no Class 4 contribution is payable in respect of the earnings by virtue of regulations under section 5(9) of this Act.

- (5) Regulations may provide for an earner otherwise liable for Class 2 contributions in respect of employment as a self-employed earner to be excepted from the liability in respect of any period in which his earnings from such employment are, or are treated by regulations as being, less than £468 a year.
- (6) Regulations made for the purposes of subsection (5) above shall not except a person from liability to pay contributions otherwise than on his own application, but may provide for so excepting a person with effect from any date not earlier than 13 weeks before the date on which his application was made.

#### **4 Class 3 contributions.**

- (1) Regulations shall provide for earners and others, if over school-leaving age, to be entitled if they so wish, but subject to any prescribed conditions, to pay Class 3 contributions ; and the amount of a Class 3 contribution shall be £1.33.
- (2) Payment of Class 3 contributions shall be allowed only with a view to enabling the contributor to satisfy contribution conditions of entitlement to basic scheme benefit by acquiring the requisite earnings factor for the purposes described in section 9 of this Act; and regulations—
- (a) may provide for Class 3 contributions, although paid in one year, to be appropriated in prescribed circumstances to the earnings factor of another year; and
  - (b) shall provide for the return of such contributions which have been paid, where they are insufficient to provide any entitlement or additional entitlement.
- (3) Where for any year a contributor's earnings factor derived from his Class 1 or Class 2 contributions (or both) already stands at a figure which is 50 times that year's lower earnings limit for Class 1 contributions, no Class 3 contributions shall be payable by him in respect of the year ; and if Class 3 contributions are paid in such number that the contributor's earnings factor will exceed that figure, so much of those contributions as brings the earnings factor above that figure—
- (a) shall be repaid to him (subject to regulations excluding repayment where the amount in question is inconsiderable) ; and
  - (b) if repayable, shall then be treated as not having been paid for any purposes other than those of this section.

#### **5 Class 4 contributions.**

- (1) Class 4 contributions shall be payable in respect of all annual profits or gains immediately derived from the carrying on or exercise of one or more trades, professions or vocations, being profits or gains chargeable to income tax under Case I or Case II of Schedule D for any year of assessment beginning on or after the appointed day; and the contributions shall be payable—
- (a) in the same manner as any income tax which is, or would be, chargeable in respect of those profits or gains (whether or not income tax in fact falls to be paid); and
  - (b) by the person on whom the income tax is (or would be) charged,
- in accordance with assessments made from time to time under the Income Tax Acts.

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- (2) A Class 4 contribution for any year shall be an amount equal to 5 per cent, of so much of the profits or gains referred to in subsection (1) above (as computed in accordance with Schedule 2 to this Act) as exceeds £1,150 and does not exceed £2,500.
- (3) Except as provided by or under subsections (8) to (10) below, and except as provided by Schedule 2 to this Act, all the provisions of the Income Tax Acts as they have effect from time to time (including, but without prejudice to the generality of the foregoing, provisions as to assessment, collection, repayment and recovery, and the provisions of Part X of the Taxes Management Act 1970 (penalties)) shall with the necessary modifications apply in relation to Class 4 contributions as if those contributions were income tax chargeable under Case I or Case II of Schedule D; and Schedule 2 to this Act shall have effect (without prejudice to the foregoing provisions of this subsection) for the application or modification, in relation to the contributions, of certain provisions of those Acts, and the exclusion of other provisions, and generally with respect to the contributions.
- (4) The Inland Revenue shall, at such times and in such manner as the Treasury may direct, account to the Secretary of State for, and pay to him, the sums estimated by the Inland Revenue (in the manner so directed) to have been collected by them as Class 4 contributions.
- (5) So much of any money received by the Secretary of State under subsection (4) above as is estimated by him, in accordance with any directions of the Treasury, to represent Class 4 contributions collected from persons in Northern Ireland shall be paid over by him to the Northern Ireland Ministry and be treated as contributions collected by that Ministry for the purposes of the basic scheme as it operates in Northern Ireland.
- (6) The Secretary of State may by regulations made with the concurrence of the Inland Revenue provide—
- (a) for excepting persons from liability to pay Class 4 contributions in accordance with subsections (1) to (3) above; or
  - (b) for deferring any person's liability,
- and may certify from time to time to the Inland Revenue the persons who are excepted from liability, or whose liability is to be deferred, and who accordingly are not required (except in accordance with the regulations) to be assessed for contributions.
- (7) Exception from liability, or deferment, under subsection (6) above may (without prejudice to the generality of that subsection) be by reference—
- (a) to a person otherwise liable for contributions being under a prescribed age at the beginning of a year;
  - (b) to a person having attained pensionable age and retired from regular employment;
  - (c) to a person being in receipt of earnings in respect of which primary Class 1 contributions are, or may be, payable; or
  - (d) to a person not satisfying prescribed conditions as to residence or presence in the United Kingdom.
- (8) The Secretary of State may, by regulations made with the concurrence of the Inland Revenue—
- (a) provide, in relation to Class 4 contributions recovered by the Inland Revenue, for any incidental matters arising out of the payment of such contributions, including in particular their return in whole or in part where payment has been made in error or repayment ought for any other reason to be made ;

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(b) provide, in relation to cases where liability for such contributions is to be deferred in pursuance of regulations made under subsection (6) above, for any matters arising out of the deferment, including in particular provision for the amount of a person's profits or gains (as computed under Schedule 2 to this Act) to be certified by the Inland Revenue to the Secretary of State and the person liable;

but so that no such certificate as is referred to in paragraph (b) above shall relate to a person's profits or gains so far as they exceed whatever is for the time being the higher of the two money sums specified in subsection (2) above.

(9) Provision may be made by regulations so that where—

(a) an earner, in respect of any one or more employments of his, is treated by regulations under section 1(8)(b) of this Act as being self-employed ; and

(b) in any year he has earnings from any such employment (one or more) which fall within section 3(4)(b)(i), but is not liable for a higher weekly rate of Class 2 contributions by virtue of regulations under that subsection ; and

(c) the total of those earnings exceeds £1,150,

he is to be liable, in respect of those earnings, to pay a Class 4 contribution of an amount equal to 5 per cent, of so much of the total as exceeds £1,150 and does not exceed £2,500.

(10) It shall be for the Secretary of State, and not the Inland Revenue, to recover Class 4 contributions payable by virtue of regulations under subsection (9) above and generally to be responsible for the relevant administration; and regulations may in relation to contributions so payable—

(a) apply any of the provisions of Schedule 1 to this Act (except a provision conferring power to make regulations) ; and

(b) make any such provision as may be made by regulations under that Schedule, except paragraph 5.

## **6 General power to regulate liability for contributions.**

(1) Regulations may provide, either generally or in relation to any prescribed category of earners, or to earners in any prescribed category of employments, that their liability in a particular year in respect of contributions of prescribed classes is not to exceed such maximum amount or amounts as may be prescribed.

(2) Regulations made for the purposes of subsection (1) above may provide—

(a) for an earner whose liability is subject to a maximum prescribed thereunder to be liable in the first instance for the full amount of any contributions due from him apart from the regulations, or to be relieved from liability for such contributions in prescribed circumstances and to the prescribed extent; and

(b) for contributions paid in excess of any such maximum to be repaid at such times, and in accordance with such conditions, as may be prescribed.

(3) Regulations may provide, in relation to earners otherwise liable for contributions of any class, for excepting them from the liability for such periods, and in such circumstances, as may be prescribed.

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*Alteration of rates, etc., by order*

**7 Annual review of contributions.**

- (1) As soon as may be after he has made an order appointing a day for the coming into force of this section, the Secretary of State shall review the general level of earnings obtaining in Great Britain and the changes in that level which have taken place in and since the year 1971-72, with a view to determining whether, in respect of basic scheme contributions, an order should be made under this section to have effect in relation to the first year of operation of sections 2 to 5 of this Act.
- (2) In that year, and thereafter in each subsequent year, the Secretary of State shall carry out a further review of the general level of earnings, taking into account changes in that level which have taken place since his last review under this section, with a view to determining whether, in respect of basic scheme contributions, an order should be made under this section, to have effect in relation to the next following year.
- (3) For the purposes of any review under this section, the Secretary of State—
  - (a) shall estimate the general level of earnings in such manner as he thinks fit; and
  - (b) shall take into account any other matters appearing to him to be relevant to his determination whether or not an order should be made under this section including, in the case of the second and any subsequent review, the current operation of this Part of this Act.
- (4) If the Secretary of State determines, as a result of a review under this section, that having regard to changes in the general level of earnings which have taken place, and to any other matters taken into account on the review, an order under this section should be made for the amendment of this Chapter, he shall prepare and lay before each House of Parliament a draft of such an order framed so as to give effect to his conclusions on the review.
- (5) An order under this section may amend this Chapter by altering any one or more of the following figures—
  - (a) the figures specified in section 2(1) as the lower and upper earnings limits for Class 1 contributions ;
  - (b) the figure specified in section 3(1) as the weekly rate of Class 2 contributions;
  - (c) the figure specified in section 3(5) as the amount of earnings below which regulations under that subsection may except an earner from liability for Class 2 contributions ;
  - (d) the figure specified in section 4(1) as the amount of a Class 3 contribution;
  - (e) the figures specified in section 5(2) as the lower and upper limits of profits or gains which are to be taken into account for the purposes of Class 4 contributions.
- (6) An order under this section, if it contains an amendment altering either of the figures specified in section 5(2), shall make the same alteration of the corresponding figure specified in section 5(9).
- (7) If the Secretary of State determines as a result of a review under this section that, having regard to his conclusions in respect of the general level of earnings and otherwise, no such amendments of this Chapter are called for as can be made for the purposes of subsection (5) above, and determines accordingly not to lay a draft of



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an order before Parliament, he shall instead prepare and lay before each House of Parliament a report explaining his reasons for that determination.

- (8) Where the Secretary of State lays before Parliament a draft of an order under this section, he shall lay with it a copy of a report by the Government Actuary on the effect which, in the Actuary's opinion, the making of such an order may be expected to have on the National Insurance Fund; and, where he determines not to lay a draft order, he shall with the report laid before Parliament under subsection (7) above lay a copy of a report by the Government Actuary on the consequences for the Fund which may, in the Actuary's opinion, follow from that determination.
- (9) Where the Secretary of State has laid before Parliament a draft of an order under this section, then if the draft is approved by a resolution of each House, the Secretary of State shall make an order in the form of the draft.
- (10) An order under this section shall be made so as to be in force from the beginning of the year following that in which it received Parliamentary approval, and to have effect for that year and any subsequent year (subject to the effect of any subsequent order under this section or under section 8 below); and for this purpose the order is to be taken as receiving Parliamentary approval on the date on which the draft of it is approved by the second House to approve it.

## **8 Additional power to alter figures in ss. 2 to 5.**

- (1) Without prejudice to section 7 of this Act, the Secretary of State may at any time, if he thinks it expedient to do so with a view to adjusting the level at which the National Insurance Fund stands for the time being and having regard to the sums which may be expected to be paid from the Fund in any future period, make an order amending this Chapter by altering any one or more of the following figures—
  - (a) the percentage rates for primary and secondary Class 1 contributions specified in section 2(6);
  - (b) the figure specified in section 3(1) as the weekly rate of Class 2 contributions;
  - (c) the figure specified in section 4(1) as the amount of a Class 3 contribution;
  - (d) the percentage rate for Class 4 contributions specified in section 5(2).
- (2) An order under subsection (1) above shall, if it contains an amendment altering the percentage rate for Class 4 contributions specified in section 5(2), make the same alteration of the percentage rate specified in section 5(9).
- (3) An order under subsection (1) above may—
  - (a) if it contains an amendment altering the figure specified in section 3(1) as the weekly rate of Class 2 contributions and the Secretary of State thinks it expedient in consequence of that amendment, amend section 3(5) by altering the figure there specified as the amount of earnings below which regulations under that subsection may except an earner from liability for Class 2 contributions;
  - (b) if the Secretary of State thinks it expedient in consequence—
    - (i) of any amendments of this Chapter made by the order, or
    - (ii) of any regulations under Chapter III which he has made or proposes to make with a view to adjusting the percentage rate of Class 1 contributions in the case of particular categories or descriptions of earners,

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amend section 45(3) of this Act by altering any one or more of the percentages there specified in relation to the appropriate national health service allocation and the appropriate allocation to the Redundancy Fund.

- (4) Without prejudice to the foregoing provisions, but subject to subsection (6) below, the Secretary of State may at any time, if he thinks it expedient to do so with a view to adjusting the level at which the Redundancy Fund stands for the time being and having regard to the sums which may be expected to be paid from that Fund in any future period, make an order amending section 2(6) of this Act by altering the percentage rate for secondary Class 1 contributions specified in that subsection.
- (5) Where the Secretary of State determines to make an order under subsection (4) above, the order shall also provide for the amendment of section 45(3) of this Act by increasing or reducing the percentage there specified in relation to the appropriate allocation to the Redundancy Fund by the same amount as that by which the order increases or reduces the percentage rate for secondary Class 1 contributions.
- (6) No order shall be made under this section so as to increase the percentage rate for primary or secondary Class 1 contributions, or for Class 4 contributions, to a percentage more than 0.25 per cent, higher than that which is specified in section 2(6) or, as the case may be, section 5(2) of this Act as originally passed.
- (7) No order shall be made under this section unless a draft of the order has been laid before, and approved by, a resolution of each House of Parliament.
- (8) Where the Secretary of State lays before Parliament a draft of an order under this section, he shall lay with it a copy of a report by the Government Actuary on the effect which, in the Actuary's opinion, the making of such an order may be expected to have on the National Insurance Fund:

Provided that no such report need be laid if the order is made by virtue only of subsections (4) and (5) above.

- (9) An order under this section shall be made so as to be in force from the beginning of the year following that in which it received Parliamentary approval, and to have effect for that year and any subsequent year (subject to the effect of any subsequent order under this section or under section 7 above); and for this purpose the order is to be taken as receiving Parliamentary approval on the date on which the draft of it is approved by the second House to approve it.