

CHAPTER 296**NATIONAL INSURANCE ACT****SUBSIDIARY LEGISLATION**

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LAWS OF SAINT VINCENT AND THE GRENADINES
REVISED EDITION

**NATIONAL INSURANCE (CONTRIBUTION)
REGULATIONS**

SRO 21 of 1986

Amended by
SRO 15 of 1995
SRO 15 of 1997
SRO 10 of 2004
SRO 39 of 2007

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NATIONAL INSURANCE (CONTRIBUTION) REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

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SCHEDULE

*Rates of Contributions***NATIONAL INSURANCE (CONTRIBUTION) REGULATIONS**

[SRO 21 of 1986 amended by SRO 15 of 1995, SRO 15 of 1997, SRO 10 of 2004, SRO 39 of 2007.]

[Date of commencement: 5th January, 1987.]

1. Citation

These Regulations may be cited as the National Insurance (Contribution) Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“**date due**” means, in relation to any contribution, the date on which that contribution was due to be paid in accordance with regulation 12 or the date on which that contribution, if it had been payable, would have been due to be paid;

“**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.

3. Notices, etc., may be sent by post

Any notice, application, card or other document which is authorised or required to be given, presented, issued or delivered under these Regulations may be sent by post.

4. Rates of contributions

(1) For each weekly or monthly period beginning on or after the 5th January, 1987, for which an employed person is paid wages, his employer shall pay for such weekly or monthly period a total contribution, into the Fund, of the employed person’s and the employer’s contributions in accordance with the Schedule hereto in relation to the wages paid to the employed person during or immediately after the end of that period.

(2) If the wages of an employed person are not fixed on a time basis, the total amount of the wages paid to him in or immediately after the relevant period for which contributions are to be paid shall be taken into account.

(3) If the wages of an employed person are paid on a time basis, other than weekly or monthly, they may be converted to such basis by simple proportion, or in such other way as the Director may determine.

(4) For the purposes of determining the earnings of an insured person under subregulation (1), there shall be included all gross wages or other remuneration received in cash and in kind by the insured person, including—

- (a) overtime payment;
- (b) cost of living bonus;
- (c) family allowances;
- (d) commission on sales, or profits on sales;
- (e) gratuities paid out by the employer;
- (f) danger money;
- (g) payments on account of night or shift work;
- (h) productions bonuses;
- (i) payments in kind; and
- (j) holiday pay and amounts set aside out of the insured person’s remuneration throughout the year or part of the year to be paid out to the insured persons periodically.

[Subregulation (4) repealed and replaced by SRO 10 of 2004.]

(5)

[Subregulation (5) repealed by SRO 10 of 2004.]

(6) In the case of overtime payment and payments for night or shift work mentioned in subregulation (4) the amounts so received in respect of any of them shall, if they are not paid together with the wages for the period for which they were due, be included in the wages for the period in or immediately after which they are paid.

5. Liability for contributions on attaining ages sixteen and sixty

(1) A contribution under the Act shall be paid—

- (a) in the case of an employed person attaining the age of sixteen, for the week in which that person reaches that age; and
- (b) in the case of an employed person attaining the age of sixty, subject to subregulation (2), for the week in which the employed person reaches that age.

(2) A contribution shall not be paid in respect of or on behalf of an employed person if that person attains the age of sixty on the Monday of the week in question.

6. Exemption from payment of contributions

(1) An employer shall be exempt from liability to pay contributions for any contribution week—

- (a) in which no work is done by the employed person and that person receives no wages in respect of the period;
- (b) in which the employed person is engaged in fulltime unpaid apprenticeship; or
- (c) for the whole of which the employed person receives sickness or maternity benefit.

(2) Nothing in subregulation (1) shall be deemed to affect the liability of an employed person and his employer to pay contributions for any contribution week in which that person is on vacation or other leave if contributions are normally payable in respect of the employment of such a person.

7. Deduction of contributions from wages

(1) Every employer on making any payment of wages to any employed person shall deduct the contributions payable on behalf of that person in accordance with these Regulations.

(2) An employer shall not be entitled to recover any contributions paid by him or to be paid by him on behalf of an employed person otherwise than by deduction in accordance with these Regulations.

8. Time of deduction of contributions

(1) An employer liable to pay any contribution on behalf of an employed person shall, except as hereinafter provided, deduct that contribution before paying to that person the wages in respect of the period for which such contribution is payable.

(2) Where wages are paid in advance for any period an employer shall deduct contributions in advance for that period before the payment of the wages.

(3) On the occasion of any payment of wages to an employed person, the employer may, on making the payment in question, deduct from the wages the amount of the contributions based thereon which that person is liable to pay under these Regulations.

(4) Where two or more payments of wages fall to be aggregated, the employer may deduct the amount of contributions based thereon which are payable by the employed person either wholly from one payment or partly from one and partly from the other or any one or more of the others.

(5) If, by reason of any error made in good faith, an employer on making any payment of wages to an employed person fails to deduct therefrom the full amount of contributions which he may deduct, he may, after prior notification to that person, recover the amount so underdeducted by deduction from any subsequent payment of wages to that employed person during the same year.

(6) The amount that may be deducted under subregulation (5) payment, or from any payment which falls to be aggregated, shall be in addition to, but shall not exceed, the amount deductible therefrom under other provisions of these Regulations.

(7) For the purpose of regulations 12 and 13, any additional amount which may be deducted by virtue of subregulation (5) shall be treated as an amount deductible under these Regulations only in so far as the amount of the corresponding under-deduction has been so treated.

9. Manner of recording contributions

(1) Every employer shall record, either on a contribution document or in such other form as may be authorised by the Director, the following particulars regarding every payment of wages which he makes to an employed person, namely—

- (a) the date of commencement of the contribution week;
- (b) the wages, determined in accordance with regulation 4(4);
- (c) the contribution which may be deducted from the wages;
- (d) the contribution which is payable by the employer in respect of the wages; and
- (e) the total of paragraphs (c) and (d).

(2) Where two or more payments fall to be aggregated, the employer, instead of recording the amount of each contribution which may be deducted from the wages included in each payment, may record the total amount of the contributions which may be deducted from these payments.

(3) The employer may obtain authority from the Director to record the total only of subregulation (1)(c) and (d).

10. No contribution document held by employer

If an employer makes any payment of wages to an employed person in respect of whom he does not hold a contribution document, and that payment is a payment of wages

in respect of which contributions are payable, he may deduct the amount of the contributions based thereon which are payable by that person and shall keep records which he shall prepare for the purpose as if the payment was one to which regulation 9 applied and shall do likewise on making any subsequent payment of wages to the employed person.

11. Tax paid for benefit of employee deemed to be part of wages

Where an employer makes a payment to, or for the benefit of, an employed person in respect of that person's income tax, the amount of wages which the employer pays to that person shall be deemed, for the purpose of these Regulations, to be such a sum as will include the amount of the payment made by the employer in respect of that person's income tax.

12. Payment of contributions by employer

(1) At the end of the month in which wages are paid, or within one month thereafter, the employer shall pay, by means acceptable to the Board, the contributions payable by the employer under these Regulations in respect of the wages paid by him to each employed person for each contribution week in that month.

(2) In addition to any other requirements, an employer shall, where the employment of an employed person is terminated, pay all contributions due from the employer but still outstanding in respect of that employed person at the end of the month in which deduction was made, or within one month thereafter.

(3) The Board may, if it thinks fit and subject to terms and conditions as it may impose, approve any arrangements whereby contributions are paid at times and in a manner other than those prescribed by these Regulations, and any such arrangements may include provision for the payment of such fees as may be determined by the Board to represent the estimated additional expense in administration cost to the Board.

(4) As a condition of authorising the payment of any contribution on a date later than that upon which the contribution would, apart from any authorisation under subregulation (3), be due to be paid, the Board may require the making of such deposits of money by way of security as the Board may approve.

(5) Subregulations (3) and (4) shall, subject to the terms and conditions of any such arrangements, apply to any person affected by such arrangements, and any contravention of, or failure to comply with, any requirements of any such arrangements shall be deemed to be a contravention of, or failure to comply with, these Regulations.

(6) If an employer, by reason of an error made in good faith, has paid into the Fund on account of contributions under this regulation an amount which he was not liable to pay, any amount which he is liable to pay subsequently in respect of other payments of wages made by him during the same year shall be reduced by the amount so overpaid:

Provided that if there was a corresponding over-deduction from any payment of wages to any employed person, this subregulation shall apply in so far as the employer has accounted to that person therefor.

(7) All payments of contributions to the Fund shall be accompanied by the appropriate forms duly completed, or by such other form as the Board may in any particular case or class of cases permit.

(8) The Director shall cause a receipt for the amount remitted to be issued to the employer who shall affix it in the appropriate place upon his duplicate copy of the remittance statement. No receipt other than the authorised receipt issued at the Board's office shall be given for any payment on account of contribution to the Fund. Any receipt so made and endorsed shall be accepted as sufficient for all purposes.

13. Employer failing to pay contributions

If within the time prescribed by regulation 12—

- (a) an employer has not paid any contribution which he is liable to pay into the Fund for that month and the Director is unaware of the amount, if any, which the employer is liable to pay; or
- (b) the employer had tendered in payment an amount which the Director has reasonable cause to believe is less than the employer is liable to pay in respect of any month,

the Director may give notice to the employer requiring him to render, within the time specified in the notice (being not less than five days), a written return showing the name of every employed person to whom he made any payment of wages in the period from the preceding 1st January, or such other date as the Director may specify, to the previous month, together with the following particulars regarding such employed person—

- (i) every payment of wages made during that period,
- (ii) the total amount of contributions which the employer was entitled to deduct during the period and which the employer is liable to pay for that month,
- (iii) the total amount of contributions which was payable by the employer in addition to the amount deductible under paragraph (ii), and
- (iv) such other details and information as will enable the Director to ascertain the correctness or otherwise of the amounts.

(2) The Director shall ascertain and certify the amount of contributions which the employer is liable to pay in respect of the month in question.

(3) The production of the return made by an employer under subregulation (1) and of the certificate of the Director under subregulation (2) shall be good and sufficient evidence that the amount shown in the said certificate is the amount of contributions which the employer is liable to pay into the Fund in respect of the month in question, and any document purporting to be such a certificate shall be deemed to be such a certificate until contrary is proved.

(4) If, within the time prescribed by regulation 12, an employer has not paid any contribution which he is liable to pay in any particular month, he shall be liable to pay into the Fund a surcharge equivalent of ten per cent of the amount of the contributions which he was liable to pay for that month and thereafter compound interest at the rate of one per cent per month or part thereof on the amount unpaid.

(5) The Board may, if it is satisfied that the circumstances of the case so warrant, exempt an employer from the payment of the surcharge under subregulation (4).

14. Nil returns

An employer, being a person registered as such under the National Insurance (Registration) Regulations, who does not pay into the Fund any contributions on the date due because that employer did not employ any employed persons during the period relevant to that date shall instead send to the Director a statement to that effect.

15. Disposal or contributions paid erroneously

Where contributions are paid at the wrong rate, the Board may treat them as paid on account of the contributions properly payable.

16. Treatment of contributions paid late or not paid without consent, connivance or negligence of employed person

Where a contribution payable by an employer on behalf of an employed person is paid after the due date or is not paid, and the delay or failure in making payment thereof is shown to the satisfaction of the Board not to have been with the consent or connivance of, or attributable to any negligence on the part of, the employed person, the contribution shall, for the purpose of any right to benefit, be treated as having been paid on the due date.

17. Refund of contributions paid in error or in excess

(1) Subject to the provisions of regulation 15 and of this regulation, contributions paid by an employed person or by his employer under the erroneous belief that the contributions were payable by or on behalf of that person shall be refunded by the Board to the person or to his employer, as the case may require, if the application to that effect is made in writing to the Board within the appropriate time specified in subregulation (4).

(2) In calculating the amount of any payment to be made under this regulation to an employed person or to an employer, there shall be deducted—

- (a) in the case of employer's contributions and contributions of an employed person, the amount of any contributions paid under erroneous belief as aforesaid which, under the provisions of regulation 15, have been treated as paid on account of other contributions; and
- (b) in the case of contributions as an insured person, the amount, if any, paid to that person and to any other person on the basis of the erroneous belief by way of benefit which would not have been paid had the contributions, in respect of which an application for their return is duly made, not been paid in the first instance.

(3) Contributions erroneously paid by an employer on behalf of any employed person and not recovered by the employer from that person 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.

(4) An application for the return of any contributions paid under erroneous belief as aforesaid shall be made in such a form and in such a manner as the Board may from time to time determine, and any such application shall be made—

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

- (b) if the contribution was paid at a later date than the due date, within two years from due date or within twelve months from the date of actual payment of the contribution, whichever period ends later.

(5) In its application to contributions payable under regulations 4 to 14, this regulation shall have effect subject to the following provisions, namely—

- (a) the time within which the application shall be made by a person desiring to apply for the return of any such contribution paid under erroneous belief as aforesaid, shall be two years from the due date or such longer time as the Board may allow if it is satisfied that that person had good cause for not applying within these two years;
- (b) the provisions of this subregulation shall apply to any part of a contribution as they apply to that contribution.

(6) Where an employed person has two or more contributions deducted from his wages for the same contribution period and the sum total of these contributions exceeds the maximum payable pursuant to the Schedule, that person is entitled, on application to the Board, to have the excess of those contributions refunded.

(7) An application made pursuant to subregulation (6) shall not be entertained by the Board unless it is made within twelve months from the end of the contribution year for which the contributions were paid.

18. Refund of contributions to certain elderly entrants

(1) Where an employed person attains the age of sixty on a date not later than twenty-six contribution weeks after he becomes an insured person, then for each contribution paid on his behalf, he shall be entitled to a refund of the contribution actually paid by him in respect of any contribution week within that twenty-six weeks period.

(2) Where an employed person attains the age of sixty on a date not later than forty-nine contribution weeks after he becomes an insured person then for each contribution paid on his behalf, he shall be entitled to a refund of that element of the contribution paid by him, which represents invalidity, age and survivor's benefit.

(3) An application for a refund under this regulation shall be made in writing addressed to the office of the Board and shall be made—

- (a) in respect of an application under subregulation (1), within three months from the date on which the employed person attained the age of sixty; and
- (b) in respect of an application under subregulation (2), within two years from the date on which the employed person attained the age of sixty or such longer period as the Board may allow, if it is satisfied that the person had good cause for not submitting an application within the specified time.

19. Records

An employer shall maintain a record, in addition to a contribution document, showing in respect of each person employed by him—

- (a) the date on which such employment commenced and the date of the termination of employment; and
- (b) the date and amount of each payment of wages.

20. Board to keep record of payment

The Board shall keep proper record of all payments made by employer and employee.

21. Inspection of employer's records

(1) An employer, when called upon at any reasonable time by an inspector designated under section 12 of the Act or other authorised office of the Board to supply any information, shall supply such information with respect to persons who are or have been employed by that employer as may be requested, and shall produce all wages sheets, contribution documents, and records whatsoever of the wages of such persons in respect of the weeks, months or years specified by the Director or such inspector or other authorised officer of the Board in relation to the deduction of contributions deductible from such wages or to the payment of the employer's contributions in respect of such wages.

(2) The Director, by reference to the information obtained from inspection of the documents and records produced under subregulation (1), may on the occasion of each inspection prepare a certificate setting out—

- (a) the amount of contributions for which the employer is liable to pay for the said weeks, months or years in accordance with the documents so produced; and
- (b) any amount of contributions which has not been paid into the Fund.

(3) The production of a certificate such as is mentioned in subregulation (2) shall be sufficient evidence in any court that the employer is liable to pay into the Fund in respect of weeks, months or years mentioned in the certificate the amount shown therein pursuant to subregulation (2)(b) and any document purporting to be such a certificate shall be deemed to be such a certificate until the contrary is proved.

22. Death of an employer

If an employer dies, anything which he would have been liable to do under these Regulations shall be done by his personal representative; in the event of the death of an employer who paid wages on behalf of another person, the said things shall be done by the person on whose behalf he had paid those wages.

23. Succession to a business

(1) This regulation applies where there has been a change in the employer from whom an employed person receives wages in respect of his employment in any trade, business, concern or undertaking or in connection with any property, or from whom that person receives any annuity other than a pension.

(2) Where this regulation applies, in relation to any matter arising after a change of employer, the employer after the change shall be liable to do anything which the employer before the change would have been liable to do under these Regulations if the change had not taken place.

(3) The employer after the change shall not be liable for the payment of any contributions which were deductible from wages paid to an employed person before the change, unless such contributions were also deductible from wages paid to the employed persons after the change took place, or of any corresponding employer's contribution.

24. Insured person working under the control of someone not his immediate employer

(1) Where an insured person works under the general control and management of a person who is not his immediate employer, that person (hereinafter in this regulation referred to as the "principal employer") shall be deemed to be the employer for the purposes of the Act and the immediate employer shall furnish the principal employer with such particulars of the insured person's wages as may be necessary to enable the principal employer to comply with the provisions of the Act.

(2) Where an insured person's wages are actually paid to him by his immediate employer—

- (a) the immediate employer shall notify the principal employer of the wages to be paid, and the immediate employer shall be notified by the principal employer of the amount of the contributions to be deducted when such wages are paid to the insured person and the immediate employer shall deduct the amount so notified to him; and
- (b) the principal employer shall made a corresponding deduction on making to the immediate employer the payment out of which the said wages will be paid.

25. Offences and penalties

Any person who fails to comply with any of the provisions of these Regulations or with any direction or requirement of the Board given or made by virtue of these Regulations and that failure does not constitute an offence under the Act for which a penalty is therein provided, is guilty of an offence and liable to a fine of five hundred dollars.

SCHEDULE

[Schedule amended by SRO 15 of 1995, SRO 15 of 1997, SRO 39 of 2007.]

Rates of Contributions

PART I

Employed Person's Contribution

<i>Description of employed person</i>	<i>Rates of contribution</i>
Employees under the age of sixteen.	Nil
Employees between the ages of sixteen and sixty.	3½ per cent of wages paid up to a maximum of \$600 a week or \$2,600 a month
Employees who have attained the age of sixty.	Nil

PART II

Employer's Contribution

<i>Description of employed person</i>	<i>Rates of contribution</i>
Employees under the age of sixteen.	0.5
Employees between the age of sixteen and sixty.	4½ per cent of wages paid up to a maximum of \$600 a week or \$2,600 a month
Employees who have attained the age of sixty.	0.5

