Revised Regulations of Anguilla: S45-8

SOCIAL SECURITY ACT (R.S.A. c. S45)

SELF-EMPLOYED PERSONS REGULATIONS

Note: These Regulations are enabled under sections 22 and 44 the Social Security Act, R.S.A. c. S45.

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PART 1

PRELIMINARY

Interpretation

1. In these Regulations, unless the context otherwise requires—

"Act" means the Social Security Act;

"annual insurable earnings" has the same meaning as that set out in section 1 of the Benefits Regulations;

"contributory week" has the same meaning as in the Act;

"insured person" means, in relation to a self-employed person, an insured person under these Regulations pursuant to section 17(2) of the Act;

"Registration Regulations" means the Registration of Employers and Employees Regulations;

"self-employed person" means a person gainfully occupied in employment in Anguilla and who is not an employed person.

Applicability

2. The Regulations made under the Act applying to employed persons, unless they are expressly varied or excluded by, or are inconsistent with these Regulations, shall also apply to self-employed persons who are insured pursuant to section 17(1) of the Act.

PART 2

INSURANCE, REGISTRATION AND CONTRIBUTIONS

Insurance of self-employed persons

3. Subject to these Regulations, every self-employed person in the categories of employment specified in the Schedule who on 1st January 2003—

(a) is 16 years of age or over and under 65 years of age;

(b) is ordinarily resident in Anguilla; and

(c) is gainfully occupied in employment in Anguilla and is not an employed person;

shall be insured under the Act.

Categories of self-employed persons

4. Subject to the provisions of these Regulations every insured person may in respect of any employment specified in the Schedule be treated for the purposes of the Act as a self-employed person in so far as he is gainfully occupied in such employment.

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Registration of self-employed persons

5. All self-employed insurable persons are required to be registered at the offices of the Board on the appropriate form to be supplied by the Director.

Issue of registration cards

6. (1) If upon the receipt of an application for registration under the Act the Director is satisfied that the person concerned is required to be insured he will cause to be issued a Social Security Registration Card to that person, and the card shall carry the full name and registration number of the person.

(2) Where the person concerned has previously been registered as an employed person under the Registration Regulations, the registration number so allocated shall be the registration number for the purposes of registration of a self-employed person under the Act.

Custody and replacement of the registration card

7. (1) A self-employed person to whom a registration card has been issued shall be responsible for its safe custody.

(2) If any registration card is destroyed, lost or defaced, the person responsible for its safe custody shall report the matter to the Director, who may replace the registration card subject to such conditions as he may decide.

Payment of contributions by self-employed persons

8. (1) Every self-employed person shall, within 14 days after the end of each calendar month, pay in a manner acceptable to the Director all contributions payable by him for that month.

(2) If during the course of the calendar month the employment of a self-employed person ceases or is interrupted because of sickness, change of employment status, or other circumstances which might affect his liability to pay contributions for the whole month, he shall, nevertheless, be liable to pay contributions in respect of that part of the month during which he was self-employed, that is up to the day immediately preceding the date of cessation, but a self-employed person shall not be liable to pay contributions as a self-employed person in respect of any period during which he is either in receipt of benefit (with the exception of survivor's) or is liable to pay contribution as an employed person.

(3) Notwithstanding subsection (1), and having regard to subsection (2), where a self-employed person ceases to be self-employed, he shall pay all contributions payable in respect of his self-employment.

Liability for contributions

9. For each contributory week during the whole of which or part thereof a person has been employed as a self-employed person, he shall be liable for the payment of contribution.

Amount of contribution

10. The amount of contribution payable by the self-employed person for each contributory week in respect of his employment shall be 8% of the weekly income elected by him in accordance with the provisions of section 11.

Election of weekly income

11. (1) Subject to subsections (2), (3), (4), (5) and (6), for the purpose of payment of contributions, every self-employed person shall elect a weekly income of any of the following amounts of dollars—

(a) two hundred (200);

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(b) four hundred (400);

(c) six hundred (600);

(d) eight hundred (800);

(e) one thousand (1000);

(f) one thousand two hundred and fifty (1250).

(2) A self-employed person who is over the age of 55 years on 1st January 2003 shall not elect a weekly income which exceeds $800.

(3) An insured person who has paid contributions as a self-employed person in the contribution year in which he reached the age of 54 years shall be deemed to have elected for any subsequent contribution year for which he is liable to pay contributions the same weekly income as the one he had elected for the contribution year in which he had reached the age of 54 years.

(4) An insured person who has not paid a contribution as a self-employed person in the contribution year in which he reached the age of 54 years, but who is liable to pay any contribution as a self-employed person for any subsequent contribution year, may elect for each such year a weekly income not exceeding $800.

(5) Every self-employed person shall elect a weekly income for each contribution year not later than the end of the calendar month following that in which the first contribution week in which he is liable to pay contribution as a self-employed person begins, and such election shall be valid for the whole contribution year in which the election is made but for any subsequent contribution year the self-employed person may only elect a weekly income which is the immediately lower or higher amount of weekly income to the one the self-employed person had elected in the immediately preceding contribution year.

(6) A self-employed person who fails to elect a weekly income within the time prescribed in subsection (5) for any contribution year—

(a) in the case where he had elected a weekly income in the contribution year immediately preceding the one in which the failure occurred, shall be deemed to have elected the weekly income he had elected for the preceding contribution year; or

(b) in any other case, subject to the provisions of these Regulations, the weekly income shall be determined by the Director after investigation as regards the amount of income of the self-employed person from his employment.

Contribution during multiple employment

12. A person who during one part of the calendar year is mainly employed as an employed person and for another part of that year is mainly employed as a self-employed person shall be liable to pay contributions respectively as an employed person and as a self-employed person.

Additional charge

13. Every self-employed person who has failed to pay any contribution within the time provided in these Regulations shall be liable to the amount of an additional charge, which shall be 3% of the amount of the contributions due for the first month of delay or part thereof and shall increase by one percentage point for every additional month of delay or part thereof.

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Notification of termination of employment by self-employed persons

14. Every self-employed person, who terminates his employment as a self-employed person, shall notify such termination to the nearest office of the Board, not later than the end of the calendar month following that which includes the date of termination of employment.

PART 3

TRANSITIONAL PROVISIONS

Transitional provisions

15. (1) An insured self-employed person shall be insured under the Act in respect of the contingencies relating to benefits contained in the Benefits Regulations, but section 31 of those Regulations shall not be applied, except as provided in subsection (2).

(2) The exception referred to in subsection (1) shall not apply to an insured person who prior to becoming an insured self-employed person had made contributions as an employed person as required by section 31 of the Benefits Regulations.

Right to benefit

16. For the purpose of determining the right to benefit of any self-employed person, contributions paid under the Regulations by him shall be taken into account as to sickness benefit, maternity allowance, retirement benefit, invalidity pension, survivor's benefit and funeral grant.

Linkage of contributions as employed/self-employed persons

17. For the purpose of computing the relevant benefit, contributions made by an insured person prior to 1st January 2003 shall be taken into consideration with contribution made by him whether as a self-employed or as an employed person from and after such day.

Time to submit claim

18. A self-employed person shall submit a claim for sickness benefit to the Director not later than 14 days after the cause of the benefit arose; but the Director may accept a claim after that time if he considers that the circumstance merit such action.

PART 4

GENERAL PROVISIONS

Contributions during benefit period

19. A self-employed person shall not be required to pay contributions in respect of any period prior to attaining the age of 65 years during which he is in receipt to benefit, and shall be entitled to a refund of any contributions so paid.

Continuing liability of self-employed persons

20. Where an insured person is employed as a self-employed person and is ordinarily so employed, that employment shall be regarded as continuing, notwithstanding that in any particular (contribution) week he does

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no work as a self-employed person, unless and until he is no longer ordinarily employed as a self-employed person.

Treatment of contributions of wrong class

21. When contributions are paid under the Act which are of the wrong class or at the wrong rate, the Director may treat as paid on account contributions which would have been properly payable.

Refund of contribution paid in error

22. (1) Any contribution paid in error by a self-employed person shall be returned by the Director on application to that person and in accordance with the Contributions Regulations.

(2) A self-employed person who becomes insured for the first time on 1st January 2003 pursuant to these Regulations and who cannot by virtue of his proven age qualify for any benefit under the Act shall be eligible for a refund of contributions paid by him between 1st January 2003 and his attainment of age 65 years.

Penalty

23. Any person who, for the purpose of obtaining any benefit or other payment under these Regulations, whether for himself or some other person, or for any other purpose connected with these Regulations—

(a) knowingly makes any false statement or false representation; or

(b) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in a material particular;

is liable on summary conviction to a fine of $800 or to imprisonment for a term of 6 months or to both.

Citation

24. These Regulations may be cited as the Self-employed Persons Regulations, Revised Regulations of Anguilla, S45-8.

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SCHEDULE

(Section 3)

CATEGORIES OF EMPLOYMENT

The categories of self-employed persons include—

(1) Professionals such as accountants, lawyers, doctors, architects, dentists, consultants, chemists and engineers.

(2) Persons engaged in their own business in commerce or trade whether as directors, owners, proprietors, including owners of shops, or who independently provide service of all kinds.

(3) Farmers: agricultural or horticultural.

(4) Fishermen.

(5) Taxi-drivers.

(6) Street vendors and traders.

(7) Technicians and skilled workers—plumbers, electricians, shoemakers, carpenters, beauticians and barbers.

(8) Other persons who offer their skills and services for pay and are not subject to the general direction and control of the recipient of the services as to how such are to be applied.

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