

ANTIGUA AND BARBUDA



SOCIAL SECURITY (SELF-EMPLOYED PERSONS) REGULATIONS, 2013

STATUTORY INSTRUMENT

2013, No. 17

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**THE SOCIAL SECURITY (SELF-EMPLOYED PERSONS)
REGULATIONS, 2013**

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ANTIGUA AND BARBUDA**SOCIAL SECURITY (SELF-EMPLOYED PERSONS) REGULATIONS, 2013**

2013, No. 17

SOCIAL SECURITY (SELF-EMPLOYED PERSONS) REGULATIONS made by the Minister in exercise of the power conferred upon him by sections 19, 26 and 47 of the Social Security Act, Cap. 408.

1. Short title

These Regulations may be cited as the Social Security (Self-Employed Persons) Regulations, 2013.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“Act” means the Social Security Cap. 408;

“annual insurable earnings” has the same meaning as that set out in regulation 2 of the Social Security (Benefits) (Age, Pension and Grants) Regulations;

“collection regulations” means the Social Security (Collection of Contributions) Regulations;

“Contribution Regulations” means the Social Security (Contributions-Miscellaneous Provision) Regulations;

“contribution week” has the same meaning as in the Act;

“declared earnings” means the monthly earnings declared by a self-employed person on which contributions are paid;

“insured person” means in relation to a self-employed person, an insured person insured under these regulations pursuant to Section 19(2) of the Act;

“pension age” means the age at which age benefit is payable;

“Registration Regulations” means the Social Security (Registration of Employed Persons and Employers) Regulations.

3. Requirement for licence

The Regulations made under the Act apply to employed persons and, 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 19(2) of the Act.

PART 2

INSURANCE, REGISTRATION & CONTRIBUTIONS

4 - Insurance of self-employed persons

Subject to these Regulations, every self-employed person who on or after the 1st June, 2013 is—

- (a) sixteen years of age and over and has not attained the pensionable age nor has received or is in receipt of age benefit;
- (b) ordinarily resident in Antigua and Barbuda; and
- (c) occupied in employment

shall be insured under the Act

5. Schedule of categories of self-employed persons

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

6. Registration of self-employed persons

All persons who are self-employed on or after the appointed day are required to be registered at the Head Office of the Board on the appropriate form prescribed by the Director.

7. Issue of registration cards

(1) If upon the receipt of an application for registration under the Act the Director is satisfied that the applicant is qualified to be insured, he shall cause to be reissued to him a Social Security registration card.

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

(3) Every person upon making an application to the Director to register as a self-employed person shall make a deduction of his earnings in accordance with Schedule 2.

8. Payment of contributions

(1) Every self-employed person shall, within fourteen (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) A self-employed person shall pay contribution in accordance with the Schedule and shall be permitted to amend his declared earnings only in January and July except that any amendment

to his declared earnings shall be in consultation with the Director, and such amendment shall not fall below the preceding declared earnings by ten per centum nor above the preceding declared by more than five per centum.

(3) Notwithstanding sub regulation (1), the Director shall require anyone requesting to pay contributions as self-employed person for a period which is earlier than 52 weeks prior to the date of the request to produce substantial evidence in support of such request and the Director shall refuse such payments if he is satisfied that the payment are for the facilitation of a right to a benefit. Provided that the self-employed person shall be entitled to apply to the Director to treat the matter as a reserved question under the Social Security (Determination of Questions) Regulations within 14 days, giving reason in support of the application and the Director shall notify the self-employed person of the determination within two (2) months of the receipt of such application.

9. Declaration of earnings determination of rate of contribution

(1) The rate of contribution shall be ten per centum (10%) of the insurable earnings, as declared by the self-employed person in accordance with Schedule II, or at such rate as the Minister may by regulation made under section 21 of the Social Security Act determine.

(2) If the Director has reason to doubt the accuracy of any declaration of earnings he may require the declarant to provide such further proof or evidence as he may deem necessary to substantiate the declaration, whereupon the Director might determine that the earnings should be other-wise than declared and so notify the declarant in writing.

(3) In light of further fresh evidence the Director may require a review of the declared earnings of a self-employed person and the self-employed person shall pay contributions in accordance with such review, provided that if the declarant dissatisfied with the Director's decision he shall be entitled within 14 days to apply to the Director to treat the matter as reserved question under the Social Security (Determination of Questions) Regulations giving reason in support of the application.

10. Effective date of determination

(1) Any determination by the Director under regulation 11 shall be communicated to the insured person in writing and shall have effect from such date as the Director shall specify.

(2) A self-employed person shall pay contribution in accordance with the schedule and shall be permitted to amend his declared earnings only in January and July except that any amendment shall be in consultation with the Director, and such amendment shall not fall below the preceeding declared earnings by the ten per centum nor above the preceeding declared earnings by more than five per centum.

(3) Notwithstanding sub regulation (1), the Director shall require any one requesting to pay contributions as self-employed person for a period which is earlier than fifty-two weeks prior to the date of the request to produce substantial evidence in support of such request, and the Director

shall refuse such payment if he is satisfied that payments are solely for the facilitation of a right to benefit:

Provided that the self-employed person shall be entitled to apply to the Director to treat the matter as a reserve question under Social Security (Determination of Questions) Regulations within fourteen days, giving reasons in support of the application and the Director shall notify the self-employed person of the determination within two months.

1.1 Contribution during multiple employment

Notwithstanding any period as an employed person a self-employed person shall pay contributions on his declared earnings in accordance with regulations 9.

1.2 Exemption from liability because of small increase

(1) A self-employed person shall be exempted from paying contributions if such person's income is less than the minimum rate set by the Labour Code.

(2) Any person who wishes to claim exemption under sub-regulation (1) may apply to the director and shall submit such evidence as the Director may require for the purpose of determining whether he qualifies for exemption or not.

(3) Where an exemption is granted under this Regulation, the Director shall issue to the applicant a certificate of exemption in a form prescribed by him.

(4) The Director shall attach to any exemption certificate issued under this regulation such conditions as he considers necessary for the determining whether the exemption shall cease or continue.

13. Determination of annual insurable earnings

For the purposes of determining annual insurable earnings, the following payments shall not be taken into account-

- (a) any payment by way of maternity benefit under the Act;
- (b) any payment by way of sickness benefit under the Act;
- (c) any payment received on account of the death of any person as a pension or benefit payable to or in respect of a child;
- (d) any weekly payment by way of compensation under the Workmen's Compensation Act.

14. Linkage of contributions as employed /self-employed persons

For the purpose of computing the relevant benefit contributions made by an insured person prior to the first day of January 2001, shall be taken into consideration with contributions made by him whether as a self-employed or as an employed person from and after the first of January 1981.

15. Modification for sickness benefit

(1) For the purpose of sickness benefits for self-employed persons the Social Security (Benefits Sickness) Regulations shall apply as modified below-

(a) the term "average insurable weekly earnings" appearing in the Social Security (Benefits Sickness) Regulations shall be replaced by the term "annual insurable earnings."

(b) regulation 7(1) (c) of the Social Security (Benefits Sickness) Regulations shall be omitted.

(c) the expression "otherwise than as a result of unemployment injury" appearing in section 7(b) of the Social Security Act, Cap. 408 shall be omitted.

(2) For the purpose of Maternity benefit for self-employed persons, the provisions under the Social Security (Benefits Maternity) Regulations shall apply.

16. Time to submit claims

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

PART 4**GENERAL PROVISION****17. Contribution during benefit period**

A self-employed person shall not be required to pay contributions in respect of any period during which he is in receipt of any benefit other than survivor benefit.

18. Continuing liability of self-employed person

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

19. Treatment of Contribution of wrong class

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

20. Refund of contribution paid in error

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 regulation 5(4) of the Contribution Regulations.

21. Surcharge

If any self-employed person fails to pay any monies due under regulation 9 within the time prescribed these monies shall be subject to a surcharge of ten per cent (10%) and this surcharge shall be without prejudice to any other penalties to which such employed person may be liable under sub regulation (2).

22. Offence and penalty

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 cause or knowingly allows to be produced or furnished any document or information which he knows to be false in a material particular, shall be liable on summary conviction to a fine of two hundred dollars or imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(2) Any self-employed person who fails to comply with these regulations commits an offence and is liable to summary conviction to a fine of twelve thousand dollars (\$12, 000.00) or imprisonment for a term not exceeding three years or to both such fine and imprisonment.

23. Revocation

The following regulations are hereby revoked—

- (a) The Social Security (Self Employed Persons) Regulations Cap. 408
- (b) The Social Security (Self Employed Persons) (Amendment) Regulations, 2001 No. 6 of 2001
- (c) The Social Security (Self Employed Persons) (Amendment) Regulations, 2002 No. 3 of 2002

24. Commencement

These regulations shall come into force on the 1st day of May, 2013.

SCHEDULE**EARNINGS BAND**

CLASS	Categories of Self-Employment	Declared Earnings
I	Beach and street vendors, craft-makers, shoe-makers, unskilled labourers and other persons within the informal sector	Not less than \$1, 500 per month
II	Beauticians, barbers, caterers, florists, fisher folk, mechanics	Not less than \$2,500 per month
III	Farmers, horticulturalists, taxi and bus drivers, lab technicians, entertainers, electricians, skilled workers, carpenters, plumbers, etc.	Not less than \$3,500 per month
IV	Persons engaged in their own business in commerce and trade, persons not under a contract of service and are paid only by commission or fees or a share in profit; paid directors of companies; professionals including accountants, auditors, lawyers; architects; dentists, doctors, chemists, IT specialists, undertakers, building contractors, engineers, consultants and other persons offering expert professional services.	Not less than \$6,000 per month

24. Commencement

These regulations shall come into force on the 1st day of May, 2013.

SCHEDULE**EARNINGS BAND**

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IV	Persons engaged in their own business in commerce and trade, persons not under a contract of service and are paid only by commission or fees or a share in profit; paid directors of companies; professionals including accountants, auditors, lawyers; architects; dentists, doctors, chemists, IT specialists, undertakers, building contractors, engineers, consultants and other persons offering expert professional services.	Not less than \$6,000 per month

Made the 30th day of April, 2013.

Harold Lovell,
Minister responsible for Social Security.