STATUTORY INSTRUMENTS

2010 No. 926

SOCIAL SECURITY

The Recovery of Social Security Contributions Due in Other Member States Regulations 2010

Made - - - -	*23rd March 2010*
Laid before Parliament	*24th March 2010*
Coming into force - -	*1st May 2010*

The Treasury are a government department designated(**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**) in relation to mutual assistance between states for the recovery of claims relating to social security contributions and interest, fines, costs and penalties related to such claims.

The Treasury make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972.

Citation and commencement

1. These Regulations may be cited as the Recovery of Social Security Contributions Due in Other Member States Regulations 2010 and come into force on 1st May 2010.

Interpretation

2. In these Regulations—

"applicant party" has the meaning assigned to it by Article 75 of Council Regulation (EC) No 987/2009(**c**);

"claim" has the meaning assigned to it by Article 75 of Council Regulation (EC) No 987/2009, except for the second and third times it occurs in regulation 4(1) of these Regulations;

"Commissioners" means the Commissioners for Her Majesty's Revenue and Customs;

"instrument permitting enforcement" means–

(i) any instrument issued by an applicant party in relation to a claim; or

(ii) a decision relating to a claim given in favour of an applicant party in any member State by a court or tribunal or other competent body in that State which permits recovery of that claim, or part thereof, in that State;

(**a**) Article 3 of the European Communities (Designation) Order 2010, S.I. 2010/ 761.
(**b**) 1972 c. 68; section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c. 51), section 27(1)(a) and by the European Union (Amendment) Act 2008 (c. 7), section 3(3) and Part 1 of the Schedule.
(**c**) OJ No L 284, 30.10.09, p1.

"officer" means an officer of Revenue and Customs(**a**).

Enforcement of claims

3.—(1) An instrument permitting enforcement of a claim, recognised by the Commissioners as an instrument authorising enforcement of the claim in the United Kingdom, together with a certificate of an officer that payment of the claim has not been made to that officer, or, to the best of that officer's knowledge and belief, to any other person acting on behalf of the Commissioners, or to the applicant party, is sufficient evidence that the sum mentioned in the instrument is unpaid and is due to the applicant party.

(2) A certificate of an officer that interest is payable under regulation 4(1) and that payment of the interest has not been made to that officer, or, to the best of that officer's knowledge and belief, to any other person acting on behalf of the Commissioners, or to the applicant party, is sufficient evidence that the sum mentioned in the instrument is unpaid and is due to the applicant party.

(3) For the purposes of this regulation, any document purporting to be such a certificate as is mentioned in paragraph (1) or (2) is deemed to be such a certificate unless the contrary is proved.

Interest for late payment of claims

4.—(1) A claim corresponding to a claim for outstanding Class 1, 1A, 1B or 4 national insurance contributions carries interest in respect of the principal amount and any penalty claimed at the rate applicable to the corresponding claim under section 178 of the Finance Act 1989(**b**) from the date of recognition until the date of payment inclusive.

(2) In this Regulation "the date of recognition" means the earlier of–

(i) the date following the expiry of three months from the date of receipt by the Commissioners of the request for recovery of the claim; and

(ii) the date the instrument permitting enforcement of the claim is recognised by the Commissioners as an instrument authorising enforcement of the claim in the United Kingdom.

(3) Interest is payable under this regulation without any deduction of income tax.

(4) For the purposes of this regulation, where–

(a) any payment is made by cheque to–

(i) the Commissioners, or

(ii) the applicant party, and

(b) the cheque is paid on its first presentation to the banker on whom it is drawn;

the payment shall be treated as made on the date on which the cheque was received by the Commissioners or the applicant party.

(5) Interest payable under this regulation shall be recoverable as if it were interest charged under a provision of the Taxes Management Act 1970(**c**).

Tony Cunningham
Bob Blizzard
Two of the Lords Commissioners of Her Majesty's Treasury

23rd March 2010

(**a**) Section 2(2) of the Commissioners for Revenue and Customs Act 2005 (c. 11) defines officers of Revenue and Customs.
(**b**) 1989 c. 26; section 178 was amended by the Finance Act 1994 (c. 9), section 196 and Schedule 19, paragraph 44. There are other amendments, but none is relevant.
(**c**) 1970 c. 9.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations relate to the recovery of social security claims arising under the legislation of other member States which are recovered by the UK on behalf of those member States. They make provision for the charging of interest on such claims where interest would be charged on a similar claim in the UK.

They implement the requirement under Council Regulation (EC) No 987/2009, which implements Council Regulation (EC) No 883/2004 on the coordination of social security systems, that interest shall be charged for late payment of claims under the laws and provisions in force in the Member State recovering the claim.

Regulation 3 lays down rules relating to the evidence required for the enforcement of such claims.

Regulation 4 provides that interest shall be charged on claims corresponding to claims for outstanding class 1, 1A, 1B or 4 national insurance contributions at the same rate applicable to those claims under section 178 Finance Act 1989.

A full Impact Assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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