



SEYCHELLES' COMMERCIAL LEGISLATION

SOCIAL SECURITY ACT, 1987

AND REGULATIONS

SECOND EDITION 1996

Ministry of Finance and Communications

PLUS UPDATED ACTS and S.I. BY SRC

Disclaimer:

***This is a summary of the updated social security contribution laws.
The information within only focuses on contribution issues rather
than social benefits. Therefore, this is a guide only. A copy of the Act
and all amendments and S.I. are available from the Attorney
General Office.***

SOCIAL SECURITY ACT, 1987

Arrangement of Sections

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PART I

PRELIMINARY PROVISIONS

1. This Act may be cited as the Social Security Act, 1987. Short title

2. In this Act, Interpretation
 - "associate" means a relationship between entities one of which has the ability to influence the other, such as between two or more individuals, between two or more corporations, between an individual and a corporation or between an individual and a partnership or trust or a relationship among entities associated with a third entity. Inserted by Act 31 of 2008

 - "beneficiary" means a person entitled to a benefit;

 - "benefit" means a benefit under this Act;

 - "child" means a person under the age of 15 years or, when he is in school or undergoing full time education or training, of any age and includes an adopted or illegitimate child;

 - "contribution" means a contribution payable under this Act;

 - "Director" means the Director appointed under section 28; Amended by Act 22 of 1994

 - "emolument" includes a salary, wage, allowance, gratuity, bonus, commission or pension paid to or received by a person or an associate of that person in respect of employment and includes the monetary value of any quarter, board, residence or any other allowance or benefit given to a person or an associate of that person in respect of employment, directors fee, a share of a service charge and where the emolument is paid or given otherwise than in cash, the monetary value of it; Amended by Act 31 of 2008

History - Amended by Act 31 of 2008 as at 1 January 2009

"emolument" means salary, wage, allowance, gratuity, bonus, commission or pension paid to or received by a person in respect of employment and includes the monetary value of any quarter, board, residence or any other allowance granted to a person in respect of employment, a director's fee, a share of a service charge and where the emolument is paid or given otherwise than in cash, the monetary value of the emolument paid or given otherwise than in cash;

"employed person" means a person gainfully employed in Seychelles whether under a contract of service, as a director or a member of the board of anybody corporate, or as the holder of an office and includes -

- a) a person, though not bound by a formal contract of service, who is subject to the control of another person as to the manner and method in which he carries out his duties; and
- (b) a person working on an approved project in terms of section 5 of the Unemployment Fund Act, 1980;

but does not include a self-employed person;

"employer" means a person having another person in his employment;

"family income" means the aggregate of the income of a person entitled to a benefit and the income of the persons living with him;

"family subsistence level", in relation to a person, means the aggregate of the level of subsistence of that person and that of the persons living with him;

"Fund" means the Social Security Fund established under this Act; "inspector" means a person appointed under section 29;

"level of subsistence" means the level of subsistence declared by the Minister under section 23

"liable employer" means the person liable to pay contribution in respect of a person in his employment and, in the absence of other evidence of employment, the person by whom or on behalf of whom payment for services rendered is made shall be deemed to be the liable employer;

"Medical Board" means the Medical Board established under section 30;

"person covered" means a person eligible to receive a benefit;

"prescribed disease" means an injury or disease prescribed under this Act;

"prescribed period of residence", in relation to a benefit, means a period of residence in Seychelles prescribed by the Minister as a condition for entitlement to a benefit;

"regular employment" means the normal or habitual level of occupational activity as an employed or self-employed person which the person carried on prior to his retirement;

Act 10 of 1987
Cap.20

"retirement" means retirement from regular employment and presumes that occupational activity has ceased or largely ceased;

"retirement age" means the age of retirement prescribed by the Minister under this Act;

Amended by Act
22 of 1994

"self-employed person", for the purposes of entitlement to benefit, means an individual--

- a) who is carrying on a business on his own; or
- (b) who is a partner in a partnership which is carrying on a business;

and who, adduces evidence to the satisfaction of the Director, that he is liable to pay business tax in relation to the business under the Business Tax Act, 1987, whether or not the income of the business is exempt under that Act.

"service charge" means a sum collected or levied in respect of services and distributed or shared between an employer and employee or paid to an employee through a scheme and arrangement controlled, managed or otherwise directed by the employer

"Surcharge" means a surcharge payable in respect of unpaid contribution;

"working day" means a day of the week for which at least four hours of work is completed or normally completed.

Person liable to
pay contribution
or entitled to
benefit.
02/03/1988

PART II

CONTRIBUTION AND PERSON COVERED

3. (1) Subject to this Act, a person who--
- (a) is employed in Seychelles and receives an emolument in respect of his employment; or
 - (b) employs a person referred to in sub-paragraph (a) and pays that person an emolument in respect of that employment,

shall be liable to pay contribution to the Fund in respect of the emolument in the manner provided and at the rate declared under this Act

(2) For the purposes of subsection (1), a person shall be deemed to be employed in Seychelles where he is paid an emolument -

- (a) by a person who is resident or carrying on business or has the central management or control of his business, in Seychelles;
- (b) by any person on behalf of a person referred to in paragraph (a); or
- (c) from a source in Seychelles,

Amended by Act 22
of 1994

and the person who pays the emolument or on whose behalf the emolument is paid shall be deemed to be the employer of the person receiving the emolument, and the emolument shall be liable to contributions under this Act.

(2A) For the purposes of subsection (1), a person who performs any service or carries out any functions in Seychelles on behalf of or at the request of another person not resident in Seychelles shall be deemed to be employed in Seychelles, the person who benefits in Seychelles from those services or functions shall be deemed to be the employer of the first mentioned person and the emolument paid or received in respect of those services or functions shall be deemed to have been paid by the person who benefits in Seychelles from the services or functions and shall be liable to contributions under this Act.

(3) A person shall be deemed to have received or been paid an emolument although the emolument or any part thereof is not actually received by or paid over to that person but is reinvested, accumulated, carried to or paid into an insurance or pension fund or any other fund, however designated or otherwise dealt with on behalf of the person or as the person directs

(4) Subject to this Act;

- (a) a person who is a citizen of Seychelles and is resident in Seychelles;
- (b) a person who is not a citizen of Seychelles who contributes to the Fund and is resident in Seychelles; or
- (c) a person who is not a citizen of Seychelles and does not contribute to the Fund but who is a dependant and a member of the household of a person referred to in paragraph (a) and paragraph (b) and is resident in Seychelles;

is covered under this Act in respect of the contingencies in relation to which benefits are payable under this Act.

4. (1) The Minister may, for the economic benefit of Seychelles, by Order published in the Gazette, exempt any class or category of persons from payment of contribution or any emolument or part thereof from liability for contribution.

Amended by Act 31 of 2008

(2) The Minister or a person authorised by the Minister may, where the Minister or the person authorised by the Minister is satisfied that the payment of a contribution or surcharge would cause hardship, waive the payment or such part of the payment of the contribution or surcharge as the Minister or person authorised by the Minister considers appropriate in the circumstances.

History - Amended by Act 31 of 2008 as at 1 January 2009

Amended by Act 22 of 1994

4.(1)The Minister, may, for any reasons which he thinks sufficient, exempt any class or category of persons from payment of contribution or any emolument or part thereof (including gratuity) from liability for contribution.

Waiving of liability

Amended by Act 22 of 1994

(2) The Minister or a person authorised by him may, where the Minister or the person authorised by him is satisfied that the payment of a contribution

or surcharge would cause hardship, waive the payment or such part of the payment of the contribution or surcharge as the Minister or person authorised by him considers appropriate in the circumstances.

PART V - ADMINISTRATION AND FINANCE

26. (1) There is hereby established a fund, to be called the Social Security Fund, into which shall be paid -
- (a) all contributions;
 - (b) all rents, interest on investments, or other income derived from the assets of the Fund;
 - (c) all sums recovered as fees, surcharges, penalties or costs, or accruing to the Fund, under this Act; and
 - (d) such other sums as maybe provided by the Government for the purposes of this Act or as maybe received and accepted by the Director on behalf of the Fund.
- (2) There shall be paid out of the Fund -
- (a) all benefits;
 - (b) such payments to the Unemployment Fund, established under the Cap.244. unemployment Fund Act, as the Minister may from time to time authorise;
 - (c) such sum, as the President may direct, to be paid to the National Workers Union as union dues;
 - (d) such amount, as the Minister may approve, for the purposes of any investment, approved by him;
 - (e) subject to regulations, any compensation awarded by court in respect of an accident arising out of and in the course of employment;
 - (f) all costs ordered by the court to be paid out of the Fund;
 - (g) all refunds of contributions;
 - (h) all expenses properly incurred in the administration of this Act;
 - (i) such amount, as the President may direct, to be paid to the Consolidated Fund; and
 - (j) such other payments for any purpose which is declared by the Minister to be within the spirit of the Act.

Social Security
Fund

Act 10 of 1980

- 27.** (1) The Minister shall cause to be kept proper books of account and such other document or record which he considers necessary for the proper administration of the Fund.
- (2) The Minister shall, within three months after the end of each financial year, submit to the President a report on the Fund's operations during the year together with a copy of the Fund's annual audited by the Director of Audit and he shall publish the report and accounts in such manner as the President may direct.
- 28.** (1) There shall be a Director of the Fund who shall be appointed by the President on such terms and conditions as the President may think fit.
- (2) The Director shall be the chief executive of the Fund and he shall, subject to this Act and any direction of the Minister, be responsible for the management of the Fund, and in particular for –
- (a) the collection of contributions;
- (b) the payment of benefits and other sums specified in section 26 (2);
- (c) the investment of surplus money of the Fund; and
- (d) accounting for all money collected, paid or invested under this Act.
- 29.** (1) The Minister may appoint such officers of the Fund as he considers necessary to be inspectors.
- (2) An inspector shall be furnished with a certificate of his appointment issued under the authority of the Minister and the inspector shall, if required when exercising his powers under this Act, produce the certificate for inspection.
- (3) An inspector shall have power to –
- (a) enter at all reasonable times any premises or place where he has reasonable cause to believe that a person is employed on the premises or at the place;
- (b) make such examination and enquiry as he thinks necessary in order to ascertain whether this Act is being or has been complied with;
- Accounts and annual report
- Director
- Observance of secrecy
- Amended by Act 22 of 1994

- (c) question any employer, employee or any other person on any matter concerning the application of or compliance with this Act;
- (d) require the production, at any reasonable time and place, of such documents and records as he may require for the proper exercise of his powers under this Act;
- (e) seize and detain any document or thing which may be of evidentiary value in a prosecution for an offence under this Act;
- (f) take copies of or extract from any document or record referred to in paragraphs (d) and (e);
- (g) make, in the absence of proper records or documents required to be maintained under this Act, an assessment of the amount of emolument paid by an employer to an employed person in respect of which contribution is liable to be paid under this Act; and
- (h) exercise such other powers as may be assigned to him by the Director or specified by regulations, which are necessary for the purposes of this Act.

29A. (1) either directly or indirectly divulge or communicate, otherwise than in the performance of the functions under the Act, any information relating to the Fund acquired in the performance of the functions under the Act by the Director, inspector, or other officer, as the case may be.

(2) Subsection (1) shall not prevent the divulging or disclosing --

- (a) to a person liable to pay contribution to the Fund, information relating to that person;
- (b) to the Commissioner of Taxes appointed under the Business Tax Act, 1987 or any person authorised by the Commissioner, any information needed for the performance of the official duties of the Commissioner the other person;
- (c) to any court, any information required by the court in relation to any proceedings before the court.

(d) to any person, if required by or under any written law.

(3) any person who contravenes subsection (l) is guilty of an offence and is liable on conviction to a fine of R 5,000 and imprisonment for six months.

30. (1) There is established a Medical Board.

Medical board

(2) The Schedule shall have effect with respect to the Medical Board, its composition, quorum, functions and otherwise.

PART VI - COLLECTION AND RECOVERY

- 31.** (1) Contribution shall be due and payable at the time specified under the Act. Contribution when payable and its computation
- (2) Contributions shall be computed on the total emoluments paid or received in respect of a month or where the employment is for a period less than a month on the total sum paid or received in respect of that period. Amended by Act 22 of 1994. Act 10 of 1987
- 32.** Where under this Act contributions are deducted from the emolument of an employed person by his employer for the purpose of payment to the fund, the contributions deducted shall be held on account by the employer for and on behalf of the fund and, notwithstanding any other written law, shall not be subject to attachment in respect of any debt or liability of the employer, and, in the event of any liquidation, assignment or bankruptcy of the employer the contribution deducted shall not form part of the estate in liquidation, assignment or bankruptcy but shall be paid in full to the Fund before any distribution in the liquidation, assignment or bankruptcy is made. Contribution deducted by employer to be held on Act 10 of 1987
- 33.** (1) Where the Director has reason to believe that a person liable to pay any contribution or any surcharge on contribution may leave Seychelles before the date on which the contribution or surcharge is due and payable, the contribution or surcharge shall be due and payable on such date as the Director notifies to that person. Person liable to pay contribution or surcharge leaving Seychelles
- (2) Where the Director is of the opinion that any person is about to or likely to leave Seychelles without paying any contribution or surcharge, the Director may apply to the Supreme Court for an order preventing the person from leaving Seychelles. Amended by Act 22 of 1994.
- (3) An order of the Supreme Court on an application made under subsection (2) preventing a person from leaving Seychelles shall be sufficient authority to the Director of Immigration for preventing the person from leaving Seychelles.
- (4) Where the Supreme court is satisfied that a person in respect of whom an order has been made under subsection (2) has paid the contributions and surcharge or furnished

sufficient and good security for the payment of contributions and surcharge, the Supreme Court may vacate the order.

(5) The Chief Justice may make rules of the Supreme Court for the purpose of an application under subsection (2).

(6) Every air company or shipping company or the agents thereof shall, if so requested by the Director, furnish the Director with a list of all passengers due to leave Seychelles by air or by sea, as the case may be, on tickets issued by or through that company or agents.

34. If any contribution remains unpaid after the time when it becomes payable a surcharge at the rate prescribed under this Act shall be payable on the amount of contribution paid.

Surcharge for late payment

Contribution and surcharge a debt due to the Fund

35. Contribution and any surcharge when they become payable shall be a debt due to the Fund and shall be payable to the Fund in the manner and at the place prescribed.

Recovery of contribution and surcharge

36. (1) Any sum due to the Fund may be sued for and recovered as a civil debt by the Director or the Attorney General.

Act 13 of 1975
Cap 33

(2) An action for the recovery of any sum due to the Fund may, notwithstanding Article 2271 of the Civil Code or any other written law, be sued for within six years from the date when it became payable.

Certificate of Director

36A (1) The Director may at any time, or from time to time, by notice in writing (a copy of which shall be forwarded to the persons liable to pay social security contribution), at their last place of address known to the Director), require -

Garnishee provisions

Inserted by Act 31 of 2008

(a) any person by whom any money is due or accrued or may become due to a person liable to social security contribution;

(b) any person who holds or may subsequently hold money for or on account of a person liable to social security contribution;

(c) any person who holds or may subsequently hold money for or on account of some other person for payment to a person liable to social security contribution;

- (d) any person having authority from some other person to pay money to a person liable to pay social security contribution;

to pay to the Director, either forthwith upon the money becoming due or being held, or at or within a time specified in the notice (not being a time before the money becomes due or is held)

- i. so much of the money as sufficient to pay the amount due by the person liable to pay social security contribution in respect of any social security contribution, penalty and surcharge or the whole of the money when it is equal to or less than that amount; or
- ii. such amount as is specified in the notice out of each of any payments which the person so notified becomes liable from time to time to make to the person liable to pay social security contribution in respect of any social security contribution, penalty and surcharge is satisfied,

and may at anytime and from time to time, amend or revoke any such notice, or extend the time for making payment in pursuance of the notice.

(2) Where the person served with a notice under subsection (1) fails to comply with the notice in accordance with paragraph (i) or paragraph (ii) of that subsection, the person, in addition to any penalty for which they may be liable under this Act, also liable for the amount which the person has failed to pay to the Director.

(3) The Director shall apply any amount recovered under subsection 2 in or towards payment of the social security contribution, penalty and surcharge payable by the person liable to pay social security contribution.

(4) Any person who fails to comply with the requirement of any notice under this section is guilty of an offence and in addition to any penalty for which the person may be liable under this section, is liable on conviction to a fine of not less than one thousand rupees and not more than five thousand rupees.

(5) Any person making any payment to the Director in pursuance of subsection (1) shall be deemed to have been acting under the authority of the person liable to pay social

security contribution and of all other persons concerned and is hereby indemnified in respect of such payment.

(6) Any notice to be given under this section to the Government may be served upon the head of the Ministry or Department involved and any notice so served shall be deemed to have been served upon the Government

(7) In this section –

“social security contribution” includes any judgement debt and cost in respect of social security contribution;

“person” includes Government or a public body.

36B Where several person are in receipt of income for or on behalf of a person liable to pay social security contribution and who is a non-resident or absent from Seychelles, the Director may consolidate, if it appears to be expedient to do so, all or any of the social security contribution to which the person is liable and declare any one of such persons in receipt of income to be the agent of the person liable to pay social security contribution in respect of the consolidated social security contribution and require the person declared to be agent to pay the social security contribution and thereupon the person so declared to be agent shall be liable to pay the social security contribution:

Provided that the liability to pay the social security contribution shall not exceed the amount held by the agent in respect of such income.

37. A certificate under the hand of the Director or any document certified by him to be a copy of or extract from any record or book kept under this Act shall be prima facie evidence of the contents of the certificate or document.

Garnishee provisions

Inserted by Act 31 of 2008

PART VII - OFFENCES AND PENALTIES

38. (1) Any person who-

- (a) makes or delivers a form, schedule or return which is false in any particular, or makes a false answer whether orally or in writing to any question put to him by the Director or any person authorised by the Director;
- (b) fails to disclose any material fact in a form, schedule or return or in answer to the Director or any person authorised by the Director;
- (c) fails to register when required to do so under this Act;
- (d) fails to furnish any form, schedule or return or pay any contribution or surcharge in the manner and within the time prescribed under the Act;
- (e) fails to comply with any other provisions of this Act or any request made by the Director under this Act;
- (f) knowing that an order has been made under section 33(2) preventing the person from leaving Seychelles, leaves or attempts to leave Seychelles while that order is in force;

is guilty of an offence and liable to a fine of R 10,000 and to imprisonment for six months.

(2) The Court shall, on conviction of a self-employed person or an employer for failing to pay contribution, order the self-employed person or employer, in addition to any other penalty under this section, pay to the Fund the amount of unpaid contribution together with any surcharge due on the amount at the time and the order of the Court shall have the same force and effect as a judgement of the Court in favour of the Fund.

Offences and
Penalties

Amended by Act
22 of 1994

PART VIII - MISCELLANEOUS

- 39.** (1) The Minister may make regulations for the better carrying out the provision of this Act and, without prejudice to the generality of the foregoing, may make regulations--
- Regulations
Private scheme
- (a) in respect of any matter for which regulations are required to be made under this Act;
 - (b) prescribing the forms for the purposes of this Act;
 - (c) for the giving of effect to any reciprocal arrangement or agreement with a foreign government with respect to any matter under this Act;
 - (d) exempting any category of persons from liability to pay contribution;
 - (e) exempting any emolument or part of any emolument from liability to contribution;
 - (f) prescribing anything required by this Act to be prescribed.
- (2) Regulations made under subsection (1) (c) may modify or adapt this Act in its application to the matters affected by any agreement or arrangement referred in that subsection.
- (3) The Minister may by regulations amend the Schedule.
- 40.** Nothing in this Act shall prevent an employer from operating, in addition to fulfilling his obligation under this Act, a private scheme providing any person in his employment with the same benefit as, or additional benefit to, the benefits under the Act.

REGULATIONS

SECTION 39

SOCIAL SECURITY (REGISTRATION) REGULATIONS

[1 January 1988]

ARRANGEMENT OF REGULATIONS

Regulations

1. Citation and interpretation
2. Registration of employer
3. Letter of registration
4. Notification of change
5. Replacement of letters of registration

1. (1) These Regulations may be cited as the Social Security (Registration) Regulations, 1987.

Citation and interpretation

(2) In these Regulations ---

"commencement date" means the date of the coming into force of Regulations;

"Social Security Section" means the public body for the time being responsible for social Security;

"social security card" means the identity card used for the purposes and the Regulations made under the Act.

2. *A person who becomes an employer after the commencement date of shall, within 7 days on his becoming an employer, apply to the Director in the approved form to be registered as an employer.

Registration of employer

* **Note:** Registration of persons who were employers on the commencement date have already been effected. Subregulation (1) and (2) of this regulation are accordingly omitted.

3. The Director shall, upon receipt of an application for registration person with a Letter of Registration in which shall be specified –

Letter of registration

Notification of change

- (a) the Code Number of the employer;
- (b) the date of registration; and
- (c) any other particulars which the Director may from time to time decide include in the Letter of Registration.

4. An employer shall notify the Director, in the form provided by the Director the change of any particular, including his ceasing to be an employer, specified in his Letter of Registration.

Replacement
Letters of
Registration

5. (1) If the Letter of Registration of an employer is lost, destroyed or defaced the employer may apply to Director for a replacement Letter of Registration.

(2) An employer making an application under Subregulation (1) shall furnish the Director with such information as the Director may require.

(3) Where he is of the opinion that the loss, destruction or defacement of the Letter of Registration was due to the negligence or fault of the employer, the Director may, before issuing an employer with a replacement Letter of Registration, require the employer to pay a fee of R 100.

SOCIAL SECURITY (CONTRIBUTIONS) REGULATIONS

[1st January, 1988]

ARRANGEMENT OF REGULATIONS

Regulations

1. Citation and interpretation
2. Emolument excluded from liability to contribution
3. Exclusion of certain items from emolument
4. Abnormal pay practices
5. Rates of contribution
6. Time liability arises and time of payment of contribution
7. Deduction by employer
8. Employee's liability
9. Calculation of contribution
10. Surcharge
11. Method of payment
12. Refunds and adjustments
13. Maintenance of records
14. Notification of information
15. Issue of certificate by director
16. Appeal

Schedule Rates of contribution.

1. (1) These Regulations may be cited as the Social Security (Contributions) Regulations.

Citation and interpretation

(2) In these Regulations -

"approved forms" means a form approved by the Director;

"casual worker" means an employed person who is employed by the day and from day to day and is paid on a daily basis and whose engagement by one at the same employer does not extend beyond 14 consecutive days;

"monetary benefit" means any allowance or other monetary amount paid or given in cash, by an employer or an associate of the employer to an employee or an associate of the employee in respect of employment which is –

Inserted by S.I. 13 of 2009

- (a) not essential for the execution of the employee's job, or
- (b) of a private nature,

and includes any monetary benefits specified in Schedule 2;

"nonmonetary benefit" means any allowance or thing paid, provided or given otherwise than in cash, by an employer or an associate of the employer to an employee or an associate of the employee in respect of employment which is –

Inserted by S.I. 13 of 2009

- (a) not essential for the execution of the employee's job, or
- (b) of a private nature,

and includes any nonmonetary benefits specified in Schedule 2;

"Social Security Section" means the public body for the time being responsible for social security.

2. No contribution is payable in respect of the emolument paid to a person working on an approved project under the Employment Fund Act.

Emolument excluded from liability to Contribution.

3. In assessing the contribution due in respect of the emolument of a person the following shall be excluded from the emolument -

Act 10 of 1980
Cap.244

- (a) any advance of emolument or any payment on account of an employed person, which will subsequently be included in that person's emolument for the purposes of assessing the amount of contribution payable in respect of the person's emolument;

Exclusion of certain items from emolument

- (b) any payment in respect of a period of holiday, where the amount paid is derived directly or indirectly from a fund to which more than one employer contributes and the

management and control of which are not vested in the employers, or where the person making the payment is entitled to be reimbursed from the fund;

- (c) any payment of or in respect of a gratuity or offering -
- i. where the payment is not made directly or indirectly by the employer and the sum paid does not comprise or represent sums previously paid to the employer; or
 - ii. where the payment is not directly or indirectly allocated by the employer to the employed person.

- | | | |
|------------|--|---|
| 3A. | Liability to pay contribution in respect on monetary and nonmonetary benefits shall be as set out in Schedule 2. | S.I. 13 of 2009 |
| 4. | The Director may, where he is satisfied as to the existence of any practice or scheme whereby liability to pay contribution in respect of emolument is avoided or reduced, give direction for ensuring that contributions are paid or paid in full as if the practice or scheme were not in existence. | Abnormal pay practices. |
| 5. | The rates of contribution payable in respect of emolument of an employed person are set out in Schedule 1. | Rates of Contribution
S.I. 13 of 2009 |
| 6. | Liability to pay contribution in respect of emolument shall arise at the time of the payment of the emolument and the contributions shall be paid to the Director by the 5th day of the month following the month in which the liability arose. | Time liability arises and time of payment of contribution |
| 7. | (1) An employer shall, on the making of any payment of or on account of any emolument, deduct from the emolument the amount of contribution which the employed person is liable to pay in respect of the emolument and pay, in the manner provided in these Regulations, the contribution deducted together with the contribution he is liable, as an employer, to pay in respect of the emolument, to the Fund. | Deduction by employer |
| | (2) Where an employer, on making a payment of emolument, falls to deduct the whole or any part of the contribution for which the employed person is liable in respect of the emolument, he may, after notifying the employed person, recover the amount of contribution which he has failed to deduct from any subsequent payment of emolument to the employed person. | Employee's liability |

8. (1) Where an employer has failed under regulation 7 to deduct contribution for which an employed person is liable, the employed person shall be liable to pay the contribution direct to the Fund.

(2) The payment of contribution by an employed person under this regulation shall be without prejudice to the liability of the employer of the employed person to any legal proceeding which may be taken against the employer, or to any penalty, under the Act for failing to comply with any provisions made under the Act.

9. Notwithstanding regulation 9A, contribution shall be calculated in accordance with the rates set out in Schedule 1 to the nearest 10 cents and, in which case, any amount of 5 cents or less shall be disregarded or in accordance with the contribution table prepared by the Director for this purpose under these Regulations.

Calculation of contribution

History - Amended by S.I. 13 of 2009 as at 1 January 2009

9. Contribution shall be calculated in accordance with the rates set out in the schedule to the nearest 10 cents and, in which case, any amount of 5 cents or less shall be disregarded or in accordance with the contribution table prepared by the Director for this purpose under these Regulations.

9A. (1) Subject to regulation 9, contribution shall be calculated on the higher of –

Inserted by S.I. 13 of 2009

(a) the minimum wage as defined by regulation 3 of the Employment (National Minimum Wage) Regulations, 2007; or

(b) the actual emolument paid or provided.

(2) Any emolument paid or provided to an employee that is less than the minimum wage shall, for the purpose of calculating the employee and employer contribution liability, be equal to the minimum wage.

(3) Notwithstanding subregulation (1) and (2), where an emolument consists of a component that is exempt from contribution, contribution shall be calculated on the higher of –

(a) the minimum wage; or

(b) the actual emolument paid or provided excluding any exempt emolument.

9B. In calculating the value of a nonmonetary benefit, the amount shall be the higher of –

Inserted by S.I. 13
of 2009

(a) the expense claimed for non-business use in the employer's audited profit & loss account;

(b) the deemed value pursuant to Schedule 3; or

(c) the arms length or commercial value.

10. (1) Without limiting subsections 10(1) and 10(2), if any contribution or surcharge (the debt) remains unpaid in the manner and within the time prescribed under the Act, the employer shall be liable to pay as a "late payment surcharge" an amount equal to the sum of

Surcharge

(a) ten per centum (10%) of the debt due; and

(b) twenty per centum (20%) per annum of the debt due, or part thereof, calculated from the time the debt became due.

(2) Without limiting subsection 10(1), any employer from whose form, schedule or return any contribution is omitted shall be liable to pay as an "incorrect return surcharge" an amount equal to the greater of:

(a) double the difference between the contribution properly payable by the employer and the contribution reported on the form, schedule or return furnished by the employer, or

(b) the amount of five hundred rupees (SR500.00).

(3) Notwithstanding anything contained in subsections 38(1) of this Act (which is about offences and penalties), any employer who fails to furnish any form, schedule or return in the manner and within the time prescribed under this Act, shall be liable to pay as a "late lodgement surcharge" an amount equal to the greater of:

(a) the unpaid contribution, or

(b) the amount of two hundred and fifty rupees (SR250.00).

History - Repealed by S.I. 13 of 2009 as at 1 January 2009

10(1) Where an employer fails to pay contribution by the time when contribution is required to be paid under regulation 6, he shall, beginning on the day following the day on which contribution is required to be paid, be liable to pay surcharge, calculated in the manner provided under Subregulation (2), in respect of the unpaid contribution for every month or part of the month that the contribution is not paid.

10(2) For the first 6 months during which contribution is not paid the surcharge shall be a sum equal to 5 per centum per month of the unpaid contribution calculated to the next higher rupee or a sum of R10 per month, whichever is the higher, and thereafter the surcharge shall be equal to 10 per centum per month of the amount of the unpaid contribution calculated to the next higher rupee or a sum of R 10 per month, whichever is the higher.

11. (1) Contribution and any surcharge due on contribution shall be paid -

Method of
Payment

(a) in cash at an office of the Social Security Section to an officer authorised by the Director to receive monies due to the Fund;

(b) by money or postal order or cheque drawn on any bank licensed in Seychelles and made payable to the Social Security Fund and the money or postal order or cheque shall be sent to the Social Security Section;

(c) in such other manner which the Director may from time to time authorise.

(2) Where payment is made by post, the date of the payment for the purposes of this Act shall, notwithstanding any other written law, be the date on which the instrument effecting payment is received at the Social Security Section.

(3) Every payment of contribution or surcharge shall be accompanied by an approved form duly completed.

(4) A receipt for every sum paid to the Fund as contribution or surcharge shall be issued by the person receiving payment on behalf of the Fund.

12. (1) Where contribution has been paid in error or in excess of the amount due, the sum overpaid shall first be applied -

Refunds and
adjustments

- (a) to pay any contribution or surcharge due from the person who would otherwise be entitled to a refund; and
- (b) to refund to the Fund any benefit overpaid to the person who would otherwise be entitled to a refund;

and the Director shall refund the balance to the person who paid the contribution if the balance is a sum in excess of R 5 and an application has been made under this regulation for a refund.

(2) Notwithstanding the provisions of the Civil Code relating to prescription, person desiring to be refunded of any contribution paid in error or in may, within 6 years from the end of the year in which the contribution was paid or within such longer period as the Director may allow, apply, in such form and manner as the Director may from time to time determine, for the refund.

Act 13 of 1975
Cap.33

(3) On receiving an application for a refund the Director shall, after making such inquiries as he may consider necessary, accept or reject the application.

(4) Where any amount is refunded to an employer under this regulation and the refund is in respect of an over-deduction or erroneous deduction from the emolument of a person employed by the employer, the employer shall, within 15 days after receiving the amount refunded, remit the amount to the person employed.

13. (1) Every employer shall maintain a record in respect of each person employed by him showing -

Maintenance of records

- (a) the name, date of birth, social security or other national identity number of the employed person;
- (b) the date on which he took the person in his employment and the date on which that person ceased to be employed by him;
- (c) the date and amount of each payment of emolument; and
- (d) the deduction made from the emolument on each payment thereof as the employed person's contribution in respect of his emolument.

(2) In addition to any other approved form which an employer is required to submit under these Regulations, every employer shall -

- (a) on terminating the employment of a person employed by him; or
- (b) in any other case, at the end of each year, in respect of each person employed by him, complete, in triplicate, a certificate in an approved form in which shall be specified the total amount of emolument paid to the employed person and the total amount of contribution deducted from the emolument of the employed person.

(3) The employer shall remit a copy of the certificate referred to in subregulation (2) to-

- (a) the employed person; and
- (b) the Director;

and he shall retain a copy for himself.

(4) An employer shall retain all records or documents which he is required to maintain under this regulation for a period of not less than 6 years from the date of the making of the last entry in the record or document.

14. (1) Where, during any month, an employer has employed a casual worker, he shall, at the time of paying contribution for the month in accordance with these Regulations, complete and lodge with the Director the form provided by the Director relating to casual workers.

Notification of information

(2) An employer shall at the end of every quarter at the time of paying contribution for the last month of the quarter in accordance with these Regulations, complete and lodge with the Director the form provided by the Director relating to employed persons, other than casual workers.

15. (1) Where the Director has reason to believe that an employer is refusing or delaying the payment of any contribution or surcharge, the Director shall prepare a certificate showing the amount of contribution or surcharge due from the employer and shall demand the payment of the amount mentioned in the certificate and the employer shall

Issue of Certificate by Director

pay the contribution within the time specified in the certificate.

(2) The issue of a certificate under this regulation shall not affect the liability of an employer to the surcharge under regulation 10.

16. (1) Any person aggrieved by any decision taken by the Director under these Regulations may, within 15 days of the date of the decision or such longer period as the Minister may allow, appeal to the Minister against the decision.

Appeal

(2) A decision of the Minister on an appeal under this regulation is final.

Inserted by S.I. 13
of 2009

SCHEDULE 1

(Regulation 5)

RATES OF CONTRIBUTION

(Effective from 1 January 1995)

1. A person employed or deemed to be employed, shall be liable to pay contribution computed in accordance with section 32(2) of the Act, in respect of each emolument paid to him at the rate of 2.5%.
2. An employer not being an employer of a domestic worker or day care worker, shall be liable to pay contribution computed in accordance with section 32(2) of the Act, in respect of each emolument paid to the person employed or deemed to be employed by the employer at the rate of 20%.

Amended by S.I.
13 of 2009

History - Repealed by S.I. 43 of 2007 as at 1 January 2007

1. A person employed or deemed to be employed shall be liable to pay contribution computed in accordance with section 31(2) of the Act in respect of each emolument paid to him at the rate of 5%.

Amended by Act
22 of 1994

2. An employer shall be liable to pay contribution computed in accordance with section 31(2) of the Act in respect of each emolument paid to the person employed or deemed to be employed by the employer as follows -

Amount of Emolument		Roles of Contributions
a.	on an amount not exceeding R 1,000	10%
b.	on an amount exceeding R 1,000 but not exceeding R 2,000	20%
c.	on an amount exceeding R 2,000 but not exceeding R 10,000	35%
d.	on an amount exceeding R 10,000	40%

SCHEDULE 2

Inserted by S.I. 13
of 2009

(Regulation 3(a))

NONMONETARY AND MONETARY BENEFITS

(Effective from 1 January 2009)

Item	Provision	Liability to contribution		Comments
		Employee	Employer	
1.	Accommodation (short-term, 3 months or less)	NO	NO	Criteria: <ul style="list-style-type: none"> ▪ must be provided for business purposes, and ▪ must not be provided for more than 3 months.
2.	Accommodation (long-term more than 3 months)	YES	YES	Deemed value available – Item 1, Schedule 3.
3.	Airfare	YES	YES	Criteria: the higher of: <ul style="list-style-type: none"> ▪ the actual expense incurred, or ▪ the lowest economy airfare published by the employer. Exceptions: <ul style="list-style-type: none"> ▪ Any business component of airfares can be deducted from the total airfare benefit, and ▪ Provision of airfare at the start and the conclusion of contract.
4.	Allowances	YES	YES	For example: Duty, driving, danger, living away from home, meal or leave allowance.
5.	Bonuses	YES	YES	Exceptions: Not assessable to the extent that it complies with Schedule 4.
6.	Bus fares	YES	YES	Full cost of fares
7.	Provision of clothing	YES	YES	Exceptions: <ul style="list-style-type: none"> ▪ identifiable uniforms, or ▪ safety clothing.
8.	Compensation payments	YES	YES	Exceptions: Not assessable to the extent that it complies with Schedule 4.
9.	Provision of domestic staff	YES	YES	All associated cost of the domestic worker including emolument and Social Security and Seychelles Pension Fund payments.

Item	Provision	Liability to contribution		Comments
		Employee	Employer	
10.	Employee social security contribution paid on behalf of the employee	YES	YES	Equal to the difference between the grossed-up amount and the original emolument.
11.	Entertainment expenses and allowances	YES	YES	Exceptions: Not an employee benefit to the extent that the expense is allowable as a deductible expense pursuant to the <i>Business Tax Act, 1987</i> .
12.	Health insurance	YES	YES	The full cost of the insurance policy.
13.	In-house benefit (perquisites)	YES	YES	Exceptions: The first SR 2,000 per year (per employee) will not be subject to social security contributions.
14.	Insurance benefit	YES	YES	For example: House and contents, income protection, motor vehicle or fire and burglary insurance.
15.	Life insurance	YES	YES	Exception: <ul style="list-style-type: none"> ▪ where it is provided to an employee that works in a dangerous working environment, and ▪ is exempt in Schedule 4
16.	Meals provided	YES	YES	Deemed value available – Item 2, Schedule 3
17.	Medical expenses	YES	YES	Exceptions: Medical expenses incurred due to work related circumstances. For example, a diver requiring decompression treatment after performing his duties as a diver.
18.	Miscellaneous perquisites	YES	YES	For example - yacht club or golf club memberships etc...
19.	Motor vehicle	YES	YES	Deemed value available – Item 3, Schedule 3. Exceptions: Not an employee benefit to the extent that: <ul style="list-style-type: none"> ▪ a vehicle logbook is maintained, and ▪ the logbook substantiates that the employee is in fact called out for after-hours duties on a regular basis.

Item	Provision	Liability to contribution		Comments
		Employee	Employer	
20.	Motor vehicle (reimbursements)	NO	NO	<p>Criteria –</p> <ul style="list-style-type: none"> ▪ The current rate of reimbursement is SR 2.50 per kilometre for the first 100 kilometres and SR 2.25 per kilometre thereafter. ▪ The employee may reimburse the employee for up to a maximum of the standard formula that applies to the motor vehicle benefit allowance as set out in Item 3 in Schedule 3. ▪ A logbook must be maintained.
21.	School fees	YES	YES	Full tuition fees.
22.	Service charge	YES	YES	Exception: Not assessable to the extent that it complies with Schedule 4.
23.	Shoe allowance	YES	YES	Exception: The first SR 1,000 and shoes identifiable as part of a uniform or occupational safety shoes, such as steel capped shoes are not assessable.
24.	Transport to/from work (non-self drive)	YES	YES	Exception: Not an employee benefit to for employees who either start work before, or finish work after, the availability of public transport.
25.	Travel	YES	YES	Exception: Travel for business purposes is not a benefit (documentation to support a business purpose must be kept. Ie, diary entries, receipts to trade shows, contemporaneous notes etc...)
26.	Clothing allowance	YES	YES	Exception: Not an employee benefit to the extent that the allowance is for a uniform that is clearly identifiable as the employer's uniform.
27.	Utilities benefit	YES	YES	For example: Home electricity, water and phone, cable TV or home internet access.

SCHEDULE 3Inserted by S.I. 13
of 2009

(Regulation 17(3)(b))

DEEMED VALUES FOR NONMONETARY BENEFITS S

(Effective from 1 January 2009)

Item	Employee Benefit	Deemed Value of Benefit	
1.	Accommodation	(Type of Accommodation)	(per month per employee)
		(a) onsite shelter	SR 300
		(b) dormitory accommodation	SR 600
		(c) one bedroom dwelling	SR 2,500
		(d) two bedroom dwelling	SR 3,000
		(e) three bedroom dwelling	SR 4,000
		(f) four bedroom dwelling	SR 5,000
2.	Meals	(Type of Meal)	(per month)
		▪ Breakfast @ SR10 x 30 Days =	SR 300
		▪ Lunch @ SR10 x 30 Days =	SR 300
		▪ Dinner @ SR10 x 30 Days =	<u>SR 300</u>
		▪ Total	SR 900
3.	Motor vehicle	(Cubic Capacity of vehicle)	(per month)
		(a) Smaller than 1301 cc	SR 1,500
		(b) Between 1,300 cc and 1,601 cc	SR 2,175
		(c) Between 1,600 cc and 2,001 cc	SR 2,700
		(d) Between 2,000 cc and 2,501 cc	SR 3,375
		(e) Larger than 2,501 cc	SR 5,325

SCHEDULE 4

Inserted by S.I. 13
of 2009

(Regulation 39(1))

EXEMPTIONS

(Effective from 1 January 2009)

Item	Class or category of persons	Eligible Exempt Emolument	Contribution		Date of effect
			Employee	Employer	
1.	<i>*Employers</i>	<i>*approved bonus schemes</i>	Not Exempt	Exempt	1 January 2008
2.	Employees and <i>*employers</i>	<i>*approved compensation payments</i>	Exempt	Exempt	1 January 2009
3.	Licensed accommodation providers	<i>*approved service charge schemes</i>	Not Exempt	Exempt	1 January 2008
4.	Musicians	<i>*approved musician</i>	Exempt	Exempt	1 January 2009

Note: items printed in *italic* that are preceded with an asterisk (*) are defined in this Schedule.

1. (1) Approved bonus schemes are exempt from employer social security contribution

Inserted by S.I. 13
of 2009

(2) "approved bonus scheme" means a bonus payment exempt from employer social security contribution to the extent that the bonus is paid no more than once per year and does not exceed the higher of:

- (a) 1/12 of the employee's yearly base salary, or
(b) SR 10,000

2. (1) Approved compensation payments are exempt from employee and employer social security contribution.

Inserted by S.I. 13
of 2009

(2) "approved compensation payment" means a compensation payment exempt from employer and employee social security contribution to the extent that:

- (a) the compensation is paid pursuant to Section 62A of the Employment Act, 1995, and

(b) the concessionary treatment of such compensation payment is capped pursuant to subparagraph 47(2)(b)(i) of the Employment Act, 1995.

3. (1) Approved service charge schemes are exempt from employer social security contribution.

Inserted by S.I. 13
of 2009

(2) “approved service charge scheme” means a service charge distribution payment exempt from employer social security contribution to the extent that:

(a) the service charge scheme has unambiguous distribution criteria, is well documented and is freely accessible to all employees,

(b) is distributed widely, broadly and proportionally to all eligible employees, and

(c) is distinguishable from any other emolument on the:

(i) employee’s payment advice, and

(ii) employer’s payroll system.

4. (1) Approved musicians are exempt from employee and employer social security contribution.

Inserted by S.I. 13
of 2009

(2) “approved musician” means a musician registered with the National Arts Council as a musician.