
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations contain provisions which are consequential upon the making of the first set of Regulations under section 4B of the [Social Security Contributions and Benefits Act 1992\(c. 4\)](#) and section 4B of the Social Security Contributions and Benefits (Northern Ireland) Act [1992 \(c. 7\)](#). These sections were inserted by sections 1(1) and 2(1) of the National Insurance Contributions Act [2006 \(c. 10\)](#).

Regulation 1 provides for the citation and commencement of these Regulations.

Regulation 2 provides for the application of paragraph 3 of Schedule 1 to each of the 1992 Acts, to the extent it would not otherwise apply, where any amount is retrospectively treated as earnings by virtue of regulations under section 4B of that Act.

Regulation 3 introduces amendments to the Social Security (Contributions) Regulations 2001 ([S.I. 2001/1004](#): “the 2001 Regulations”) which mirror those made by the Income Tax (Pay As You Earn) (Amendment) Regulations 2007 (“the PAYE amendments”).

Regulation 4 inserts a series of definitions used in connection with earnings on which National Insurance contributions become payable retrospectively into regulation 1(2) of the 2001 Regulations.

Regulation 5 amends regulation 60 of the 2001 Regulations so that a failure to pay retrospective contributions which is not with the consent or connivance of the primary contributor or attributable to the primary contributor’s negligence does not affect the primary contributor’s benefit entitlement.

Regulation 6 amends regulation 90H of the 2001 Regulations to disapply, in relation to contributions due on retrospective earnings in a closed year, the requirement that payment be made electronically.

Regulation 7 amends regulation 90N of the 2001 Regulations to disapply the requirement, in relation to contributions due on retrospective earnings in a closed year, that a return under that regulation be delivered electronically.

Regulation 8 amends Schedule 4 (which contains provisions reflecting the Income Tax (Pay As You Earn) Regulations 2003 ([S.I. 2003/2682](#))) to provide similar accounting mechanisms in relation to retrospective contributions as are made for retrospective employment income by the PAYE amendments. The opportunity is also being taken to correct several minor typographical errors.

These Regulations do not impose significant additional burdens or costs on employers unless they engage in contrived schemes to avoid income tax and National Insurance contributions on remuneration paid to their employees. Employers who do not engage in such activity will be unaffected.