
STATUTORY INSTRUMENTS

2001 No. 1004

The Social Security (Contributions) Regulations 2001

PART 1

GENERAL

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Contributions) Regulations 2001 and shall come into force on 6th April 2001 immediately after—

- (a) the Social Security (Contributions) (Amendment No. 2) Regulations 2001 ^{F1};
- (b) the Social Security (Contributions) (Amendment No. 2) (Northern Ireland) Regulations 2001 ^{F2};
- (c) the Social Security (Contributions) (Amendment No. 3) Regulations 2001 ^{F3};
- (d) the Social Security (Contributions) (Amendment No. 3) (Northern Ireland) Regulations 2001 ^{F4};
- (e) the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations 2001) ^{F5}; and
- (f) the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations (Northern Ireland) 2001 ^{F6}.

(2) In these Regulations, unless the context otherwise requires—

[^{F7}“the acquired gender” has the same meaning as it has in the Gender Recognition Act 2004;]

“the Act” means the Social Security Contributions and Benefits Act 1992 ^{F8};

“the Administration Act” means the Social Security Administration Act 1992 ^{F9};

“aggregation” means the aggregating and treating as a single payment under paragraph 1(1) of Schedule 1 to the Act (Class 1 contributions; more than one employment) of two or more payments or earnings and “aggregated” shall be construed accordingly;

“apportionment” means the apportioning under paragraph 1(7) of Schedule 1 to the Act to one or more employers of a single payment of earnings made to or for the benefit of an employed earner in respect of two or more employments, or, as the case may be, the apportioning under paragraph 1(8) of that Schedule of contribution liability between two or more employers in respect of earnings which have been aggregated under paragraph 1(1)(b) of that Schedule, and in either case “apportioning” and “apportioned” shall be construed accordingly;

[^{F10}“approved method of electronic communications” in relation to the delivery of information or the making of a payment in accordance with a provision of these Regulations, means a method of electronic communications which has been approved, by specific or general directions issued by the Board, for the delivery of information of that kind or the making of a payment of that kind under that provision;]

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“the Board” means the Commissioners of Inland Revenue, and subject to section 4A of the Inland Revenue Regulation Act 1890 ^{F11}, includes any officer or servant of theirs;

[^{F12}“business travel” has the meaning given in section 236(1) of ITEPA 2003;]

[^{F13}“cash voucher” has the meaning given to it in section 75 of ITEPA 2003;]

^{F14} ...

“company” means a company within the meaning of section [^{F15}1] of the Companies Act [^{F15}2006] or a body corporate to which, by virtue of [^{F16}regulations made under section 1043 of [^{F15}that Act], any provision of [^{F15}that Act]] applies;

^{F17} ...

“conditional interest in shares” means an interest which is conditional for the purposes of [^{F18}Chapter 2 of Part 7 of ITEPA 2003 as originally enacted;]

“contracted-out employment” has the same meaning as in section 8(1) of the Pensions Act ^{F19};

“contracted-out rate” means, in relation to Class 1 contributions payable in respect of earnings paid to or for the benefit of an earner who is in—

(a) COSRS employment, the reduced amount for the time being applying in accordance with section 41(1) to (1B) ^{F20} of the Pensions Act (which specifies the percentage reduction of primary and secondary Class 1 contribution in respect of that part of an employed earner’s earnings which exceed the current lower earnings limit, but not the current [^{F21}upper accrual point], in respect of members of a COSRS);

(b) ^{F22} ...

“contribution week” means a period of seven days beginning with midnight between Saturday and Sunday;

“contribution year” shall be construed in accordance with section 12(1) or (as the case requires) section 13(5) of the Act (late paid Class 2 or Class 3 contributions);

“a contribution-based jobseeker’s allowance” has the same meaning as in the Jobseekers Act 1995 ^{F23};

“contributory benefit” includes a contribution-based jobseeker’s allowance but not an income-based jobseeker’s allowance;

^{F24} ...

“COSRS employment” means employment which qualifies an earner for a pension provided by a salary related scheme contracted out under section 9(2) of the Pensions Act ^{F25};

“director” means—

(a) in relation to a company whose affairs are managed by a board of directors or similar body, a member of that board or similar body;

(b) in relation to a company whose affairs are managed by a single director or similar person, that director or person; and

(c) any person in accordance with whose directions or instructions the company’s directors as defined in paragraphs (a) and (b) above are accustomed to act; and for this purpose a person is not to be treated as such a person by reason only that the directors act on advice given by him in his professional capacity;

“due date” in Part 6 means in relation to any contribution which a person is—

(a) liable to pay, the date by which payment falls to be made;

(b) entitled but not liable to pay, the date 42 days after the end of the year in respect of which it is paid;

“earnings period” means the period referred to in regulation 2;

“earnings-related contributions” means contributions payable under the Act in respect of earnings paid to or for the benefit of an earner in respect of employed earner’s employment;

[^{F26}“electronic communications” includes any communications conveyed by means of an electronic communications network.]

[^{F27}“full gender recognition certificate” means a certificate issued under section 4 of the Gender Recognition Act 2004;]

[^{F28}“HMRC” means Her Majesty's Revenue and Customs; and]

“an income-based jobseeker’s allowance” has the same meaning as in the Jobseekers Act 1995;

^{F29} ...

“national insurance number” means the national insurance number allocated within the meaning of regulation 9 of the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations 2001;

[^{F30}“non-cash voucher” has the meaning given to it in section 84 of ITEPA 2003;]

“non-contracted-out employment” means employed earner’s employment which is not contracted-out employment;

“non-contracted out rate” means, in relation to Class 1 contributions payable in respect of earnings paid to or for the benefit of an earner in non-contracted-out employment, [^{F31}the main primary percentage for the time being specified in section 8(2)(a) of the Act]^{F32};

[^{F33}“normal rate” means the amount of a Class 1 contribution which would be payable in respect of earnings paid to or for the benefit of an employed earner in any week if the employment were not contracted-out employment;]

[^{F34}“official computer system” means a computer system maintained by or on behalf of the Board;]

[^{F35}“official error” means, for the purposes of regulations 50B and 61A, an error —

- (a) made by an officer of the Department for Work and Pensions or an officer of Revenue and Customs acting as such which no person outside the Department for Work and Pensions or Her Majesty’s Revenue and Customs caused or to which no person outside the Department for Work and Pensions or Her Majesty’s Revenue and Customs materially contributed, or
- (b) made by a person employed by a service provider and to which no person who was not so employed materially contributed,

but excludes any error of law which is shown to have been an error by virtue of a subsequent decision of [^{F36}the Upper Tribunal] or the court;.]

“the PAYE Regulations” means the Income Tax (Pay As You Earn) Regulations 2003;

^{F37} ...

“the Pensions Act” means the Pension Schemes Act 1993 ^{F38};

“profits or gains” for the purposes of Part 8 means profits or gains which, subject to the provisions of Schedule 2 to the Act, are chargeable to income tax under Case I or Case II of Schedule D;

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“readily convertible asset” has the meaning given in [^{F39}section 702 of ITEPA 2003 as amended by the Finance Act 2003;]

[^{F40}“registered pension scheme” has the meaning given in section 150(2) of the Finance Act 2004;]

“regular interval” for the purposes of regulations 3, 4 and 7 includes only such interval as is in accordance with an express or implied agreement between the employed earner and the secondary contributor as to the intervals at which payments of earnings normally fall to be made, being intervals of substantially equal length;

[^{F41}“relevant employment income” has the meaning given in paragraph 3B(1A) of Schedule 1 to the Act;]

[^{F42}“restricted securities” and “restricted interest in securities” have the meanings given in sections 423 and 424 of ITEPA 2003 as substituted by the Finance Act 2003;]

“retirement benefits scheme” has the meaning given in section 611 of the Taxes Act ^{F43};

[^{F44}“retrospective contributions”, in relation to an amount of retrospective earnings, means the amount of earnings-related contributions based on those earnings which the employee is liable to pay under section 6(4)(a) of the Act (primary contributions);]

[^{F44}“retrospective contributions regulations” means regulations made by virtue of section 4B(2) of the Act and, in relation to an amount of retrospective earnings, “the relevant retrospective contributions regulations” means the regulations which treat that amount as earnings;]

[^{F44}“retrospective earnings” means an amount retrospectively treated as earnings by retrospective contributions regulations;]

^{F45} ...

“secondary contributor” means the person who, in respect of earnings from employed earner’s employment, is liable to pay a second Class 1 contribution under section 6(4)(b) of the Act (liability for Class 1 contributions) ^{F46};

[^{F47}“securities” and “securities option” have the meaning given by section 420 of ITEPA 2003 as substituted by the Finance Act 2003;]

[^{F48}“service provider” means, for the purposes of the definition of “official error”, a person providing services to the Secretary of State for Work and Pensions or to Her Majesty’s Revenue and Customs;]

“serving member of the forces” means a person, other than one mentioned in Part 2 of Schedule 6, who, being over the age of 16, is a member of any establishment or organisation specified in Part I of that Schedule (being a member who gives full pay service) but does not include any such person while absent on desertion;

“the Taxes Act” means the Income and Corporation Taxes Act 1988^{F49};

[^{F50}“tax month” has the meaning given in paragraph 1(2) of Schedule 4;]

“training” means full-time training at a course approved by the Board;

“the Transfer Act” means the Social Security Contributions (Transfer of Functions, etc) Act 1999;

[^{F28}“tribunal” means the First-tier tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.]

“week” means tax week, except in relation to Case C of Part 9, where “week” and “weekly” have the meanings given in regulation 115;

“the Welfare Reform Act” means the Welfare Reform and Pensions Act 1999^{F51};

“year” means tax year;

“year of assessment” has the meaning given to it in section 832(1) of the Taxes Act;

(3) For the purposes of regulations 52, 57, 67 and 116, references to “contributions”, “Class 1 contributions” and “earnings-related contributions” shall, unless the context otherwise requires, include any amount paid on account of earnings-related contributions in accordance with regulation 8(6).

(4) Where, by any provision of these Regulations—

- (a) any notice or other document is required to be given or sent to the Board, that notice or document shall be treated as having been given or sent on the day that it is received by the Board; and
- (b) any notice or other document is required to be given or sent by the Board to any person, that notice or document shall, if sent by post to that person’s last known address, be treated as having been given or sent on the day that it was posted.

(5) Unless the context otherwise requires—

- (a) any reference in these Regulations to a numbered regulation is a reference to the regulation bearing that number in these Regulations;
- (b) any reference in these Regulations to a numbered Part or Schedule is to the Part of, or Schedule to, these Regulations bearing that number;
- (c) any reference in a regulation or a Schedule to a numbered paragraph is a reference to the paragraph bearing that number in that regulation or Schedule;
- (d) any reference in a paragraph of a regulation or a Schedule to a numbered or lettered sub-paragraph is a reference to the sub-paragraph bearing that number or letter in that paragraph; and
- (e) any reference in a sub-paragraph to a numbered head is a reference to the head in that sub-paragraph bearing that number.

Textual Amendments

- F1** S.I. 2001/313.
- F2** S.I. 2001/314.
- F3** S.I. 2001/596.
- F4** S.I. 2001/597.
- F5** S.I. 2001/769.
- F6** S.R. 2001 No. 102.
- F7** Words in reg. 1(2) inserted (6.4.2005) by *The Social Security (Contributions) (Amendment No. 3) Regulations 2005 (S.I. 2005/778)*, regs. 1(1), **3(2)**
- F8** 1992 c. 4.
- F9** 1992 c. 5.
- F10** Words in reg. 1(2) inserted (6.4.2004) by *The Social Security (Contributions, Categorisation of Earners and Intermediaries) (Amendment) Regulations 2004 (S.I. 2004/770)*, regs. 1(1), **3(a)**
- F11** 53 & 53 Vict. c. 21. Section 4A was inserted by paragraph 11(1) and (2) of Schedule 20 to the *Finance Act 1969 (c. 32)*.
- F12** Words in reg. 1(2) substituted (6.4.2004) by *The Social Security (Contributions, Categorisation of Earners and Intermediaries) (Amendment) Regulations 2004 (S.I. 2004/770)*, regs. 1(1), **3(b)**
- F13** Words in reg. 1(2) substituted (6.4.2004) by *The Social Security (Contributions, Categorisation of Earners and Intermediaries) (Amendment) Regulations 2004 (S.I. 2004/770)*, regs. 1(1), **3(c)**
- F14** Words in reg. 1(2) omitted (3.11.2008) by virtue of *The Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683)*, art. 1, **Sch. 1 para. 164(a)**

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- F15** Words in reg. 1(2) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments) (Taxes and National Insurance) Order 2009 (S.I. 2009/1890), arts. 1(1), **3(9)**
- F16** Words in reg. 1(2) substituted (6.4.2008) by The Companies Act 2006 (Consequential Amendments) (Taxes and National Insurance) Order 2008 (S.I. 2008/954), arts. 1(1), **50**
- F17** Words in reg. 1(2) omitted (6.4.2012) by virtue of The Social Security (Contributions) (Amendment No. 2) Regulations 2012 (S.I. 2012/817), regs. 1(1), **3(a)** (with reg. 11)
- F18** Words in reg. 1(2) substituted (6.4.2004) by The Social Security (Contributions, Categorisation of Earners and Intermediaries) (Amendment) Regulations 2004 (S.I. 2004/770), regs. 1(1), **3(d)**
- F19** Section 8(1) was amended by section 136(2) of, and paragraph 21 of Schedule 5 to the Pensions Act 1995 and paragraph 34 of Schedule 1 to the Transfer Act.
- F20** Section 41(1) was amended by paragraph 127 of Schedule 7 to the Social Security Act 1998 (c. 14). It was further amended by paragraph 6(2), and subsections (1A) and (1B) were substituted by paragraph 6(3) of Part II of Schedule 9 to the Welfare Reform and Pensions Act 1999 (c. 30) (“the Welfare Reform Act”).
- F21** Words in reg. 1(2) substituted (6.4.2012) by The Social Security (Contributions) (Amendment No. 2) Regulations 2012 (S.I. 2012/817), regs. 1(1), **3(b)(i)** (with reg. 11)
- F22** Words in reg. 1(2) omitted (6.4.2012) by virtue of The Social Security (Contributions) (Amendment No. 2) Regulations 2012 (S.I. 2012/817), regs. 1(1), **3(b)(ii)** (with reg. 11)
- F23** 1995 c. 18.
- F24** Words in reg. 1(2) omitted (1.9.2003) by virtue of The Social Security (Contributions) (Amendment No. 5) Regulations 2003 (S.I. 2003/2085), regs. 1, **4(a)**
- F25** Section 9(2) was substituted by section 136(3) of the Pensions Act 1995.
- F26** Words in reg. 1 substituted (17.9.2003) by The Communications Act 2003 (Consequential Amendments) Order 2003 (S.I. 2003/2155), art. 1(1), Sch. 1 para. 23(1)(d)**(2)**
- F27** Words in reg. 1(2) inserted (6.4.2005) by The Social Security (Contributions) (Amendment No. 3) Regulations 2005 (S.I. 2005/778), regs. 1(1), **3(3)**
- F28** Words in reg. 1(2) inserted (1.4.2009) (with effect in accordance with reg. 1(2)(a) of the amending S.I.) by The Social Security (Contributions) (Amendment No. 3) Regulations 2009 (S.I. 2009/600), regs. 1(1), **3**
- F29** Words in reg. 1(2) omitted (6.4.2004) by virtue of The Social Security (Contributions, Categorisation of Earners and Intermediaries) (Amendment) Regulations 2004 (S.I. 2004/770), regs. 1(1), **3(e)**
- F30** Words in reg. 1(2) substituted (6.4.2004) by The Social Security (Contributions, Categorisation of Earners and Intermediaries) (Amendment) Regulations 2004 (S.I. 2004/770), regs. 1(1), **3(f)**
- F31** Words in reg. 1(2) substituted (with effect in accordance with reg. 1(1) of the amending S.I.) by The Social Security (Contributions) (Amendment) Regulations 2003 (S.I. 2003/193), regs. 1(1), **3**
- F32** Section 8 was substituted by paragraph 4 of Part I of Schedule 9 to the Welfare Reform Act.
- F33** Words in reg. 1(2) inserted (6.4.2007) by The Social Security Contributions (Consequential Provisions) Regulations 2007 (S.I. 2007/1056), regs. 1, **4(b)**
- F34** Words in reg. 1(2) inserted (6.4.2004) by The Social Security (Contributions, Categorisation of Earners and Intermediaries) (Amendment) Regulations 2004 (S.I. 2004/770), regs. 1(1), **3(g)**
- F35** Words in reg. 1(2) inserted (1.10.2007) by The Social Security (Contributions) (Amendment No. 8) Regulations 2007 (S.I. 2007/2520), regs. 1, **3(3)**
- F36** Words in reg. 1(2) substituted (3.11.2008) by The Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 164(b)**
- F37** Words in reg. 1(2) omitted (6.4.2007) by virtue of The Social Security Contributions (Consequential Provisions) Regulations 2007 (S.I. 2007/1056), regs. 1, **4(b)**
- F38** 1993 c. 48.
- F39** Words in reg. 1(2) substituted (1.9.2003) by The Social Security (Contributions) (Amendment No. 5) Regulations 2003 (S.I. 2003/2085), regs. 1, **4(b)**
- F40** Words in reg. 1(2) inserted (6.4.2006) by The Social Security (Contributions) (Amendment No. 2) Regulations 2006 (S.I. 2006/576), regs. 1, **3**
- F41** Words in reg. 1(2) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Social Security (Contributions) (Amendment No. 4) Regulations 2004 (S.I. 2004/2096), regs. 1(1), **3**

- F42** Words in reg. 1(2) inserted (1.9.2003) by *The Social Security (Contributions) (Amendment No. 5) Regulations 2003 (S.I. 2003/2085)*, regs. 1, **4(c)**
- F43** Section 611 is to be amended from a date to be appointed under section 79 of the Finance Act 1999.
- F44** Words in reg. 1(2) inserted (6.4.2007) by *The Social Security Contributions (Consequential Provisions) Regulations 2007 (S.I. 2007/1056)*, regs. 1, **4(a)**
- F45** Words in reg. 1(2) omitted (6.4.2004) by virtue of *The Social Security (Contributions, Categorisation of Earners and Intermediaries) (Amendment) Regulations 2004 (S.I. 2004/770)*, regs. 1(1), **3(h)**
- F46** Section 6 was substituted by paragraph 2 of Part I of Schedule 9 to the Welfare Reform Act.
- F47** Words in reg. 1(2) inserted (1.9.2003) by *The Social Security (Contributions) (Amendment No. 5) Regulations 2003 (S.I. 2003/2085)*, regs. 1, **4(d)**
- F48** Words in reg. 1(2) inserted (1.10.2007) by *The Social Security (Contributions) (Amendment No. 8) Regulations 2007 (S.I. 2007/2520)*, regs. 1, **3(4)**
- F49** 1988 c. 1.
- F50** Words in reg. 1(2) inserted (6.4.2004) by *The Social Security (Contributions, Categorisation of Earners and Intermediaries) (Amendment) Regulations 2004 (S.I. 2004/770)*, regs. 1(1), **3(i)**
- F51** 1999 c. 30.

PART 2

ASSESSMENT OF EARNINGS RELATED CONTRIBUTIONS

Earnings periods

2. Except where regulation 8 applies, the amount, if any, of earnings-related contributions payable or, where section 6A of the Act^{F52} applies, treated as having been paid, in respect of earnings paid to or for the benefit of an earner in respect of an employed earner's employment shall, subject to regulations 7 and 12 to 19, be assessed on the amount of such earnings paid, or treated as paid, in the earnings period specified in regulation 3, 4, 5, 6, or 9.

Textual Amendments

- F52** Section 6A was inserted by paragraph 3 of Part I of Schedule 9 to the Welfare Reform Act.

Earnings period for earnings normally paid or treated as paid at regular intervals

3.—^{F53}(1) If any part of earnings paid to or for the benefit of an earner is normally paid, or is treated under regulation 7 as paid, at regular intervals, the earnings period in respect of those earnings shall be the period found in accordance with the following Table, subject to paragraphs (2) to (6).

Earnings Periods

| <i>Case</i> | <i>Applicable earnings period</i> |
|---|---|
| Earnings paid at an interval of 7 days or more. | The length of the interval. |
| Earnings paid at intervals of different lengths, each of which is 7 days or more. | The length of the shorter or shortest of those intervals. |
| Earnings paid at one or more intervals of less than 7 days. | A week. |

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| <i>Case</i> | <i>Applicable earnings period</i> |
|--|-----------------------------------|
| Earnings paid at one or more intervals of less than 7 days and at one or more intervals of more than 7 days. | A week.] |

[^{F53}(2) In any year, the earnings period for the earnings mentioned in paragraph (1) shall only be that found by the Table in that paragraph if the period in which the earnings are paid is one of a succession of periods and—

- (a) the periods are the same length;
- (b) the first period begins on the first day of the year; and
- (c) the subsequent periods begin immediately after the end of the preceding period.

For the purpose of this paragraph, if all the periods in the succession mentioned above, apart from the last in the year in question, are the same length, the last period in the year shall be treated as if it were the same length as the others.

(2A) Paragraph (2B) applies if it appears to an officer of the Board that—

- (a) it is the employer’s practice to pay the greater part of the earnings referred to in paragraph (2) at intervals of greater length than the shorter or shortest of the earnings periods produced by the application of that paragraph; and
- (b) that practice is likely to continue.

(2B) If this paragraph applies the officer may, and if requested to do so by the earner or the secondary contributor shall, decide whether to give a notice to the earner and the secondary contributor specifying the longer or longest of the earnings periods produced by the application of paragraph (2) to be the earnings period applicable to those earnings.

(2C) A notice under paragraph (2B) shall—

- (a) be given to both the earner and the secondary contributor; and
- (b) specify the date from which the change of earnings period is to take effect.

The date specified shall not be earlier than that on which the notice is given.

(2D) A notice given under paragraph (2B) shall have effect until an officer of the Board decides (either of his own motion or on an application by the earner or the secondary contributor) that the practice to which it relates has ceased.

If an officer of the Board decides that a notice is to cease to have effect, he shall notify the earner and the secondary contributor accordingly.]

(3) If the length of the earnings period determined in accordance with [^{F54}paragraph (2B)] is a year, then notwithstanding [^{F54}paragraph (2)] , where the change in the length of the earnings period takes effect during the course of a year, the length of the earnings period in respect of any earnings in that year which are paid or treated as paid on or after the change shall be the number of weeks remaining in that year commencing with the week in which the change takes effect.

^{F55}(4)

(5) Where—

- (a) the employment in respect of which the earnings are paid has ended;
- (b) the employment in respect of which the earnings are paid was one in which, during its continuance, earnings were paid or treated under regulation 7 as paid at a regular interval; and
- (c) after the end of the employment, a payment of earnings is made which satisfies either or both of the conditions specified in paragraph (6),

the earnings period in respect of such payment of earnings shall, notwithstanding regulation 7, be the week in which the payment is made.

- (6) The conditions referred to in paragraph (5) are that the payment is—
- (a) by way of addition to a payment made before the end of the employment; and
 - (b) not in respect of a regular interval.

Textual Amendments

- F53** Reg. 3(1)-(2D) substituted for reg. 3(1) (8.10.2002) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2002 \(S.I. 2002/2366\)](#), regs. 1, **4(2)**
- F54** Words in reg. 3(3) substituted (8.10.2002) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2002 \(S.I. 2002/2366\)](#), regs. 1, **4(3)**
- F55** Reg. 3(4) omitted (8.10.2002) by virtue of [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2002 \(S.I. 2002/2366\)](#), regs. 1, **4(4)**

Earnings period for earnings normally paid otherwise than at regular intervals and not treated as paid at regular intervals

4. Subject to regulation 3(5) or regulation 5, where earnings are paid to or for the benefit of an earner in respect of an employed earner's employment, but no part of those earnings is normally paid or treated under regulation 7 as paid at regular intervals, the earnings period in respect of those earnings shall be a period of one of the following lengths—

- (a) the length of the period of that part of the employment for which the earnings are paid or a week, whichever is the longer; or
- (b) where it is not reasonably practicable to determine that period under paragraph (a)—
 - (i) the length of the period from the date on which the last payment of earnings, before the payment in question, was paid during the employment in respect of the employment (or, if there has been no such payment, from the date on which the employment began) to the date of the payment in question, unless the period so calculated would be of a length less than that of a week, in which case the earnings period shall be a week, or
 - (ii) where the payment is made before the employment begins or after it ends, a week.

Earnings period for sums deemed to be earnings by virtue of regulations made under section 112 of the Act

5. Where any sum or amount is deemed to be earnings by virtue of any regulations made under section 112 of the Act (sums to be earnings for the purposes of Part I to V of the Act)^{F56}—

- (a) the earnings period in respect of any payment of those earnings shall be the length of the protected period (as referred to in section 189 of the Trade Union and Labour Relations (Consolidation) Act 1992^{F57}) or, as the case may be, that part of it in respect of which the sum is paid, or a week whichever is the longer;
- (b) contributions paid in respect of such earnings shall, if the employed earner so requests—
 - (i) if the period to which the payment of earnings relates falls wholly in a year other than the year in which they are paid, be treated as paid in respect of the year in which the period to which the payment of earnings relates falls, or
 - (ii) if the period to which the payment of earnings relates falls partly in the year in which they are paid and partly in one or more other years, be treated as paid proportionately

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in respect of each of the years in which the period to which the payment of earnings relates falls, or

- (iii) if the period to which the payment of earnings relates falls wholly in two or more years other than the year in which they are paid, be treated as paid proportionately in respect of each of the years in which the period to which the payment of earnings relates falls.

Textual Amendments

- F56** Section 112 was amended by paragraph 51(4) of Schedule 1 to the [Employment Rights Act 1996](#) (c. 18) and paragraph 21 of Schedule 3 to the Transfer Act.
- F57** [1992 c. 52](#). Section 189(4) was amended by regulation 4(3) of [S.I. 1995/2587](#).

Earnings period for earnings to be aggregated where the earnings periods for those earnings otherwise would be of different lengths

6.—(1) Paragraphs (2) and (3) apply where—

- (a) earnings paid in respect of two or more employed earner’s employments fall to be aggregated; and
- (b) the earnings periods in respect of those earnings are, by virtue of regulation 3, 4 or 5, of different lengths.

(2) In a case to which this regulation applies, where (but for its provisions) the earnings period in respect of earnings derived from any of the employments is of a different length from the designated earnings period, the earnings period in respect of any payment of those earnings shall be the designated earnings period.

[^{F58}(3) In this regulation “the designated earnings period” means—

- (a) where the earnings are derived from employments which include any contracted-out employment and any non-contracted out employment, the earnings period in respect of earnings derived from the contracted-out employment or, if there is more than one such employment, the shorter, or as the case may be the shortest, of the earnings periods in respect of earnings derived from such employments; and
- (b) in any other case, the shorter, or as the case may be the shortest, of the earnings periods in respect of the earnings derived from such employments.]

Textual Amendments

- F58** Reg. 6(3) substituted (6.4.2012) by [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2012 \(S.I. 2012/817\)](#), regs. 1(1), 4 (with reg. 11)

Treatment of earnings paid otherwise than at regular intervals

7.—(1) Subject to regulation 3(5) and paragraphs (2) and (3), for the purposes of assessing earnings-related contributions—

- (a) if on any occasion a payment of earnings which would normally fall to be made at regular interval is made otherwise than at the regular interval, it shall be treated as if it were a payment made at that regular interval;
- (b) if payments of earnings are made at irregular intervals which secure that one and only one payment is made in each of a succession of periods consisting of the same number of

days, weeks or calendar months, those payments shall be treated as if they were payments made at the regular interval of one of those periods of days, weeks or, as the case may be, calendar months;

- (c) if payments of earnings, other than those specified in sub-paragraph (b), are made in respect of regular intervals, but otherwise than at regular intervals, each such payment shall be treated as made at the regular interval in respect of which it is due.

(2) Where under paragraph (1) a payment of earnings is treated as made at a regular interval, it shall for the purposes of assessment under these regulations of earnings-related contributions also be treated as paid—

- (a) in a case falling within paragraph (1)(a), on the date on which it would normally have fallen to be made;
- (b) in any other case, on the last day of the regular interval at which it is treated as paid.

(3) Paragraphs (1) and (2) shall not apply to a payment of earnings made in one year where by virtue of those paragraphs that payment would be treated as made in another year.

(4) Notwithstanding regulation 15, a payment to which paragraph (3) applies (“the relevant payment”) shall not be aggregated with any other earnings unless—

- (a) other earnings to which paragraphs (1) to (2) do not apply by virtue only of paragraph (3) are paid in the earnings period in which the relevant payment falls; and
- (b) those other earnings would have been aggregated with the relevant payment had paragraph (3) not applied.

(5) A relevant payment shall be aggregated only with the other earnings specified in paragraph (4).

Earnings periods for directors

8.—(1) Where a person is, or is appointed, or ceases to be a director of a company during any year the amount, if any, of earnings-related contributions payable in respect of earnings paid to or for the benefit of that person in respect of any employed earner’s employment with that company shall, subject to regulations 12 and 14 to 17, be assessed on the amount of all such earnings paid (whether or not paid weekly) in the earnings periods specified in paragraphs (2) to (5).

(2) Where on one or more than one occasion a person is appointed a director of a company during the course of a year the earnings period in respect of such earnings as are paid in so much of the year as remains in the period commencing with the week in which he is appointed or, as the case may be, first appointed shall be the number of weeks in that period.

(3) Where a person is a director of a company at the beginning of a year the earnings period in respect of such earnings shall be that year, whether or not he remains such a director throughout that year.

(4) Where the earnings paid in respect of two or more employed earner’s employments fall to be aggregated and the earnings periods in respect of those earnings would be of different lengths, then—

- (a) if those periods are determined only by paragraphs (1) to (3); or
- (b) if the length of one or more of those periods is determined by those paragraphs and the length of one or more of the others is determined by any other provision of these Regulations,

the earnings period in respect of all those earnings shall be the period determined by those paragraphs or, where there is more than one such period, the longer or longest period so determined.

(5) Where a person is no longer a director of a company and, in any year after that in which he ceased to be a director of that company, he is paid earnings in respect of any period during which he was such a director, then—

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Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

- (a) notwithstanding regulation 15, those earnings shall not be aggregated with any other earnings with which they would otherwise fall to be aggregated; and
 - (b) the earnings period in respect of those earnings shall be the year in which they are paid.
- (6) Without prejudice to the paragraphs (1) to (5), a director and any company employing him may pay on account of any earnings-related contributions that may become payable by them such amounts as would be payable by way of such contributions if those paragraphs did not apply.
- [^{F59}(7) If a full gender recognition certificate is issued under the Gender Recognition Act 2004 to a person aged at least 60 but not more than 64—
- (a) whose gender before its issue was female; and
 - (b) whose acquired gender is male;
- the periods in the year of issue respectively falling before and after its issue shall be treated, for the purpose of computing liability for primary Class 1 contributions, as separate earnings periods.]

Textual Amendments

F59 Reg. 8(7) added (6.4.2005) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2005 \(S.I. 2005/778\)](#), regs. 1(1), 4

Earnings period for statutory maternity pay^{F60}, [^{F61}ordinary and additional statutory paternity pay,] statutory adoption pay] and statutory sick pay paid by the Board

- 9.—(1) In this regulation the expression “week”—
- (a) in paragraph (2)(a); and
 - (b) in paragraph (2)(b) where it first occurs,
- has the same meaning as in section 171(1) of the Act.
- [^{F62}(2) If the Board make a payment of statutory maternity pay, [^{F63}ordinary statutory paternity pay, additional statutory paternity pay] or statutory adoption pay under regulations made under the relevant provision—
- (a) that payment of statutory maternity pay, [^{F64}ordinary statutory paternity pay, additional statutory paternity pay] or statutory adoption pay (as the case may be) shall not be aggregated with any other earnings; and
 - (b) the earnings period in respect of that payment for any week shall be a week.
- (2A) In paragraph (2) “the relevant provision” means—
- (a) in relation to statutory maternity pay, section 164(9)(b),
 - (b) [^{F65}in relation to ordinary statutory paternity pay, section 171ZD(3),
 - (ba) in relation to additional statutory paternity pay, section 171ZED(3) and]
 - (c) in relation to statutory adoption pay, section 171ZM(3),
- of the Act (liability to make payments of the relevant statutory pay to be that of the Board).]
- (3) If the Board make a payment of statutory sick pay under regulations made under section 151(6)^{F66} of the Act (circumstances in which the Board are liable to pay statutory sick pay), the earnings period for that payment shall be—
- (a) a period of the same length as the period in respect of which the payment is made, or
 - (b) a week,
- whichever is the longer.

Textual Amendments

- F60** Words in reg. 9 inserted (with effect in accordance with reg. 1(1) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment\) Regulations 2003 \(S.I. 2003/193\)](#), regs. 1(1), **4(2)**
- F61** Words in reg. 9 heading substituted (14.11.2010) by [The Social Security \(Contributions\) \(Amendment No. 5\) Regulations 2010 \(S.I. 2010/2450\)](#), regs. 1, **3(2)**
- F62** Reg. 9(2)-(2A) substituted for reg. 9(2) (with effect in accordance with reg. 1(1) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment\) Regulations 2003 \(S.I. 2003/193\)](#), regs. 1(1), **4(3)**
- F63** Words in reg. 9(2) substituted (14.11.2010) by [The Social Security \(Contributions\) \(Amendment No. 5\) Regulations 2010 \(S.I. 2010/2450\)](#), regs. 1, **3(3)**
- F64** Words in reg. 9(2)(a) substituted (14.11.2010) by [The Social Security \(Contributions\) \(Amendment No. 5\) Regulations 2010 \(S.I. 2010/2450\)](#), regs. 1, **3(3)**
- F65** Reg. 9(2A)(b)(ba) substituted for reg. 9(2A)(b) (14.11.2010) by [The Social Security \(Contributions\) \(Amendment No. 5\) Regulations 2010 \(S.I. 2010/2450\)](#), regs. 1, **3(4)**
- F66** Section 151 was amended by paragraph 34 of Schedule 1 to the [Social Security \(Incapacity for Work\) Act 1994 \(c. 14\)](#) and paragraph 9 of Schedule 1 to the Transfer Act.

Earnings limits and thresholds

10. For the purposes of section 5(1) of the Act (earnings limits and thresholds to be specified for each tax year in respect of Class 1 contributions), for the tax year which begins on 6th April [^{F67}2012]—

- (a) the lower earnings limit (for primary Class 1 contributions) shall be [^{F68}£107];
- (b) the upper earnings limit (for primary Class 1 contributions) shall be [^{F69}£817];
- (c) the primary threshold (for primary Class 1 contributions) shall be [^{F70}£146]; and
- (d) the secondary threshold (for secondary Class 1 contributions) shall be [^{F71}£144].

Textual Amendments

- F67** Word in reg. 10 substituted (6.4.2012) by [The Social Security \(Contributions\) \(Limits and Thresholds\) \(Amendment\) Regulations 2012 \(S.I. 2012/804\)](#), regs. 1, **3(a)**
- F68** Word in reg. 10(a) substituted (6.4.2012) by [The Social Security \(Contributions\) \(Limits and Thresholds\) \(Amendment\) Regulations 2012 \(S.I. 2012/804\)](#), regs. 1, **3(b)**
- F69** Sum in reg. 10(b) substituted (6.4.2011) by [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2011 \(S.I. 2011/940\)](#), regs. 1(2), **3(c)**
- F70** Word in reg. 10(c) substituted (6.4.2012) by [The Social Security \(Contributions\) \(Limits and Thresholds\) \(Amendment\) Regulations 2012 \(S.I. 2012/804\)](#), regs. 1, **3(c)**
- F71** Word in reg. 10(d) substituted (6.4.2012) by [The Social Security \(Contributions\) \(Limits and Thresholds\) \(Amendment\) Regulations 2012 \(S.I. 2012/804\)](#), regs. 1, **3(d)**

Prescribed equivalents

11.—(1) The prescribed equivalents of the lower and upper earnings limits and the primary and secondary thresholds, for the purposes of—

- (a) sections 6(1), 6A(1), 8(1), and 9(1) of the Act (which provide liability for Class 1 contributions, notional payment of primary Class 1 contribution where earnings are not less than the lower earnings limit, the calculation of primary Class 1 contributions and the calculation of secondary Class 1 contributions respectively)^{F72}; ^{F73} ...

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[^{F74}(aa) section 22 of the Act (earnings factors); and]

[^{F75}(b) sections 41(1) (reduced rates of Class 1 contributions), 42A(1) (reduced rates of Class 1 contributions and rebates) and 45(1) (amount of minimum contributions) of the Pensions Act,]

shall be determined in accordance with paragraphs (2) to (5).

[^{F76}(1A) The prescribed equivalents of the upper accrual point for the purposes of—

- (a) section 22 of the Act (earnings factors); and
- (b) sections 41(1) (reduced rates of Class 1 contributions), 42A(1) (reduced rates of Class 1 contributions and rebates) and 45(1) (amount of minimum contributions) of the Pensions Act,

shall be determined in accordance with paragraphs (2), (4) and (5).]

(2) [^{F77}Subject to paragraphs (4) and (5), the prescribed equivalents of the lower earnings limit and the upper accrual point shall be—

- (a) where the earnings period is a multiple of a week, the amounts calculated by multiplying the lower earnings limit or the upper accrual point (“the weekly limits”) by the corresponding multiple;]
- (b) where the earnings period is a month, the amounts calculated by multiplying each of the weekly limits by 4 1/3;
- (c) where the earnings period is a multiple of a month, the amounts calculated by multiplying each of the weekly limits by 4 1/3 and multiplying each result by the corresponding multiple;
- (d) in any other case, the amounts calculated by dividing each of the weekly limits by 7 and multiplying each result by the number of days in the earnings period concerned.

[^{F78}(2A) Subject to paragraphs (4) and (5), the prescribed equivalents of the upper earnings limit shall be—

- (a) where the earnings period is a month, [^{F79}£3,540];
- (b) where the earnings period is a year, [^{F80}£42,475];
- (c) where the earnings period is a multiple of a week, the amount calculated by dividing the figure in sub-paragraph (b) by 52 and multiplying the result by the corresponding multiple;
- (d) where the earnings period is a multiple of a month, the amount calculated by dividing the figure in sub-paragraph (b) by 12 and multiplying the result by the corresponding multiple;
- (e) in any other case, the amount calculated by dividing the figure in sub-paragraph (b) by 365 and multiplying the result by the number of days in the earnings period concerned.]

(3) Subject to paragraphs (4) and (5), [^{F81}the prescribed equivalents of the primary threshold] shall be—

- (a) where the earnings period is a month, [^{F82}£634];
- (b) where the earnings period is a year, [^{F83}£7,605];
- (c) where the earnings period is a multiple of a week, the amount calculated by dividing the figure in sub-paragraph (b) by 52 and multiplying the result by the corresponding multiple;
- (d) where the earnings period is a multiple of a month, the amount calculated by dividing the figure in sub-paragraph (b) by 12 and multiplying the result by the corresponding multiple;
- (e) in any other case, the amount calculated by dividing the figure in sub-paragraph (b) by 365 and multiplying the result by the number of days in the earnings period concerned.

^{F84}(3A) Subject to paragraphs (4) and (5), the prescribed equivalents of the secondary threshold shall be—

- (a) where the earnings period is a month, ^{F85}£624;
- (b) where the earnings period is a year, ^{F86}£7,488;
- (c) where the earnings period is a multiple of a week, the amount calculated by dividing the figure in sub-paragraph (b) by 52 and multiplying the result by the corresponding multiple;
- (d) where the earnings period is a multiple of a month, the amount calculated by dividing the figure in sub-paragraph (b) by 12 and multiplying the result by the corresponding multiple;
- (e) in any other case, the amount calculated by dividing the figure in sub-paragraph (b) by 365 and multiplying the result by the number of days in the earnings period concerned.]

^{F87}(4) The amounts determined in accordance with paragraphs (2)(b) and (c), paragraph (2A)(c) and (d)^{F88}, paragraph (3)(c) and (d) and paragraph (3A)(c) and (d)] if not whole pounds, shall be rounded up to the next whole pound.]

(5) The amounts determined in accordance with ^{F89}paragraph (2)(d), paragraph (2A)(e)^{F90}, paragraph (3)(e) and paragraph (3A)(e)] shall be calculated to the nearest penny, and any amount of a halfpenny or less shall be disregarded.

^{F91}(6) The following provisions of this regulation do not apply to Northern Ireland—

- (a) paragraph (1A), and
- (b) both references to “the upper accrual point” in paragraph (2), so that the term “the weekly limits” shall be read as referring only to the lower earnings limit in relation to Northern Ireland.]

Textual Amendments

- F72** Sections 6, 8 and 9 were substituted, and section 6A inserted, by paragraphs 2 to 5 of Part I of Schedule 9 to the Welfare Reform Act.
- F73** Word in reg. 11(1)(a) omitted (6.4.2009) by virtue of [The Social Security \(Contributions\) \(Amendment\) Regulations 2009 \(S.I. 2009/111\)](#), regs. 1, **3(2)(a)**
- F74** Reg. 11(1)(aa) inserted (6.4.2009) by [The Social Security \(Contributions\) \(Amendment\) Regulations 2009 \(S.I. 2009/111\)](#), regs. 1, **3(2)(b)**
- F75** Reg. 11(1)(b) substituted (6.4.2009) by [The Social Security \(Contributions\) \(Amendment\) Regulations 2009 \(S.I. 2009/111\)](#), regs. 1, **3(2)(c)**
- F76** Reg. 11(1A) inserted (6.4.2009) by [The Social Security \(Contributions\) \(Amendment\) Regulations 2009 \(S.I. 2009/111\)](#), regs. 1, **3(3)**
- F77** Words in reg. 11(2) & reg. 11(2)(a) substituted (6.4.2009) by [The Social Security \(Contributions\) \(Amendment\) Regulations 2009 \(S.I. 2009/111\)](#), regs. 1, **3(4)**
- F78** Reg. 11(2A) inserted (6.4.2009) by [The Social Security \(Contributions\) \(Amendment\) Regulations 2009 \(S.I. 2009/111\)](#), regs. 1, **3(5)**
- F79** Sum in reg. 11(2A)(a) substituted (6.4.2011) by [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2011 \(S.I. 2011/940\)](#), regs. 1(2), **4(2)(a)**
- F80** Sum in reg. 11(2A)(b) substituted (6.4.2011) by [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2011 \(S.I. 2011/940\)](#), regs. 1(2), **4(2)(b)**
- F81** Words in reg. 11(3) substituted (6.4.2011) by [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2011 \(S.I. 2011/940\)](#), regs. 1(2), **4(3)(a)**
- F82** Word in reg. 11(3)(a) substituted (6.4.2012) by [The Social Security \(Contributions\) \(Limits and Thresholds\) \(Amendment\) Regulations 2012 \(S.I. 2012/804\)](#), regs. 1, **4(a)(i)**
- F83** Word in reg. 11(3)(b) substituted (6.4.2012) by [The Social Security \(Contributions\) \(Limits and Thresholds\) \(Amendment\) Regulations 2012 \(S.I. 2012/804\)](#), regs. 1, **4(a)(ii)**

Status: Point in time view as at 06/04/2012.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

- F84** Reg. 11(3A) inserted (6.4.2011) by The Social Security (Contributions) (Amendment No. 2) Regulations 2011 (S.I. 2011/940), regs. 1(2), **4(4)**
- F85** Word in reg. 11(3A)(a) substituted (6.4.2012) by The Social Security (Contributions) (Limits and Thresholds) (Amendment) Regulations 2012 (S.I. 2012/804), regs. 1, **4(b)(i)**
- F86** Word in reg. 11(3A)(b) substituted (6.4.2012) by The Social Security (Contributions) (Limits and Thresholds) (Amendment) Regulations 2012 (S.I. 2012/804), regs. 1, **4(b)(ii)**
- F87** Reg. 11(4) substituted (6.4.2009) by The Social Security (Contributions) (Amendment) Regulations 2009 (S.I. 2009/111), regs. 1, **3(7)**
- F88** Words in reg. 11(4) substituted (6.4.2011) by The Social Security (Contributions) (Amendment No. 2) Regulations 2011 (S.I. 2011/940), regs. 1(2), **4(5)**
- F89** Words in reg. 11(5) substituted (6.4.2009) by The Social Security (Contributions) (Amendment) Regulations 2009 (S.I. 2009/111), regs. 1, **3(8)**
- F90** Words in reg. 11(5) substituted (6.4.2011) by The Social Security (Contributions) (Amendment No. 2) Regulations 2011 (S.I. 2011/940), regs. 1(2), **4(6)**
- F91** Reg. 11(6) inserted (6.4.2009) by The Social Security (Contributions) (Amendment) Regulations 2009 (S.I. 2009/111), regs. 1, **3(9)**

Calculation of earnings-related contributions

12.—(1) Subject to paragraphs (3) and (4), earnings-related contributions shall be calculated as follows—

- (a) primary and secondary Class 1 contributions under section 6 of the Act (liability for Class 1 contributions) and any primary and secondary Class 1 contributions at the normal rate and at the contracted-out rate shall each be calculated separately; and
- (b) as regards the calculation referred to in sub-paragraph (a) primary and secondary Class 1 contributions shall be calculated to the nearest penny and any amount of a halfpenny or less shall be disregarded.

(2) In the alternative, but subject to the provisions of paragraphs (3) to (5), the contributions specified in paragraph (1) may be calculated in accordance with the appropriate scale or, for contributions payable on earnings above the upper earnings limit or the prescribed equivalent of that limit, a contributions calculator prepared by the Board.

(3) Where the amount of earnings to which—

- (a) the appropriate scale is to be applied does not appear in the scale, the amount of contributions payable shall be calculated by reference to the next smaller amount of earnings in the appropriate column in the scale;
- (b) the appropriate contributions calculator is to be applied does not appear in the calculator, the amount of contributions payable shall be calculated—
 - (i) by obtaining from the calculator the amounts of contributions payable on the largest components of the earnings provided for in the calculator, and
 - (ii) by adding together the amounts so obtained.

(4) Where a scale or a contributions calculator would, but for the period to which it relates, be appropriate and the earnings period in question is a multiple of the period in the scale or, as the case may be, calculator, the scale or calculator shall be applied by dividing the earnings in question so as to obtain the equivalent earnings for the period to which the scale or calculator relates and—

- (a) in the case of the scale, by multiplying the amount of contributions shown in the scale as appropriate to those equivalent earnings by the same factor as the earnings were divided;
- (b) in the case of the calculator, by multiplying the amount of contributions shown in the calculator as appropriate to those equivalent earnings or, where no equivalent earnings are

shown, the amount of contributions calculated in accordance with paragraph (3)(b), by the same factor as the earnings were divided.

(5) Unless the Board agree to the contrary, all the contributions payable in a year in respect of the earnings paid to or for the benefit of an earner in respect of his employed earner's employment or, where he has more than one such employment and the earnings from those employments are aggregated under paragraph 1(1) of Schedule 1 to the Act (Class 1 contributions where more than one employment), in respect of those employments, shall be calculated either in accordance with paragraph (1) or paragraph (2) but not partly in accordance with one and partly in accordance with the other of those paragraphs, save that the contributions calculator may also be used where the contributions have been calculated in accordance with paragraph (1).

General provisions as to aggregation

13. Where on one or more occasions the whole or any part of a person's earnings in respect of employed earner's employment is not paid weekly (whether or not it is treated for the purpose of earnings-related contributions as paid weekly), paragraph 1 of Schedule 1 to the Act (Class 1 contributions where more than one employment) shall have effect as if for the references to "week" there were substituted references to "earnings period".

Aggregation of earnings paid in respect of separate employed earner's employments under the same employer

14. For the purpose of earnings-related contributions, where an earner is concurrently employed in more than one employed earner's employment under the same employer, the earnings paid to or for the benefit of the earner in respect of those employments shall not be aggregated if such aggregation is not reasonably practicable because the earnings in the respective employment are separately calculated.

Aggregation of earnings paid in respect of different employed earner's employments by different persons and apportionment of contribution liability

15.—(1) Subject to regulation 7, for the purposes of determining whether earnings-related contributions are payable in respect of earnings paid to or for the benefit of an earner in a given earnings period, and, if so, the amount of contributions, where in that period earnings in respect of different employed earner's employments are paid to or for the benefit of the earner—

- (a) by different secondary contributors who in respect of those employments carry on business in association with each other;
- (b) by different employers, one of whom is, by virtue of Schedule 3 to the Social Security (Categorisation of Earners) Regulations 1978^{F92}, treated as the secondary contributor in respect of each of those employments; or
- (c) by different persons, in respect of work performed for those persons by the earner in those employments and in respect of those earnings, some other person is, by virtue of that Schedule, treated as the secondary contributor,

the earnings paid in respect of each of the employments referred to in this paragraph shall, unless in a case falling under sub-paragraph (a) it is not reasonably practicable to do so, be aggregated and treated as a single payment of earnings in respect of one such employment.

(2) Where, under paragraph (1), earnings are aggregated, liability for the secondary contributions payable in respect of those earnings shall, in a case falling within paragraph (1)(a), be apportioned between the secondary contributors in such proportions as they shall agree amongst themselves, or, in default of agreement, in the proportions which the earnings paid by each bearer to the total amount of the aggregated earnings.

Status: Point in time view as at 06/04/2012.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

Textual Amendments

F92 S.I. 1978/1689. Schedule 3 was amended by regulation 4 of S.I. 1984/350, **regulation 3** of S.I. 1990/1894, **regulation 4** of S.I. 1994/726 and regulation 4 of S.I. 1998/1728.

Aggregation of earnings paid after pensionable age

16. Notwithstanding the provisions of regulation 15, a payment of earnings to which regulation 28 applies shall not be aggregated with any other earnings.

Apportionment of single payment of earnings in respect of different employed earner's employments by different secondary contributors

17. Where any single payment of earnings is made in respect of two or more employed earner's employments under different secondary contributions, liability for earnings-related contributions shall be determined by apportioning the payment as follows—

- (a) where the secondary contributors are, in respect of those employments, carrying on business in association with each other, to the secondary contributor who makes the payment;
- (b) where the secondary contributors are not so carrying on business in association with each other, to each of those secondary contributors in the proportion which the earnings due in respect of that secondary contributor's employment bears to the total of the single payment.

Change of earnings period

18.—(1) Paragraphs (2) and (3) apply where, by reason of a change in the regular interval at which any part of an earner's earnings is paid or treated as paid in respect of employed earner's employment ("the regular interval of payment"), that person's earnings period in any employment or employments under the same secondary contributor is, or is in the process of being, changed.

(2) Subject to paragraph (3), in relation to any payments made on or after the date of change the earnings period shall be determined in accordance with the new interval.

(3) Where the new period is longer than the old period and during the first new period any payment has also been made at the old interval, the earnings-related contributions payable on any payment made on or after the date of change shall not exceed in amount the total which would have been payable if all the payments during the new period had been made at the new interval.

(4) In this regulation—

- (a) the regular interval of payment which has been discontinued is referred to as "the old interval" and the interval which has, or is to, become the regular interval of payment is referred to as "the new interval";
- (b) the earnings period determined according to the old interval is referred to as "the old period" and that determined according to the new interval is referred to as "the new period";
- (c) reference to payment means payment of earnings actually made or, as the case may be, treated under regulation 7 as made, at an interval or date; and
- (d) "date of change" means the date on which the first payment of earnings at the new interval is made.

Holiday payments

19. Where as respects an employed earner's employment in which the earner is paid or would, but for paragraph (b), be treated under regulation 7 as paid at a regular interval of a week or a fixed number of weeks, a payment of earnings includes or comprises a payment in respect of a period of holiday entitlement other than such a payment made to an earner in respect of a period of holiday entitlement outstanding on termination of that employment, for the purposes of calculating the earnings-related contributions payable in respect of that payment of earnings—

- (a) the earnings period may be the length of the period in respect of which the payment is made, but where the length of that earnings period includes a fraction of a week that fraction shall be treated as a whole week; and
- (b) where the earnings period is so determined, regulation 7 shall not apply.

[^{F93}Joint employment of spouses or civil partners]

20. For the purposes of earnings-related contributions, where [^{F94}spouses or civil partners] are jointly employed in employed earner's employment and earnings in respect of the employment are paid to them jointly, the amount of the earnings of each shall be calculated upon the same basis as that upon which those earnings are calculated for the purposes of income tax and, in the absence of such calculation, upon such basis as may be approved by the Board.

Textual Amendments

- F93** Reg. 20 heading substituted (5.12.2005) by [The Social Security \(Contributions\) \(Amendment No. 6\) Regulations 2005 \(S.I. 2005/3130\)](#), regs. 1, **3(2)**
- F94** Words in reg. 20 substituted (5.12.2005) by [The Social Security \(Contributions\) \(Amendment No. 6\) Regulations 2005 \(S.I. 2005/3130\)](#), regs. 1, **3(3)**

[^{F95}Annual maxima for those with more than one employment]

21.—(1) For the purposes of section 19(1) and (2) of the Act (power to prescribe maximum amounts of contributions and repayments of excess) if an earner is employed in more than one employment his liability in any year—

- (a) for primary Class 1 contributions; or
- (b) where both primary Class 1 contributions and Class 2 contributions are payable by him, for both primary Class 1 contributions and Class 2 contributions,

shall not exceed an amount which equals the amount found in accordance with paragraph (2).

- (2) The amount is found as follows.

Step One

Calculate—

$$53 \times (UEL - PT)$$

Here *UEL* is the upper earnings limit, and *PT* the primary threshold, specified for the year.

Step Two

Multiply the result of Step One by [^{F96}12 per cent].

Step Three

Status: Point in time view as at 06/04/2012.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

Add together, in respect of all of the employed earner's employments, so much of the earnings in each of those employments as exceeds the primary threshold and does not exceed the upper earnings limit.

Step Four

From the sum produced by Step Three subtract the amount found by the formula in Step One.

Step Five

If the result produced by Step Four is a positive value, multiply it by [^{F97}2 per cent].

If that result is nil or a negative value, it is treated for the purposes of Step Eight as nil.

Step Six

Add together, in respect of all of the employed earner's employments, so much of the earnings in each of those employments as exceeds the upper earnings limit.

Step Seven

Multiply the sum produced by Step Six by [^{F98}2 per cent].

Step Eight

Add together the amounts produced by Steps Two, Five and Seven.

The result of Step Eight is the annual maximum, subject to the further qualifications in paragraphs (3) and (4).

(3) For the purpose only of determining the extent of the earner's liability for contributions under paragraph (2), the amount of a primary Class 1 contribution which is paid at a rate less than [^{F99}12 per cent].—

- (a) because the earner is in contracted-out employment, or
- (b) because the earner is a married woman who has made an election to pay contributions at the reduced rate as mentioned in regulation 127,

shall be treated as equal to the amount of the primary Class 1 contribution which would be payable if the employment were not contracted-out or the election had not been made.

(4) Paragraph (2) is subject to—

- (a) section 12 of the Act (late paid Class 2 contributions); and
- (b) regulations 63 to 65 (special provisions about Class 2 and Class 3 contributions paid late).

(5) Notwithstanding paragraphs (1) to (4), an earner shall be liable, in the first instance, for the full amount of the contributions which would have been payable but for this regulation.]

Textual Amendments

- F95** Reg. 21 substituted (with effect in accordance with reg. 1(1) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment\) Regulations 2003 \(S.I. 2003/193\)](#), regs. 1(1), **6**
- F96** Words in reg. 21(2) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment\) Regulations 2012 \(S.I. 2012/573\)](#), regs. 1(1), **2(2)(a)(i)**
- F97** Words in reg. 21(2) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment\) Regulations 2012 \(S.I. 2012/573\)](#), regs. 1(1), **2(2)(a)(ii)**
- F98** Words in reg. 21(2) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment\) Regulations 2012 \(S.I. 2012/573\)](#), regs. 1(1), **2(2)(a)(iii)**
- F99** Words in reg. 21(3) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment\) Regulations 2012 \(S.I. 2012/573\)](#), regs. 1(1), **2(2)(b)**

[^{F100}Amounts] to be treated as earnings

22.—(1) For the purposes of section 3 of the Act (earnings)^{F101}, the amounts specified in paragraphs [^{F102}(2) to [^{F103}(10)]] shall be treated as remuneration derived from an employed earner's employment.

(2) The amount specified in this paragraph is the amount of any payment by a company to or for the benefit of any of its directors if—

- (a) apart from this regulation the payment would, when made, not be earnings for the purposes of the Act; and
- (b) the payment is made on account of or by way of an advance on a sum which would be earnings for those purposes.

[^{F104}(3) The amount specified in this paragraph is the amount equal to the cash equivalent in respect of car fuel which is treated as earnings from the employment of the earner for income tax purposes by virtue of section 149 of ITEPA 2003.

(4) The amount specified in this paragraph is the amount which is treated as earnings from the employment of the employed earner by virtue of section 222(2) of ITEPA 2003.

(5) The amount specified in this paragraph is the amount which counts as employment income of the employed earner under Chapter 2 of Part 7 of ITEPA 2003 computed in accordance with section 428 of ITEPA 2003 in respect of conditional shares or interests in conditional shares acquired before 16th April 2003.

References in this paragraph and paragraph (6) to ITEPA 2003 are to that Act as originally enacted.

(6) The amount specified in this paragraph is the amount which counts as employment income of the employed earner by virtue of Chapter 4 of Part 7 of ITEPA 2003 (shares: post-acquisition charges) in respect of shares or interests in shares acquired before 16th April 2003.

(7) The amounts specified in this paragraph are those—

- (a) which count as employment income of the employed earner in relation to employment-related securities (within the meaning given by section 421B(8) of ITEPA 2003); and
- (b) to which section 698 of ITEPA 2003 (PAYE: special charges on employment-related securities) applies.

References in this paragraph [^{F105}and paragraphs (9) and (10)] to ITEPA 2003 are to that Act as amended ^{F106}... .

(8) The amount specified in this paragraph is the amount—

- (a) which counts as employment income of the employed earner by virtue of sections 500 to 508 of ITEPA 2003; and
- (b) in respect of which income tax is recoverable in accordance with PAYE regulations.]

[^{F107}(9) The amount specified in this paragraph is any amount—

- (a) which, by reason of the operation of Schedule 2 to the Finance (No. 2) Act 2005, counts as employment income of the employed earner under any of Chapters 2 to 4 of Part 7 of ITEPA 2003; and
- (b) where the relevant date for that income determined under section 698(6) of ITEPA 2003 (whether or not the PAYE Regulations apply to that income) is on or after 2nd December 2004 and before 20th July 2005.

(10) The amount specified in this paragraph is any amount—

Status: Point in time view as at 06/04/2012.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

- (a) which by virtue of the operation of section 92 of the Finance Act 2006 counts as employment income of the employed earner under any of Chapters 2 to 4 of Part 7 of ITEPA 2003; and
- (b) where the relevant date for that income determined under section 698(6) of ITEPA 2003 (whether or not the PAYE Regulations apply to that income) is on or after 2nd December 2004 and before 19th July 2006.]

Textual Amendments

- F100** Word in reg. 22 heading substituted (1.9.2003) by [The Social Security \(Contributions\) \(Amendment No. 5\) Regulations 2003 \(S.I. 2003/2085\)](#), regs. 1, **5(2)**
- F101** Section 3 was amended by sections 48 and 49 of the [Social Security Act 1998 \(c. 14\)](#) and paragraph 3 of Schedule 3 to the Transfer Act.
- F102** Words in reg. 22(1) substituted (1.9.2003) by [The Social Security \(Contributions\) \(Amendment No. 5\) Regulations 2003 \(S.I. 2003/2085\)](#), regs. 1, **5(3)**
- F103** Word in reg. 22(1) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2007 \(S.I. 2007/1057\)](#), regs. 1(1), **2(2)**
- F104** Reg. 22(3)-(8) substituted for (1.9.2003) by [The Social Security \(Contributions\) \(Amendment No. 5\) Regulations 2003 \(S.I. 2003/2085\)](#), regs. 1, **5(4)**
- F105** Words in reg. 22(7)(b) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2007 \(S.I. 2007/1057\)](#), regs. 1(1), **2(3)(a)**
- F106** Words in reg. 22(7)(b) omitted (with effect in accordance with reg. 1(3) of the amending S.I.) by virtue of [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2007 \(S.I. 2007/1057\)](#), regs. 1(1), **2(3)(b)**
- F107** Reg. 22(9)(10) added (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2007 \(S.I. 2007/1057\)](#), regs. 1(1), **2(4)**

^{F108} Amounts to be treated as earnings in connection with the use of qualifying vehicles other than cycles

22A.—(1) To the extent that it would not otherwise be earnings, the amount specified in paragraph (2) shall be so treated.

(2) The amount is that produced by the formula—

Here—

RME is the aggregate of relevant motoring expenditure within the meaning of paragraph (3) in the earnings period; and

QA is the qualifying amount calculated in accordance with paragraph (4).

(3) A payment is relevant motoring expenditure if—

- (a) it is a mileage allowance payment within the meaning of ^{F109}section 229(2) of ITEPA 2003];
- (b) it would be such a payment but for the fact that it is paid to another for the benefit of the employee; or
- (c) it is any other form of payment, except a payment in kind, made by or on behalf of the employer, and made to, or for the benefit of, the employee in respect of the use by the employee of a qualifying vehicle.

[^{F110}Here “qualifying vehicle” means a vehicle to which section 235 of ITEPA 2003 applies,] but does not include a cycle within the meaning of section 192(1) of the Road Traffic Act 1988.

(4) The qualifying amount is the product of the formula—

Here—

M is the sum of—

- (a) the number of miles of business travel undertaken, at or before the time when the payment is made—
 - (i) in respect of which the payment is made, and
 - (ii) in respect of which no other payment has been made; and
- (b) the number of miles of business travel undertaken—
 - (i) since the last payment of relevant motoring expenditure was made, or, if there has been no such payment, since the employment began, and
 - (ii) for which no payment has been, or is to be, made; and

R is the rate applicable to the vehicle in question, at the time when the payment is made, in accordance with [^{F111}section 230(2) of ITEPA 2003] and, if more than one rate is applicable to the class of vehicle in question, is the higher or highest of those rates.]

Textual Amendments

- F108** Reg. 22A and cross-heading inserted (6.4.2002) by [Social Security \(Contributions\) \(Amendment No.2\) Regulations 2002 \(S.I. 2002/307\)](#), regs. 1(1), **5**
- F109** Words in reg. 22A(3) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **4(a)(i)**
- F110** Words in reg. 22A(3) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **4(a)(ii)**
- F111** Words in reg. 22A(4) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **4(b)**

[^{F112}Amounts to be treated as earnings: Part 7A of ITEPA 2003

22B.—(1) For the purposes of section 3 of the Act (earnings), the amount specified in paragraph (2) shall be treated as remuneration derived from an employed earner’s employment.

(2) The amount is the amount which counts as employment income of the employed earner by virtue of Chapter 2 of Part 7A of ITEPA 2003.

(3) Paragraph (2) does not apply if the relevant step which gives rise to the amount which counts as employment income by virtue of Chapter 2 of Part 7A of ITEPA 2003 would otherwise give rise to earnings for the purposes of the Act.

(4) In paragraph (3) “relevant step” means a relevant step for the purposes of Part 7A of ITEPA 2003.]

Textual Amendments

- F112** [Reg. 22B](#) inserted (6.12.2011) by [The Social Security \(Contributions\) \(Amendment No. 5\) Regulations 2011 \(S.I. 2011/2700\)](#), regs. 1(1), **3** (with reg. 1(2))

Status: Point in time view as at 06/04/2012.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

Manner of making sickness payments treated as remuneration

23. Where by virtue of section 4(1) of the Act (payments treated as remuneration and earnings) a sickness payment is treated as remuneration derived from an employed earner's employment, that payment shall be made through the person who is the secondary contributor in relation to the employment concerned except where—

- (a) the payment is payable by another person;
- (b) that person has agreed with the secondary contributor to make the payment; and
- (c) arrangements have been made between them for the person who has agreed to make the payment to furnish the secondary contributor with the information specified in paragraph 3(5)(a) of Schedule 4 (intermediate employers).

Calculation of earnings for the purposes of earnings-related contributions

24. For the purpose of determining the amount of earnings-related contributions, the amount of a person's earnings from employed earner's employment shall be calculated on the basis of his gross earnings from the employment or employments in question.

This is subject to the provisions of Schedule 2 (calculation of earnings for the purposes of earnings-related contributions in particular cases) and Schedule 3 (payments to be disregarded in the calculation of earnings for the purposes of earnings-related contributions).

Payments to be disregarded in the calculation of earnings for the purposes of earnings-related contributions

25. Schedule 3 specifies payments which are to be disregarded in the calculation of earnings from employed earner's employment for the purpose of earnings-related contributions.

Certain payments by trustees to be disregarded

26.—(1) For the purposes of earnings-related contributions, there shall be excluded from the calculation of a person's earnings in respect of any employed earner's employment any payment, or any part of a payment—

- (a) which is made by trustees before 6th April 1990;
- (b) the amount of which is or may be dependent upon the exercise by the trustees of a discretion or the performance by them of a duty arising under the trust;
- (c) not being a sickness payment which by virtue of section 4(1) of the Act (payments treated as remuneration and earnings) is treated as remuneration derived from an employed earner's employment,

and in respect of which either paragraph (2) or (3) is satisfied.

(2) This paragraph is satisfied if the trust, under which the payment is made, was created before 6th April 1985.

(3) This paragraph is satisfied if—

- (a) the trust, under which the payment is made, was created on or after 6th April 1985;
- (b) that trust took effect immediately on the termination of a trust created before 6th April 1985;
- (c) the person to whom the payment is made either—
 - (i) was a beneficiary under the earlier trust, or
 - (ii) would have been such a beneficiary if, while the earlier trust was subsisting, he had held the employment in respect of which the payment is made; and

- (d) there were or are payments under the earlier trust which in the case of payments made on or after 6th October 1987, are payments made in circumstances to which sub-paragraphs (a), (b) and (c) apply.

Payments to directors which are to be disregarded

27.—(1) For the purposes of earnings-related contributions, there shall be excluded from the calculation of a person's earnings any payment in so far as it is a payment—

- (a) by a company;
 - (b) to or for the benefit of a director of that company;
 - (c) in respect of any employed earner's employment of that director with that company; and
 - (d) in respect of which paragraph (2), (3) or (4) is satisfied.
- (2) This paragraph is satisfied if—
- (a) the director is a partner in a firm carrying on a profession;
 - (b) being a director of a company is a normal incident of membership of that profession and of membership of the firm of the director;
 - (c) the director is required by the terms of his partnership to account to his firm for the payment; and
 - (d) the payment forms an insubstantial part of that firm's gross returns.
- (3) This paragraph is satisfied if—
- (a) the director was appointed to that office by a company having the right to do so by virtue of its shareholding in, or an agreement with, the company making the payment;
 - (b) by virtue of an agreement with the company that appointed him, the director is required to account for the payment to that company; and
 - (c) the payment forms part of the profits brought into charge to corporation tax or income tax of the company that appointed the director.
- (4) This paragraph is satisfied if—
- (a) the director was appointed to that office by a company other than the company making the payment;
 - (b) by virtue of an agreement with the company that appointed him, the director is required to account for the payment to that company;
 - (c) the payment forms part of the profits brought into charge to corporation tax of the company that appointed the director; and
 - (d) the company that appointed the director is not one over which—
 - (i) the director has, or
 - (ii) any person connected with the director has, or
 - (iii) the director and any persons connected with him together have, control.
- (5) In this regulation—
- (a) "company" has the meaning given by section 832(1)^{F113}... of the Taxes Act (interpretation of the Tax Acts) [^{F114}and Part 2 of Schedule 1 to ITEPA 2003];
 - (b) "the director" means the director to or for the benefit of whom the payment referred to in paragraph (1) is made; and
 - (c) in paragraph (4)(d)—

Status: Point in time view as at 06/04/2012.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

- (i) “control” has the same meaning as in section 840 of the Taxes Act,
- (ii) “any person connected with the director” means any of the following, namely the spouse, [^{F115}civil partner,] parent, child, son-in-law or daughter-in-law of the director.

Textual Amendments

- F113** Words in reg. 27(5)(a) omitted (6.4.2004) by virtue of [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **5(a)**
- F114** Words in reg. 27(5)(a) added (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **5(b)**
- F115** Words in reg. 27(5)(c)(ii) inserted (5.12.2005) by [The Social Security \(Contributions\) \(Amendment No. 6\) Regulations 2005 \(S.I. 2005/3130\)](#), regs. 1, **4(2)**

Liability for Class 1 contributions in respect of earnings normally paid after pensionable age

28. Where in the year in which an earner attains pensionable age a payment of earnings is made to or for his benefit before the date he reaches pensionable age, and those earnings would normally fall to be paid in a year following that year, he shall be excepted from liability for primary Class 1 contributions payable in respect of those earnings.

Liability for Class 1 contributions of persons over pensionable age

29. If—

- (a) earnings are paid to or for the benefit of an earner after he attains pensionable age; and
- (b) those earnings would normally fall to be paid before the date on which he reaches pensionable age,

section 6(3) of the Act (liability for Class 1 contributions) ^{F116} shall not operate to except him from liability for primary Class 1 contributions in respect of those earnings.

Textual Amendments

- F116** Section 6 was substituted by paragraph 2 of Part I of Schedule 9 to the Welfare Reform Act.

Abnormal pay practices

[^{F117}**30.**—(1) If an officer of the Board is satisfied that—

- (a) a secondary contributor has followed or is following a practice in the payment of earnings which is abnormal for the employment in question (“an abnormal pay practice”); and
- (b) by reason of that practice the liability for earnings-related contributions is or has been avoided or reduced,

paragraph (2) applies.

(2) If this paragraph applies the officer may, and if requested to do so by the earner or the secondary contributor shall, decide any question relating to a person’s earnings-related contributions as if the secondary contributor had not followed an abnormal pay practice, but had followed a practice normal for the employment in question.

(3) A decision under this regulation shall not apply to contributions based on payments made more than one year before the beginning of the year in which that decision is given.]

Textual Amendments

F117 Reg. 30 substituted (8.10.2002) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2002 \(S.I. 2002/2366\)](#), regs. 1, 5

[^{F118}Practices avoiding or reducing liability for contributions

31.—(1) If an officer of the Board is satisfied that—

- (a) a practice exists as to the making of irregular or unequal payments of earnings; and
- (b) by reason of the practice the liability for earnings-related contributions is avoided or reduced,

he may, and if requested to do so by either the earner or the secondary contributor shall, decide whether to issue a direction to secure that the same contributions are payable as would be payable if the practice were not followed.

(2) A direction under paragraph (1)—

- (a) shall specify the date from which it is to have effect, which shall not be earlier than that on which it is given;
- (b) shall have effect until—
 - (i) the direction is superseded by the giving of a further direction, or
 - (ii) an officer of the Board is satisfied that the practice has ceased, or has ceased to have the effect mentioned in paragraph (1)(b); and

(c) shall be given to the earner and the secondary contributor concerned.

This is subject to the qualification in paragraph (3).

(3) A direction under paragraph (1) need not be given to an earner if the officer of the Board is for any reason unable to ascertain his identity or whereabouts.

(4) This regulation does not limit the operation of regulation 30.]

Textual Amendments

F118 Reg. 31 substituted (8.10.2002) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2002 \(S.I. 2002/2366\)](#), regs. 1, 6

The provision of this regulation does not limit the operation of regulation 30.

PART 3

CLASS 1A CONTRIBUTIONS

Interpretation for the purposes of this Part

^{F119}**32.**

Status: Point in time view as at 06/04/2012.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

Textual Amendments

F119 Regs. 32-35 revoked (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), 36, **Sch. 1**

Exception from liability to pay Class 1A contributions in respect of cars made available to members of an employed earner’s family or household in certain circumstances

^{F119}**33.**

Textual Amendments

F119 Regs. 32-35 revoked (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), 36, **Sch. 1**

Class 1A contributions payable where two or more cars are made available concurrently

^{F119}**34.**

Textual Amendments

F119 Regs. 32-35 revoked (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), 36, **Sch. 1**

Reduction of certain Class 1A contributions in the case of a car provided or made available by reason of two or more employments or to two or more employed earners

^{F119}**35.**

Textual Amendments

F119 Regs. 32-35 revoked (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), 36, **Sch. 1**

Reduction of certain Class 1A contributions on account of the number of employments in the cases of something provided or made available by reason of two or more employments and of something provided or made available to two or more employed earners

- 36.**—(1) This regulation applies if something is provided or made available—
- (a) an employed earner by reason of two or more employed earner’s employments, whether under the same employer or different employers; or
 - (b) two or more employed earners concurrently by reason of their respective employed earner’s employments under the same employer,

and all of those employed earner’s employments are employments [^{F120}other than excluded employments within the meaning of the benefits code (see Chapter 2 of Part 3 of ITEPA 2003)].

(2) If this regulation applies the amount of any Class 1A contribution payable for the year by the person liable to pay such contribution shall be reduced ^{F121}... by deducting from that amount an amount equal to the fraction—

$$\frac{X-1}{X}$$

of the amount which would be payable but for this regulation.

Here X is the total number of employments in respect of which the thing is provided or made available.

Textual Amendments

F120 Words in reg. 36(1) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **7(a)**

F121 Words in reg. 36(2) omitted (6.4.2004) by virtue of [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **7(b)**

Reduction of certain Class 1A contributions in respect of cars made available to disabled employed earners

^{F122}37.

Textual Amendments

F122 Reg. 37 omitted (6.4.2004) by virtue of [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **8**

Exception from liability to pay Class 1 contributions in respect of cars made available to disabled employed earners only for business and home to work travel

38.—(1) If the conditions mentioned in paragraphs (2) to (5) are satisfied, the person who would otherwise be liable to pay the Class 1A contribution for that year in respect of the employer earner and the car mentioned in those paragraphs shall be excepted from that liability.

(2) The first condition is that the car is made available to an earner who is disabled.

(3) The second condition is that the car is made available to the earner by reason of his employment.

(4) The third condition is that the car is made available account of the earner’s disability for the purposes of, or for purposes which include assisting, the earner’s travelling between the earner’s home and place of employment.

(5) The fourth condition is that the terms on which the car is made available to the earner prohibit private use other than—

(a) by the earner to whom it is made available; and

(b) in travelling between the earner’s home and place of employment.

(6) The fifth condition is that no prohibited private use of the car has been made in the year.

Calculation of Class 1A contributions

39. Where a person is liable to pay a Class 1A contribution in accordance with section 10 of the Act (Class 1A contributions: benefits in kind, etc) the amount of that contribution shall be calculated to the nearest penny, and any amount of a halfpenny or less shall be disregarded.

Status: Point in time view as at 06/04/2012.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

Prescribed [^{F123}general earnings] in respect of which Class 1A contributions not payable

40.—(1) Class 1A contributions shall not be payable in respect of the [^{F124}general earnings] prescribed by paragraphs (2) to (7).

(2) The [^{F125}general earnings] prescribed by this paragraph are [^{F126}those] which are excluded from the calculation of a person’s earnings in respect of any employed earner’s employment by virtue of the following provisions of Schedule 3—

- [^{F127}(za) in Part V, paragraph 6A;]
- (a) in Part VI, [^{F128}paragraphs 2(b), 3 to 5, 7, 10 and 11;]
- [^{F129}(ab) in Part 7, paragraph 12;]
- (b) in Part VIII, paragraphs 4, 5 and 13;
- (c) in Part IX, paragraphs [^{F130}3 to 7A]; and
- (d) in Part X, paragraphs 5, [^{F131}9, 11 to 13 and 15].

(3) The [^{F125}general earnings] prescribed by this paragraph are [^{F126}those] which are payments which are not excluded from the calculation of a person’s earnings in respect of any employed earner’s employment by virtue of paragraph 1 of Part II of Schedule 3 (payments in kind), but which are so excluded by virtue of paragraph 3 of Part VIII of Schedule 3 (qualifying travelling expenses) or paragraph 9 of that Part (specific and distinct expenses).

- ^{F132}(4)
- ^{F133}(5)
- ^{F134}(6)
- ^{F134}(6A)

(7) [^{F135}The general earnings prescribed by this paragraph are so much of any general earnings as are not charged to income tax as employment income by virtue of;] any of the following extra-statutory concessions published by the Board as at 1st September 2000—

- ^{F136}(a)
- ^{F137}(b)
- (c) A11 (residence in the United Kingdom: year of commencement or cessation of residence);
- ^{F138}(d)
- (e) A37 (tax treatment of directors’ fees received by partnerships and other companies);
- (f) A56 (benefits in kind: tax treatment of accommodation in Scotland provided for employees);
- ^{F139}(g)
- ^{F139}(h)
- ^{F139}(i)
- ^{F139}(j)
- ^{F139}(k)
- ^{F139}(l)
- ^{F139}(m)
- ^{F139}(n)

F139(o)

(p) A91 (living accommodation provided by reason of employment);

(q) A97 (Jobmatch programme).

Sub-paragraphs (b) and (q) do not apply to Northern Ireland and sub-paragraph (f) applies only to Scotland.

F133(8)

F140

F133(9)

Textual Amendments

- F123** Words in reg. 40 heading substituted (1.9.2003) by [The Social Security \(Contributions\) \(Amendment No. 5\) Regulations 2003 \(S.I. 2003/2085\)](#), regs. 1, **6(2)**
- F124** Words in reg. 40(1) substituted (1.9.2003) by [The Social Security \(Contributions\) \(Amendment No. 5\) Regulations 2003 \(S.I. 2003/2085\)](#), regs. 1, **6(2)**
- F125** Words in reg. 40(2)-(6) substituted (1.9.2003) by [The Social Security \(Contributions\) \(Amendment No. 5\) Regulations 2003 \(S.I. 2003/2085\)](#), regs. 1, **6(3)(a)**
- F126** Word in reg. 40(2)-(6) substituted (1.9.2003) by [The Social Security \(Contributions\) \(Amendment No. 5\) Regulations 2003 \(S.I. 2003/2085\)](#), regs. 1, **6(3)(b)**
- F127** Reg. 40(2)(za) inserted (26.7.2001) by [The Social Security \(Contributions\) \(Amendment No. 5\) Regulations 2001 \(S.I. 2001/2412\)](#), regs. 1, **3(2)(a)**
- F128** Words in reg. 40(2)(a) substituted (6.4.2006) by [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2006 \(S.I. 2006/576\)](#), regs. 1, **4(a)**
- F129** Reg. 40(2)(ab) inserted (with effect in accordance with reg. 1 of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2005 \(S.I. 2005/728\)](#), regs. 1, **3(2)**
- F130** Words in reg. 40(2)(c) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **9(a)**
- F131** Words in reg. 40(2)(d) substituted (26.7.2001) by [The Social Security \(Contributions\) \(Amendment No. 5\) Regulations 2001 \(S.I. 2001/2412\)](#), regs. 1, **3(2)(b)**
- F132** Reg. 40(4) omitted (6.4.2012) by virtue of [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2012 \(S.I. 2012/817\)](#), regs. 1(1), **7(1)**
- F133** Reg. 40(5)(8)(9) omitted (6.4.2005) by virtue of [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2005 \(S.I. 2005/778\)](#), regs. 1(1), **5**
- F134** Reg. 40(6)(6A) omitted (6.4.2006) by virtue of [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2006 \(S.I. 2006/576\)](#), regs. 1, **4(b)**
- F135** Words in reg. 40(7) substituted (1.9.2003) by [The Social Security \(Contributions\) \(Amendment No. 5\) Regulations 2003 \(S.I. 2003/2085\)](#), regs. 1, **6(7)(a)**
- F136** Reg. 40(7)(a) omitted (26.7.2001) by virtue of [The Social Security \(Contributions\) \(Amendment No. 5\) Regulations 2001 \(S.I. 2001/2412\)](#), regs. 1, **3(3)**
- F137** Reg. 40(7)(b) omitted (1.9.2003) by virtue of [The Social Security \(Contributions\) \(Amendment No. 5\) Regulations 2003 \(S.I. 2003/2085\)](#), regs. 1, **6(7)(b)**
- F138** Reg. 40(7)(d) omitted (1.9.2003) by virtue of [The Social Security \(Contributions\) \(Amendment No. 5\) Regulations 2003 \(S.I. 2003/2085\)](#), regs. 1, **6(7)(b)**
- F139** Reg. 40(7)(g)-(o) omitted (1.9.2003) by virtue of [The Social Security \(Contributions\) \(Amendment No. 5\) Regulations 2003 \(S.I. 2003/2085\)](#), regs. 1, **6(7)(b)**
- F140** Words in reg. 40(8) omitted (1.9.2003) by virtue of [The Social Security \(Contributions\) \(Amendment No. 5\) Regulations 2003 \(S.I. 2003/2085\)](#), regs. 1, **6(8)**

Status: Point in time view as at 06/04/2012.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

PART 4

CLASS 1B CONTRIBUTIONS

Calculation of Class 1B contributions

41. Where a person is liable to pay a Class 1B contribution in accordance with section 10A of the Act (Class 1B contributions) ^{F141}, the amount of that contribution shall be calculated to the nearest penny, and any amount of a half penny or less shall be disregarded.

Textual Amendments

F141 Section 10A was inserted by section 53 of the Social Security Act 1998 and amended by paragraph 11 of Schedule 3 to the Transfer Act and section 77 of the Welfare Reform Act.

Exception from liability to pay Class 1B contributions

42.—(1) A person shall be excepted from liability to pay a Class 1B contribution for any year in respect of—

- (a) the amount of any [^{F142}general earnings which are chargeable emoluments] under section 10A(4) of the Act of an employee included in a PAYE settlement agreement; and
- (b) the total amount of income tax in respect of which that person is accountable to the Board in relation to [^{F143}general earnings] of such an employee in accordance with a PAYE settlement agreement,

where the employee is a person falling within paragraph (2) or (3).

(2) The employee falls within this paragraph if he is subject to the legislation of a contracting party, other than the United Kingdom, to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993 ^{F144}.

(3) The employee falls within this paragraph if he is subject to the legislation of a country outside the United Kingdom in respect of which there is an Order in Council under section 179 of the Administration Act (reciprocal agreements with countries outside the United Kingdom) ^{F145} giving effect to a reciprocal agreement.

(4) If a person is excepted from liability to pay a Class 1B contribution for any year under paragraphs (1) to (3), he shall be entitled, if he so wishes, to pay that contribution for that year.

Textual Amendments

F142 Words in reg. 42(1)(a) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **10(a)**

F143 Words in reg. 42(1)(b) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **10(b)**

F144 OJ No. L1, 3.1.1994, p. 7.

F145 Section 179 was amended by paragraph 70 of Schedule 2 to the [Jobseekers Act 1995 \(c. 18\)](#), **paragraph 107** of Schedule 7 to the Social Security Act 1998, paragraph 15 of Schedule 7 to the Transfer Act, paragraph 2 of Schedule 6 to [S.I. 1999/671](#) and paragraph 3(g) of Schedule 1 to the [Tax Credits Act 1999 \(c. 10\)](#).

PART 5

EXCEPTION FROM LIABILITY FOR CLASS 2 CONTRIBUTIONS, PROVISIONS ABOUT CLASS 3 CONTRIBUTIONS, AND REALLOCATION AND REFUND OF CONTRIBUTIONS (OTHER THAN CLASS 4)

Exception from liability for Class 2 contributions

43.—(1) Subject to paragraphs (2) and (3), a self-employed earner shall be excepted from liability to pay a Class 2 contribution for any contribution week—

- (a) in respect of the whole of which the earner is in receipt of incapacity benefit;
- (b) throughout the whole of which the earner is incapable of work;
- (c) in respect of which the earner is in receipt of maternity allowance;
- (d) throughout the whole of which he is undergoing imprisonment or detention in legal custody; or
- (e) in respect of any part of which the earner is in receipt of [^{F146}carer's allowance] or an unemployability supplement.

(2) For the purposes of paragraph (1), in computing the period of a contribution week—

- (a) subject to sub-paragraph (b), Sunday shall be disregarded;
- (b) in the case of a self-employed earner who objects on religious grounds to working on a specific day in each contribution week other than Sunday, and does not object to working on Sunday, that specific day shall be disregarded instead of Sunday.

(3) If a self-employed earner is excepted from liability to pay a Class 2 contribution for any contribution week by virtue of paragraph (1), he shall be entitled, subject to Part 6, to pay a contribution for that week if he so wishes.

Textual Amendments

F146 Words in reg. 43(1)(e) substituted (with effect in accordance with art. 3(2) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2002 \(S.I. 2002/2924\)](#), regs. 1, 3(1)

Application for, and duration and cancellation of, certificates of exception

44.—(1) A self-employed earner who desires to be excepted from liability to pay Class 2 contributions by virtue of section 11(4) of the Act (exception from such liability for Class 2 contributions on grounds of small earnings) shall make an application for that purpose to the Board who, if they grant the application, shall issue to the applicant a certificate of exception.

(2) Any such application and certificate shall be in such form as may for the time being be approved by the Board.

(3) An applicant for, and a holder of, a certificate of exception shall furnish to the Board such information and evidence relating to his earnings as the Board may require on the making of the application and at any subsequent time.

(4) Subject to the conditions specified in paragraph (5), a certificate of exception shall be in force for such period as may be specified in the certificate.

(5) The conditions are that—

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Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

- (a) if any condition attached to the issue or continuation in force of the certificate is not, or ceases to be, fulfilled, the certificate shall cease to be in force as from the date of such non-fulfilment or cessation, and the holder shall immediately notify the Board to that effect;
 - (b) the period specified in the certificate may, at the discretion of the Board, commence on such date not earlier than 13 weeks before the date on which the application for the certificate was made as the Board may consider appropriate to the circumstances of the case.
- (6) The holder of a certificate of exception—
- (a) shall produce the certificate for inspection when called upon to do so by an officer of the Board, and
 - (b) if he desires that the certificate be cancelled, shall give notice to the Board either in writing or in such form and by such means of electronic communications as are approved, and the certificate shall then cease to have effect from such date as the Board may determine.

Earnings for the purposes of certificates of exception

45.—(1) For the purposes of section 11(4) of the Act (exception from liability for Class 2 contributions on account of small earnings) ^{F147} the earnings of an applicant for a certificate of exception shall, in respect of any particular year, be treated as less than the amount specified in that section, if it is shown to the satisfaction of the Board that—

- (a) in the year preceding the particular year, the earnings of the applicant were less than the amount so specified for the preceding year and that there has since been no material change of circumstances; or
 - (b) in the particular year the earnings of the applicant are expected to be less than the specified amount.
- (2) In paragraph (1)—
- (a) “earnings” means the applicant’s net earnings from employment as a self-employed earner; and
 - (b) in calculating those net earnings—
 - (i) where the applicant also has earnings from employed earner’s employment in the same year which are shown in the accounts of his business as a receipt of that business,
 - (ii) where the applicant, as a participant in the scheme arranged under section 2(2) of the Employment and Training Act 1973 (functions of the Secretary of State) ^{F148} and known as “New Deal 50plus”, has received payments of an employment credit, or a training grant, under that scheme, or
 - (iii) where the applicant, as a participant in a scheme such as is mentioned in section 60(1) of the Welfare Reform Act, has received payments under that scheme,
 those earnings or payments shall be disregarded.
- (3) Paragraph 2(b)(iii) does not apply to Northern Ireland.

Textual Amendments

F147 Section 11(4) was amended by paragraph 12 of Schedule 3 to the Transfer Act and Article 3 of S.I. 2001/477.

F148 1973 c. 50. Section 2 was substituted by section 25(1) of the [Employment Act 1988 \(c. 19\)](#).

Certificates of exception—exception from liability for, and entitlement to pay, Class 2 contributions

46. In respect of any contribution week during the whole of which there is in force a certificate of exception in relation to a self-employed earner, that earner—

- (a) shall be excepted from liability to pay a Class 2 contribution; but
- (b) shall, subject to Part 6, be entitled to pay such a contribution if he so wishes.

Return of Class 2 contributions paid by low earners

47.—(1) A self-employed earner who desires repayment of Class 2 contributions in respect of a period which commenced not earlier than 6th April 1988 and which consists of, or falls within, a year for which his earnings from employment as a self-employed earner were, or are to be treated by regulation 45 as having been, less than the amount specified in section 11(4) of the Act (exception from liability for Class 2 contributions on account of small earnings) for that year shall make an application in writing for that purpose to the Board and shall supply to them evidence as to his earnings in respect of the period for which repayment of Class 2 contributions is desired.

(2) An application under this regulation in respect of a year, or a period falling within a year, shall be made not earlier than 6th April and not later than [^{F149}31st January] immediately following the end of that year.

(3) If—

- (a) the applicant's earnings were, or by virtue of regulation 45 are to be treated as having been, less than the amount specified in section 11(4) of the Act; and
- (b) an application has been made under this regulation;

the Board shall make a repayment of the contributions which fall to be repaid.

This is subject to the qualification in paragraph (5).

(4) If the Board make a repayment of Class 2 contributions under this regulation the applicant shall be excepted from liability for the contributions repaid to him to the extent that he is not already excepted under regulation 43 and the Board shall issue a certificate to him which shall certify the period of exception from liability.

(5) If there has been paid to the applicant or any other person an amount by way of contribution-based jobseeker's allowance or any of the contributory benefits specified in section 20(1) of the Act ^{F150} which would not have been paid had any of the contributions whose repayment has been applied for under paragraphs (1) and (2) not been paid in the first instance, the Board shall repay that part of the contributions remaining after the deduction of that amount paid by way of such allowance or benefits.

Textual Amendments

F149 Words in reg. 47(2) substituted (10.12.2003) by [The Social Security \(Contributions\) \(Amendment No. 7\) Regulations 2003 \(S.I. 2003/2958\)](#), regs. 1(1), 3

F150 Section 20(1) was amended by paragraph 2(2) of Schedule 1 to the [Social Security \(Incapacity for Work\) Act 1994 \(c. 18\)](#), [Schedule 3](#) to the Jobseekers Act 1995, paragraph 2(1) of Schedule 4 to the [Pensions Act 1995 \(c. 26\)](#) and paragraph 3(2) of Schedule 8, paragraph 15(2) of Schedule 12 and Part V of Schedule 13 to the Welfare Reform Act.

Class 3 contributions

48.—(1) Subject to sections 13(2) and 14(1) of the Act (Class 3 contributions only payable for purposes of satisfying certain contribution conditions and circumstances in which persons shall not

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be entitled to pay Class 3 contributions) and these Regulations, any person who is over the age of 16 and fulfils the conditions as to residence or presence in Great Britain or in Northern Ireland prescribed in regulation 145, may, if he so wishes, pay Class 3 contributions.

- (2) It shall be a condition of a person's right to pay a Class 3 contribution that he—
- (a) complies with Part 7 in so far as it applies to persons paying such a contribution, and
 - (b) complies with either of the two conditions specified in paragraph (3).
- (3) The conditions are that the person specified in paragraph (1) shall either—
- (a) pay the contribution not later than 42 days after the end of the year in respect of which it is paid; or
 - (b) subject to ^[F151]regulations 50, 50A and 50B] and Part 6, pay the contribution—
 - (i) where the contribution is payable in respect of any year before 6th April 1982, before the end of the second year following the year in respect of which it is paid; and where the contribution is payable in respect of any year after 5th April 1982, before the end of the sixth year following the year in respect of which it is paid; or
 - (ii) where the year in respect of which it is paid includes a period of at least 6 months throughout which the contributor has been undergoing full-time education, or full-time apprenticeship or training for which, in either case, any earnings are less than the lower earnings limit, or has been undergoing imprisonment or detention in legal custody, before the end of the sixth year following the year in which the education, or apprenticeship or training, or imprisonment or detention terminated; and
 - (iii) where the year first mentioned in head (ii) is immediately preceded or followed by a year in which the conditions specified in that head are not satisfied in respect only of the length of the period specified in that head, in respect of that preceding or following year, before the end of the sixth year following the year in which the education, apprenticeship, training, imprisonment or detention described in that head terminated.

Textual Amendments

F151 Words in reg. 48(3)(b) substituted (1.10.2007) by [The Social Security \(Contributions\) \(Amendment No. 8\) Regulations 2007 \(S.I. 2007/2520\)](#), regs. 1, 4

Precluded Class 3 contributions

- 49.**—(1) Subject to paragraph (2), no person shall be entitled to pay a Class 3 contribution—
- (a) in respect of any year if he would, but for the payment of such a contribution, be entitled to be credited with a contribution;
 - (b) in respect of any year in which the aggregate of his earnings factors derived from earnings in respect of which ^[F152]primary Class 1 contributions, payable at the main primary percentage,] have been paid, credited earnings, or Class 2 or Class 3 contributions paid or credited is less than 25 times the lower earnings limit and either the period has passed within which any Class 3 contributions may be treated as paid for that year under regulation 4 of the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations 2001 ^{F153} or he has sooner, in accordance with regulation 56, applied for the return of any Class 3 contributions paid in respect of that year;
 - (c) in respect of any year if the aggregate of his earnings factors derived from earnings in respect of which ^[F152]primary Class 1 contributions, payable at the main primary

percentage,] have been paid, credited earnings, or Class 2 or Class 3 contributions paid or credited is more than 25 times the lower earnings limit but less than the qualifying earnings factor and either—

- (i) the period referred to in sub-paragraph (b) has passed, or
- (ii) he has sooner applied under regulation 56 for the return of any Class 3 contributions paid in respect of that year;
- (d) in respect of any year if it causes the aggregate of his earnings factors derived from earnings in respect of which [^{F152}primary Class 1 contributions, payable at the main primary percentage,] have been paid, credited earnings, or Class 2 or Class 3 contributions paid or credited to exceed the qualifying earnings factor by an amount which is half or more than half that year’s lower earnings limit;

^{F154}(e)

- (f) in respect of the year in which he attains 17 or 18 years of age if in an earlier year he has satisfied the first contribution condition for retirement pension or widow’s pension or widowed mother’s allowance.

[^{F155}Sub-paragraphs (a), (b) and (c) are subject to the following qualification.]

(2) ^{F156}... A person shall be entitled to pay a Class 3 contribution in respect of any year if it would enable him to satisfy—

- (a) the first contribution condition for retirement pension [^{F157}widowed mother’s allowance, widowed parent’s allowance, bereavement allowance or widow’s pension] and he has not satisfied that condition at the beginning of that year; or
- (b) the contribution condition for [^{F158}bereavement payment or] widow’s payment and he has not satisfied that condition at the beginning of that year.

[^{F159}(2A) No person shall be entitled to pay a Class 3 contribution in respect of the year in which he attains pensionable age or any subsequent year.

This is subject to the following qualification.

(2B) A person—

- (a) who has attained the age of 60;
- (b) to whom a full gender recognition certificate is issued; and
- (c) whose acquired gender is male;

is not precluded from paying Class 3 contributions for the relevant years.

(2C) For the purposes of paragraph (2B) the relevant years are—

- (a) the year in which the person attains the age of 60;
- (b) any subsequent year before that in which the full gender recognition certificate is issued; and
- (c) the year in which the full gender recognition certificate is issued.]

(3) In this regulation “credited” means credited for the purposes of retirement pension, widowed mother’s allowance [^{F160}, widowed parent’s allowance, bereavement allowance] and widow’s pension.

Textual Amendments

F152 Words in reg. 49(1) substituted (with effect in accordance with reg. 1(1) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment\) Regulations 2003 \(S.I. 2003/193\)](#), regs. 1(1), 7

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- F153** S.I. 2001/769.
- F154** Reg. 49(1)(e) omitted (6.4.2005) by virtue of [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2005 \(S.I. 2005/778\)](#), regs. 1(1), **6(2)**
- F155** Words in reg. 49(1) added (12.12.2001) by [Social Security \(Contributions\) \(Amendment No. 6\) Regulations 2001 \(S.I. 2001/3728\)](#), regs. 1, **2(2)**
- F156** Words in reg. 49(2) omitted (12.12.2001) by virtue of [Social Security \(Contributions\) \(Amendment No. 6\) Regulations 2001 \(S.I. 2001/3728\)](#), regs. 1, **2(3)(a)**
- F157** Words in reg. 49(2)(a) substituted (12.12.2001) by [Social Security \(Contributions\) \(Amendment No. 6\) Regulations 2001 \(S.I. 2001/3728\)](#), regs. 1, **2(3)(b)**
- F158** Words in reg. 49(2)(b) inserted (12.12.2001) by [Social Security \(Contributions\) \(Amendment No. 6\) Regulations 2001 \(S.I. 2001/3728\)](#), regs. 1, **2(3)(c)**
- F159** Reg. 49(2A)-(2C) inserted (6.4.2005) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2005 \(S.I. 2005/778\)](#), regs. 1(1), **6(3)**
- F160** Words in reg. 49(3) inserted (12.12.2001) by [Social Security \(Contributions\) \(Amendment No. 6\) Regulations 2001 \(S.I. 2001/3728\)](#), regs. 1, **2(4)**

[^{F161}Conditions relating to Class 3 contributions: transfers to the Communities' pension scheme

49A.—(1) The entitlement of a person to pay a Class 3 contribution is subject to the condition set out in paragraph (2).

(2) The condition is that a person may not pay a Class 3 contribution for any part of the period to which that person's Communities transfer relates.

(3) For the purposes of this regulation, paragraph (3) of regulation 148A applies to determine the meaning of a Communities transfer in the same way as it applies to determine the meaning of that expression for the purposes of that regulation.]

Textual Amendments

- F161** Reg. 49A inserted (18.7.2007) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/1838\)](#), regs. 1(1), **3**

Class 3 contributions not paid within prescribed periods

[^{F162}50.—(1) If—

- (a) a person (“the contributor”)—
- (i) was entitled to pay a Class 3 contribution under regulation 48, 146(2)(b) or 147; and
 - (ii) failed to pay that contribution in the appropriate period specified for its payment; and
- (b) the condition in paragraph (2) is satisfied,

the contributor may pay the contribution within such further period as an officer of the Board may direct.

(2) The condition is that an officer of the Board is satisfied that—

- (a) the failure to pay is attributable to the contributor's ignorance or error; and
- (b) that ignorance or error was not the result of the contributor's failure to exercise due care and diligence.]

Textual Amendments

F162 Reg. 50 substituted (8.10.2002) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2002 \(S.I. 2002/2366\)](#), regs. 1, 7

[^{F163}Class 3 contributions: tax years 1996-97 to 2001-02

50A.—(1) This regulation applies to Class 3 contributions payable in respect of the tax years 1996-97 to 2001-02 (“the relevant years”).

(2) If a person (“the contributor”)—

- (a) was entitled to pay a Class 3 contribution in respect of any of the relevant years under regulation 48, 146(2)(b) or 147;
- (b) had not, before the coming into force of these Regulations, paid that contribution; and
- (c) had not, before 1st November 2003, received notice—
 - (i) in the case of a contributor in Great Britain, from the Department for Work and Pensions, the former Department of Social Security or the Board, or
 - (ii) in the case of a contributor in Northern Ireland, from the Department for Social Development, the former Department for Health and Social Services for Northern Ireland or the Board,

that he was entitled to pay a Class 3 contribution for that relevant year;

he may pay the contribution within the period specified in paragraph (3).

(3) The period within which the contribution may be paid is the period beginning with the coming into force of these Regulations and ending—

- (a) in the case of a contributor who has reached or will reach pensionable age before 24th October 2004, on 5th April 2010; and
- (b) in the case of a contributor who will reach pensionable age on or after 24th October 2004, on 5th April 2009.

(4) Nothing in this regulation limits the application of [^{F164}regulation 50 or 50B].]

Textual Amendments

F163 Reg. 50A inserted (17.5.2004) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2004 \(S.I. 2004/1362\)](#), regs. 1(1), 4

F164 Words in reg. 50A(4) substituted (1.10.2007) by [The Social Security \(Contributions\) \(Amendment No. 8\) Regulations 2007 \(S.I. 2007/2520\)](#), regs. 1, 5

[^{F165}Class 3 contributions: tax years 1993-94 to 2007-08

50B.—(1) This regulation applies to Class 3 contributions payable in respect of the tax years 1993-94 to 2007-08 (“the relevant years”).

(2) Paragraph (4) applies if a person (“the contributor”)—

- (a) was entitled under regulation 48, 146(2)(b) or 147 to pay a Class 3 contribution in respect of any of the relevant years; and
- (b) was credited with any earnings—

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- (i) before 7th October 1996 under regulation 9 of the Social Security (Credits) Regulations 1975 (credits for unemployment or incapacity for work), or
 - (ii) after 6th October 1996 under regulation 8B of those Regulations (credits for incapacity for work), or
 - (iii) under regulation 7 of those Regulations (credits for approved training),
- and in each case these earnings were removed, on or after 1st July 2007, from the record of contributions paid by, or credited in respect of, that person on the relevant record system because the earnings had been recorded on that system due to an official error in relation to the relevant record system (“the removed earnings”).
- (3) In paragraph (2) “an official error in relation to the relevant record system” means an official error—
- (a) arising from a failure to transpose information relating to the removed earnings correctly from the Department for Work and Pensions’ Pension Strategy Computer System to Her Majesty’s Revenue and Customs’ National Insurance Recording System 2; or
 - (b) arising from clerical procedures related to that transposition.
- (4) The contributor may pay a Class 3 contribution in respect of any week to which the removed earnings related, provided this payment is made within the time specified in paragraph (5).
- (5) The time within which the contribution may be paid is the period beginning with 1st October 2007 and ending on 5th April 2014.
- (6) Nothing in this regulation limits the application of regulation 50 or 50A.]

Textual Amendments

F165 Reg. 50B inserted (1.10.2007) by [The Social Security \(Contributions\) \(Amendment No. 8\) Regulations 2007 \(S.I. 2007/2520\)](#), regs. 1, **6**

Disposal of contributions not properly paid

51.—(1) Where contributions (other than Class 1A, Class 1B or Class 4 contributions) are paid which are of the wrong class, or at the wrong rate, or of the wrong amount, [F166HMRC] may treat them as paid on account of contributions properly payable under the Act.

(2) Where the whole or any part of a Class 1A contribution or a Class 1B contribution falls to be returned by [F166HMRC] to any person under [F167regulation 52 or 52A] or any part of a Class 1A contribution falls to be repaid by [F166HMRC][F168to any person under regulation 55(1), or regulation 55A,][F166HMRC] may treat—

- (a) the amount of the Class 1A contribution or, as the case may be, any part of such a contribution, as a payment on account of any secondary Class 1 contributions, Class 1B contributions or Class 2 contributions;
- (b) the amount of that Class 1B contribution or, as the case may be, any part of such a contribution, as a payment on account of any secondary Class 1 contributions, Class 1A contribution or Class 2 contributions,

properly payable by that person.

Textual Amendments

F166 Word in reg. 51 substituted (6.4.2011) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2011 \(S.I. 2011/797\)](#), regs. 1(1), **4(a)**

- F167** Words in reg. 51(2) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **11**
- F168** Words in reg. 51(2) substituted (6.4.2011) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2011 \(S.I. 2011/797\)](#), regs. 1(1), **4(b)**

[F169] Return of contributions paid in error

52.—(1) This regulation applies if a contribution other than a Class 4 contribution has been paid in error.

This regulation is subject to regulations 51 and 57.

(2) If this regulation applies, an application may be made to the Board for the return of the contribution paid in error.

(3) An application under paragraph (2) shall be made to the Board—

- (a) in writing, or in such form and by such means of electronic communications as are approved; and
- (b) within the time permitted by paragraph (8).

(4) On the making of an application under paragraph (2) the Board shall return the contribution paid in error.

This is subject to paragraphs (5) and (6).

(5) Paragraph (4) does not require the return of contributions unless the amount to be returned exceeds—

- (a) in the case of Class 1 contributions, 1/15 of a contribution at the main primary percentage payable on earnings at the upper earnings limit in respect of primary Class 1 contributions prescribed in regulation 10 for the last or only year in respect of which the contributions were paid; or
- (b) in the case of a Class 1A or Class 1B contribution, 50 pence.

(6) Paragraph (4) does not require the return of a primary Class 1 contribution which is treated as properly paid by regulation 3 of the Social Security (Additional Pension) (Contributions Paid in Error) Regulations 1996.

(7) Contributions paid by a secondary contributor on behalf of any person in error—

- (a) if they are not recovered from that person by the secondary contributor, may be returned to the secondary contributor; and
- (b) if they are recovered by the secondary contributor from that person may be returned—
 - (i) to that person; or
 - (ii) with that person's consent given in writing or in such form and by such means of electronic communications as may be approved, to the secondary contributor.

(8) An application for the return of any contribution paid in error shall be made within the period of six years from the end of the year in which the contribution was due to be paid.

This is subject to the following qualification.

If the application is made after the end of that period, an officer of the Board shall admit it if satisfied that—

- (a) the person making the application had reasonable excuse for not making the application within that period; and
- (b) the application was made without unreasonable delay after the excuse had ceased.

Status: Point in time view as at 06/04/2012.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

- (9) In this regulation “error” means, and means only, an error which—
- (a) is made at the time of the payment; and
 - (b) relates to some past or present matter.

Textual Amendments

F169 Regs. 52 52A substituted for reg. 52 (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **12**

Return of contributions paid in excess of maxima prescribed in regulation 21

52A.—(1) This regulation applies if there has been a payment of contributions in excess of the maximum determined in accordance with regulation 21 (annual maxima for those with more than one employment) in the particular case.

This regulation is subject to regulations 51, 52 and 57.

(2) If this regulation applies, an application may be made to the Board, in writing or in such form and by such means of electronic communications as may be approved for the return of so much of the payment of contributions as exceeds the maximum determined in accordance with regulation 21 in the particular case.

(3) On the making of an application under paragraph (2) the Board shall, subject to the following provisions of this regulation, return so much of the payment of contributions as exceeds the maximum determined in accordance with regulation 21 in the particular case.

(4) Paragraph (3) does not require the return of—

- (a) a payment of Class 1 or Class 2 contributions unless the amount to be returned exceeds 1/15 of a contribution at the primary percentage payable on earnings at the upper-earnings limit in respect of main primary Class 1 contributions prescribed in regulation 10 for the last or only year in respect of which the contributions were paid;
- (b) a primary Class 1 contribution to which regulation 3 of the Social Security (Additional Pension) (Contributions Paid in Error) Regulations 1996 (purposes for which primary Class 1 contributions paid in error are to be treated as properly paid) applies.

(5) Contributions to which this regulation applies shall be returned in the following order—

- (a) primary Class 1 contributions at the reduced rate;
- (b) Class 2 contributions;
- (c) primary Class 1 contributions at the main primary percentage;
- (d) any amount of primary Class 1 contributions reduced in accordance with section 41(1) and (1A) of the Pensions Act in respect of COSRS employment;
- (e) any amount of primary Class 1 contributions reduced in accordance with section 42A(1) and (2) of the Pensions Act in respect of COMPS employment.

(6) The amount to be refunded is determined in accordance with the following Rules.

In this paragraph—

“a valid personal pension notice” means a notice given under subsection (1) of section 44 of the Pensions Act (approved personal pension arrangements) which has not been rejected by the Board;

“an APP employment” means an employment in respect of which a valid personal pension notice has been given; ^{F170} ...

[^{F171}“UAP” means the upper accrual point; and]

“UEL” means the upper earnings limit for the year in respect of which the contributions were due to be paid and “PT” means the primary threshold for that year.

Rule 1 applies where none of the employments is contracted-out.

Rule 2 applies where at least one employment is contracted-out and no valid personal pension notice has been given in respect of another employment.

Rule 3 applies where at least one of the employments is contracted-out and a valid personal pension notice has been given in respect of another employment.

Rule 1

The amount to be returned is the excess of the contributions actually paid by the earner over the maximum prescribed by regulation 21 in the particular case.

Rule 2

[^{F172}If the amount of contributions paid in respect of contracted-out employments exceeds the amount found by the following formula, the amount to be returned is the excess.

The formula is—

$$53 \times [(UAP - PT) \times [^{F173}10.4\%]) + (UEL - UAP) \times [^{F174}12\%]].$$

In any other case to which this Rule applies take the following Steps: the amount to be returned is the excess of the contributions actually paid by the earner over the amount found by Step 5 in the following sequence.

Step 1

Determine the amount of earnings between the PT and UAP in respect of contracted-out employments held in the year.

Step 2

Multiply the amount found at Step 1 by [^{F173}10.4%].

Step 3

Subtract the amount found at Step 1 from that found by the formula—

$$53 \times (UEL - PT).$$

Step 4

Multiply the result found at Step 3 by [^{F174}12%].

Step 5

Add together the results of Steps 2 and 4.

Rule 3

If the amount of contributions paid in respect of APP employments exceeds the amount produced by the formula below, the amount to be refunded is the excess.

The formula is—

$$53 \times (UEL - PT) \times [^{F174}12\%].$$

In any other case to which this Rule applies take the following Steps: the amount to be returned is the excess of the contributions actually paid by the earner over the amount found by Step 7 in the following sequence.

Status: Point in time view as at 06/04/2012.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

Step 1

Determine the amount of earnings between the PT and UEL in respect of APP employments held in the year.

Step 2

Multiply the amount found at Step 1 by [^{F174}12%].

Step 3

Subtract the amount found at Step 1 from that found by the formula—
 $53 \times (\text{UAP} - \text{PT})$.

If the result is a positive amount go to Step 4, otherwise go to Step 5.

Step 4

Multiply the amount found at Step 3 by [^{F173}10.4%].

Step 5

Subtract the amount found at Step 1 together with any positive amount found at Step 3 from the amount found by the formula—

$53 \times (\text{UEL} - \text{PT})$.

Step 6

Multiply the amount found at Step 5 by [^{F174}12%].

Step 7

Add together the results of Steps 2, 4 (if completed) and 6.]

(7) From the amount otherwise falling to be returned under Rule 2 or Rule 3 in paragraph (6) there shall be deducted so much of any payment of contributions as is attributable to the application of Steps Five and Seven in regulation 2 1(2).

(8) If—

- (a) an application has been made under paragraph (2) for the return of contributions in excess of the amount specified in regulation 21, and
- (b) the Board have been given notice under section 44(1) of the Pensions Act and have not rejected it,

the contributions shall be returned in the order specified in paragraph (5) save that the contributions specified in sub-paragraph (c) shall be returned after those in sub-paragraphs (d) and (e).

(9) Contributions paid by a secondary contributor on behalf of any person in excess of the amount specified in regulation 21—

- (a) if they are not recovered from that person by the secondary contributor, may be returned to the secondary contributor; and
- (b) if they are recovered by the secondary contributor from that person may be returned—
 - (i) to that person; or
 - (ii) with that person's consent given in writing or in such form and by such means of electronic communications as may be approved, to the secondary contributor.]

Textual Amendments

- F169** Regs. 52 52A substituted for reg. 52 (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **12**
- F170** Words in reg. 52A(6) omitted (6.4.2010) (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2010 \(S.I. 2010/646\)](#), regs. 1(1), **2(a)**
- F171** Words in reg. 52A(6) inserted (6.4.2010) (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2010 \(S.I. 2010/646\)](#), regs. 1(1), **2(a)**
- F172** Words in reg. 52A(6) substituted (6.4.2010) (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2010 \(S.I. 2010/646\)](#), regs. 1(1), **2(b)**
- F173** Word in reg. 52A substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2012 \(S.I. 2012/817\)](#), regs. 1(1), **8(b)**
- F174** Word in reg. 52A substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2012 \(S.I. 2012/817\)](#), regs. 1(1), **8(a)**

Return of contributions: further provisions

^{F175}**53.**

Textual Amendments

- F175** Reg. 53 omitted (6.4.2006) by virtue of [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2006 \(S.I. 2006/576\)](#), regs. 1, **5**

Return of Class 1 contributions paid at the non-contracted out rate instead of at the contracted-out rate

54.—(1) Subject to paragraphs (2) and (3) and without prejudice to paragraph 13(2) and (3) of Schedule 4, where a secondary contributor has paid an amount on account of contributions at the non-contracted-out rate in respect of any employed earner’s employment which amount he would have been liable to pay but for that employment being or becoming contracted-out employment, the Board shall, on application of the secondary contributor, return to him the amount so paid after deducting the amount of Class 1 contributions payable at the contracted-out rate in respect of that employment.

(2) Any amount falling to be returned under paragraph (1) which has been paid by the secondary contributor on behalf of an earner and recovered from him shall be returned to the earner, or with the earner’s consent given—

- (a) in writing; or
- (b) in such form and by such means of electronic communications as are approved,

to the secondary contributor.

(3) An application under paragraph (1) shall be made in such manner as the Board shall approve and within the period of 6 years from the end of the year in which the contracting-out certificate in respect of the employment [^{F176}was issued.

This is subject to the following qualification.

Status: Point in time view as at 06/04/2012.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

If the application is made after the end of that period, an officer of the Board shall admit it if satisfied that—

- (a) the secondary contributor had reasonable excuse for not making the application within that period; and
- (b) the application was made without unreasonable delay after the excuse had ceased.]

Textual Amendments

F176 Words in reg. 54(3) substituted (8.10.2002) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2002 \(S.I. 2002/2366\)](#), regs. 1, **9**

Repayment of Class 1A contributions

55.—(1) Subject to regulations 51 and 57 and paragraphs (2) and (3), where, in a case specified in paragraph (2), in the light of information provided to the Board, it appears that too much has been paid in respect of a Class 1A contribution, they shall repay to the person paying that contribution the amount which has been overpaid, unless that amount does not exceed 50 pence.

(2) The cases to which paragraph (1) applies are those in which a person has paid a Class 1A contribution and—

- (a) in calculating the amount of that contribution the person used information which later proves to have been inaccurate or incomplete; or
- (b) the employee who received the [^{F177}general earnings] in respect of which the contribution was payable is later found to have been a person not residing in the United Kingdom for the purposes of income tax at the time of receipt.

(3) The repayment of part of a Class 1A contribution under paragraph (1) is subject to the condition that the person referred to in that paragraph [^{F178}the applicant] shall make an application to that effect in writing to the Board and within the period of 6 years from the end of the year in which the Class 1A contribution [^{F179}was due to be paid.

This is subject to the following qualification.

If the application is made after the end of that period, an officer of the Board shall admit it if satisfied that—

- (a) the applicant had reasonable excuse for not making the application within that period; and
- (b) the application was made without unreasonable delay after the excuse had ceased.]

Textual Amendments

F177 Words in reg. 55(2)(b) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **13**

F178 Words in reg. 55(3) inserted (8.10.2002) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2002 \(S.I. 2002/2366\)](#), regs. 1, **10(a)**

F179 Words in reg. 55(3) substituted (8.10.2002) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2002 \(S.I. 2002/2366\)](#), regs. 1, **10(b)**

[^{F180}Repayment of Class 1A contributions: certain earnings no longer treated as earnings for income tax purposes

55A.—(1) Subject to regulations 51 and 57 and to paragraph (2), where an officer of Revenue and Customs is satisfied that an amount treated as earnings in respect of which a Class 1A contribution was paid is no longer treated as earnings in accordance with the provisions of sections 100A and 100B of the Income Tax (Earnings and Pensions) Act 2003 (homes outside UK owned through company etc), the amount paid shall be repaid to the person who paid that contribution.

(2) The repayment of all or part of a Class 1A contribution under paragraph (1) is subject to the condition that an application shall be made in writing to HMRC on or before 6th April 2015.]

Textual Amendments

F180 Reg. 55A inserted (6.4.2011) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2011 \(S.I. 2011/797\)](#), regs. 1(1), **3**

Return of precluded Class 3 contributions

56.—(1) Subject to regulations 51 and 57 and to paragraph (2), where a contributor has paid a Class 3 contribution which by virtue of section 14(1) of the Act (restriction on the right to pay Class 3 contributions) or regulation 49 he was not entitled to pay, the Board shall, on application of the contributor, return that contribution to the contributor.

(2) A contributor wishing to apply for the return of a contribution falling within paragraph (1) shall make an application to the Board either—

- (a) in writing; or
- (b) in such form, and by such means of electronic communications, as are approved.

Calculation of return of contributions

57.—(1) In calculating the amount of any return of contributions to be made under [^{F181}regulation 52, 52A]^{F182}, 55, 55A] or 56], there shall be deducted—

- (a) the amount of any contribution which has under regulation 51 been treated as paid on account of other contributions;
- (b) in the case of such contributions paid in error in respect of any person, the amount, if any, paid to that person (and to any other person on the basis of that error) by way of contributory benefit which would not have been paid had any of the contributions (in respect of which an application for their return is duly made in accordance with [^{F183}regulation 52(8)]) not been paid in the first instance;
- (c) the amount of any contributions equivalent premium payable under Chapter III of Part III of the Pensions Act ^{F184};
- (d) the amount of any minimum contributions paid by the Board under section 43 of the Pensions Act ^{F185} (minimum contributions to personal pension schemes);
- (e) the amount of any payment made by the Board under section 7 of the Social Security Act 1986 ^{F186} (schemes becoming contracted-out between 1986 and 1993); and
- (f) in the case of such contributions paid in error in respect of any person, the amount of any payment made by the Board under section 42A(3) of the Pensions Act (age-related rebates) ^{F187}.

Status: Point in time view as at 06/04/2012.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

(2) Paragraph (1)(b) is subject to the qualification that, if the Secretary of State certifies that a deduction of an additional amount of income support or income-based jobseeker's allowance has been made under regulation 13 of the Social Security (Payments on account, Overpayments and Recovery) Regulations 1988 ("the 1988 Regulations")^{F188} (sums to be deducted in calculating the recoverable amount), paragraph (3) applies.

(3) If this paragraph applies, the amount to be returned shall be reduced by applying the formula—

CB – IS

Here—**CB** is the amount of contributory benefit specified in paragraph (1)(b) and **IS** is the amount of income support or income-based jobseeker's allowance specified in regulation 13(b) of the 1988 Regulations.

(4) In this regulation the expression "contributions equivalent premium" has the same meaning as in section 55(2)^{F189} of the Pensions Act.

Textual Amendments

- F181** Words in reg. 57(1) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **14(a)**
- F182** Words in reg. 57(1) inserted (6.4.2011) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2011 \(S.I. 2011/797\)](#), regs. 1(1), **5**
- F183** Words in reg. 57(1)(b) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **14(b)**
- F184** References to "contributions equivalent premiums" are substituted for those to "limited revaluation premiums" by the Pensions Act 1995 (see, in particular, section 141(1) of that Act).
- F185** Section 43 was amended by paragraph 42 of Schedule 5 to the [Pensions Act 1995 \(c. 26\)](#) and paragraph 47 of Schedule 1 to the Transfer Act.
- F186** [1986 c. 50](#). Section 7 was repealed by Schedule 5 to the Pensions Act but continues to have effect by virtue of paragraph 22 of Schedule 6 to that Act. See also paragraph 1 of Schedule 1 to the Transfer Act.
- F187** Section 42A was inserted by section 137(5) of the Pensions Act 1995 and subsection (3) was amended by paragraph 46(2) of Schedule 1 to the Transfer Act.
- F188** [S.I. 1988/664](#): regulation 13 was amended by regulation 23(5) of [S.I. 1996/1345](#) and regulation 11 of [S.I. 1999/2571](#).
- F189** Section 55(2) was substituted by section 141(1) of the [Pensions Act 1995 \(c. 26\)](#) and amended by paragraph 7(1) of Schedule 2 to the Welfare Reform Act.

Reallocation of contributions for benefit purposes

58.—(1) Where any payment of earnings is made in one year which, but for regulation 7(3), would by virtue of that regulation have been treated as paid at an interval falling within another year, the contributions paid in respect of those earnings shall, on the application of the employed earner or the direction of the Secretary of State, be treated, for the purposes of entitlement to benefit, as paid in respect of that other year.

(2) Where—

- (a) an employed earner's employment commences in one year;
 - (b) the first payment of earnings in respect of that employment is made in the following year;
- and

(c) earnings in respect of that employment which fall to be paid in that later year are paid at regular intervals,
the contributions paid in respect of the first payment of earnings shall, on the application of the employed earner to the Secretary of State, be treated, for the purposes of entitlement to benefit, as paid in respect of the year in which the employment commenced.

Circumstances in which two-year limit for refunds of Class 1, 1A or 1B contributions not to apply

59.—(1) Section 19A(1) of the Act ^{F190} (repayment of Class 1, 1A or 1B contributions paid in error) does not apply where the three circumstances prescribed in paragraphs (2), (3) and (4) exist.

(2) The first circumstance is that, in respect of the earnings derived in year 1 from an employment of the earner, Class 1, 1A or 1B contributions have been paid.

(3) The second circumstance is that in respect of that employment and before the end of year 2—

- (a) an application for the determination of a question as to the category of earners in which the earner is or was to be included (“the categorisation question”) has been made under section 17(1)(a) of the Administration Act in accordance with regulation 13(1) of the Social Security (Adjudication) Regulations 1995 ^{F191};
- (b) the question of law arising in connection with the categorisation question has been referred by the Secretary of State to a court under section 18 of the Administration Act;
- (c) a request in writing has been made that an officer of the Board—
 - (i) decide the categorisation question under section 8(1)(a) of the Transfer Act, or
 - (ii) vary a decision made under that section; or
- (d) the amount of income tax, which is liable to be paid in respect of year 1 and in respect of which the person liable to pay a Class 1B contribution is accountable, has been the subject of a relevant tax appeal.

(4) The third circumstance is that the question, reference, request or appeal referred to in paragraph (3) has not been determined or finally disposed of, as the case may be, at the end of year 2.

(5) For the purposes of this regulation—

“relevant tax appeal” has the meaning given by paragraph 6(4A) of Schedule 1 to the Act ^{F192};

“year 1” and “year 2” have the meanings given by section 19A(1) of the Act,

and a question, reference, request or appeal shall only be taken to be determined or finally disposed of when the time for appealing against it has expired or no further appeal is possible.

Textual Amendments

F190 Section 19A was inserted by section 54 of the Social Security Act 1998 and amended by paragraph 20 of Schedule 3 to the Transfer Act.

F191 [S.I. 1995/1801](#). Regulation 13 was revoked by regulation 59 of, and Schedule 4 to [S.I. 1999/991](#). Article 5 of [S.I. 1999/2422](#) contains relevant savings.

F192 Sub-paragraph (4A) was inserted by paragraph 77(11) of Schedule 7 to the [Social Security Act 1998](#) (c. 14) and amended by paragraph 5 of Schedule 9 to the Transfer Act.

Status: Point in time view as at 06/04/2012.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

PART 6

LATE PAID AND UNPAID CONTRIBUTIONS (OTHER THAN CLASS 4 CONTRIBUTIONS)

Treatment for the purpose of contributory benefit of unpaid primary Class 1 contributions where no consent, connivance or negligence on the part of the primary contributor

60.—(1) If a primary Class 1 contribution payable on a primary contributor’s behalf by a secondary contributor is not paid, and the failure to pay that contribution is shown to the satisfaction [^{F193}of an officer of the Board] not to have been with the consent or connivance of, or attributable to any negligence on the part of the primary contributor, that contribution shall be treated—

- (a) for the purpose of the first contribution condition of entitlement to a contribution-based jobseeker’s allowance or short term incapacity benefit as paid on the date on which payment is made of the earnings in respect of which the contribution is payable; and
- (b) for any other purpose of entitlement to contributory benefit, as paid on the due date.

(2) In paragraph (1)(a) “the first contribution condition”, in relation to a contribution-based jobseeker’s allowance means the condition specified in section 2(1)(a) of the Jobseeker’s Act 1995^{F194}.

[^{F195}(3) Where—

- (a) an amount is retrospectively treated as earnings by retrospective contributions regulations, and
- (b) the primary Class 1 contribution payable in respect of those earnings is not paid, and the failure to pay that contribution is shown to the satisfaction of an officer of the Board not to have been with the consent or connivance of, or attributable to any negligence on the part of the primary contributor,

that contribution shall be treated in accordance with paragraph (1)(a) and (b).]

Textual Amendments

F193 Words in reg. 60(1) substituted (8.10.2002) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2002 \(S.I. 2002/2366\)](#), regs. 1, **11**

F194 1995 c. 18.

F195 Reg. 60(3) added (6.4.2007) by [The Social Security Contributions \(Consequential Provisions\) Regulations 2007 \(S.I. 2007/1056\)](#), regs. 1, **5**

Voluntary Class 2 contributions not paid within permitted period

[^{F196}**61.**—(1) If a person who was entitled, but not liable, to pay a Class 2 contribution (“the contributor”) fails to pay that contribution within the period within which it may be paid, and the condition in paragraph (2) is satisfied, the contribution may be paid within such further period as an officer of the Board may direct.

(2) The condition is that an officer of the Board is satisfied that—

- (a) the failure was attributable to the contributor’s ignorance or error; and
- (b) that ignorance or error was not the result of the contributor’s failure to exercise due care and diligence.]

Textual Amendments

F196 Reg. 61 substituted (8.10.2002) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2002 \(S.I. 2002/2366\)](#), regs. 1, 12

[^{F197}Voluntary Class 2 contributions: tax years 1993-94 to 2007-08

61A.—(1) This regulation applies to Class 2 contributions which a person (“the contributor”) was entitled, but not liable, to pay in respect of the tax years 1993-94 to 2007-08 (“the relevant years”).

(2) Paragraph (4) applies if the contributor—

- (a) was entitled under regulation 147 to pay a Class 2 contribution in respect of any of the relevant years; and
- (b) was credited with any earnings—
 - (i) before 7 October 1996 under regulation 9 of the Social Security (Credits) Regulations 1975 (credits for unemployment or incapacity for work), or
 - (ii) after 6 October 1996 under regulation 8B of those Regulations (credits for incapacity for work), or
 - (iii) under regulation 7 of those Regulations (credits for approved training),

and in each case these earnings were removed, on or after 1st July 2007, from the record of contributions paid by, or credited in respect of, that person on the relevant record system because the earnings had been recorded on that system due to an official error in relation to the relevant record system (“the removed earnings”).

(3) In paragraph (2) “an official error in relation to the relevant record system” means an official error—

- (a) arising from a failure to transpose information relating to the removed earnings correctly from the Department for Work and Pensions’ Pension Strategy Computer System to Her Majesty’s Revenue and Customs’ National Insurance Recording System 2; or
- (b) arising from clerical procedures related to that transposition.

(4) The contributor may pay a Class 2 contribution in respect of any week to which the removed earnings related, provided this payment is made within the time specified in paragraph (5).

(5) The time within which the contribution may be paid is the period beginning with 1st October 2007 and ending on 5th April 2014.

(6) Nothing in this regulation limits the application of regulation 61.]

Textual Amendments

F197 Reg. 61A inserted (1.10.2007) by [The Social Security \(Contributions\) \(Amendment No. 8\) Regulations 2007 \(S.I. 2007/2520\)](#), regs. 1, 7

Payment of contributions after death of contributor

62. If a person dies, any contributions which, immediately before his death he was entitled, but not liable, to pay, may be paid, notwithstanding his death, subject to the same provisions with respect to the time for payment as were applicable to that person.

Status: Point in time view as at 06/04/2012.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

Class 2 contributions paid late in accordance with a payment undertaking

- 63.**—(1) This regulation applies to any Class 2 contributions which—
- (a) the earner has failed to pay on or by the due date and which, after that date, is payable in accordance with the provisions of an undertaking to pay such a contribution entered into after that date; and
 - (b) would when paid fall to be computed in accordance with section 12(3) of the Act.
- (2) In the case of a contribution to which this regulation applies—
- (a) which is paid in accordance with the provisions of an undertaking entered into in the contribution year or the year immediately following that year, the amount of such a contribution shall be computed by reference to the weekly rate applicable in the contribution year;
 - (b) which is paid in accordance with the provisions of an undertaking entered into in any year other than a year specified in sub-paragraph (a), the amount of such a contribution shall be computed by reference to the highest weekly rate of such a contribution in the period beginning with the contribution week in respect of which the contribution is paid and ending with the day on which the undertaking was entered into;
 - (c) which is not paid in accordance with the provisions of the undertaking, the amount of such a contribution shall be computed by reference to the highest weekly rate of such a contribution—
 - (i) where the contribution is paid in accordance with a further undertaking, in the period beginning with the contribution week in respect of which the contribution is paid and ending with the day on which the further undertaking was entered into, or
 - (ii) where the contribution is paid otherwise than in accordance with a further undertaking, in the period beginning with the contribution week in respect of which the contribution is paid and ending with the day on which it is paid.
- (3) In this regulation “undertaking” means an arrangement between the Board and an earner under which the Board have agreed to accept payment of arrears of Class 2 contributions by instalments.

Class 2 and Class 3 contributions paid within a month from notification of amount of arrears

- 64.**—(1) This regulation applies to any Class 2 or Class 3 contribution—
- (a) which would when paid fall to be computed in accordance with section 12(3) or 13(6) of the Act^{F198}; and
 - (b) the amount of that contribution has been notified to the contributor by the Board in the last month of a year.
- (2) Where a contribution to which this regulation applies is paid—
- (a) within one calendar month from the date of such notification; and
 - (b) in the year following that in which the amount was so notified;

the amount of that contribution shall be computed by reference to the weekly rate or, as the case may be, amount of such a contribution calculated in accordance with section 12 or 13 of the Act as if the contribution had been paid on the last day of the year in which the notification was given.

Textual Amendments

F198 Section 12 was amended by paragraph 13 of Schedule 3, and paragraph 3 of Schedule 9, to the Transfer Act. Section 13 was amended by paragraph 14 of Schedule 3 to the Transfer Act and article 4 of S.I. 2001/477.

Class 2 and Class 3 contributions paid late through ignorance or error

65.—(1) This regulation applies to any Class 2 or Class 3 contribution which would when paid fall to be computed at a rate or, as the case may be, an amount other than that applicable in the contribution year in accordance with section 12(3) or 13(6) of the Act.

(2) Where—

- (a) it is shown [^{F199}to the satisfaction of an officer of the Board] that, by reason of ignorance or error on the part of the earner, not being ignorance or error due to any failure on his part to exercise due care and diligence, he has failed to pay a Class 2 contribution to which this regulation applies for any period on or by the due date; and
- (b) payment of that contribution is made in a year later than that in which the period commenced;

the amount of that contribution shall be calculated by reference to the weekly rate at which a contribution paid under section 12 of the Act would have been payable if it had been paid at the time when the period began.

(3) Where a Class 3 contribution would otherwise fall to be calculated in accordance with section 13(6) of the Act, but it is shown [^{F200}to the satisfaction of an officer of the Board] that the contributor has not paid that contribution before the end of the second year following the contribution year by reason of ignorance or error on the part of the earner, not being ignorance or error due to any failure on his part to exercise due care and diligence, the amount of that contribution shall be computed by reference to the amount of such a contribution applicable to the period for which the contribution is paid.

(4) Where—

- (a) a Class 3 contribution would when paid fall to be computed in accordance with section 13(6) of the Act,
- (b) such a contribution remains unpaid for a period commencing at any time after the end of the second year following the contribution year (“the relevant period”), and
- (c) it is shown [^{F201}to the satisfaction of an officer of the Board] that the contributor has not, during the relevant period only, paid such a contribution by reason of ignorance or error not being ignorance or error due to any failure on the contributor’s part to exercise due care and diligence,

paragraph (5) applies.

(5) If this paragraph applies to a contribution, the amount of that contribution shall be calculated in accordance with section 13(6) of the Act as if the contribution had been paid at the time when the relevant period commenced.

Textual Amendments

F199 Words in reg. 65(2)(a) substituted (8.10.2002) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2002 \(S.I. 2002/2366\)](#), regs. 1, 13

Status: Point in time view as at 06/04/2012.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

- F200** Words in reg. 65(3) substituted (8.10.2002) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2002 \(S.I. 2002/2366\)](#), regs. 1, **13**
- F201** Words in reg. 65(4)(c) substituted (8.10.2002) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2002 \(S.I. 2002/2366\)](#), regs. 1, **13**

[^{F202} Amounts of Class 2 and Class 3 contributions in certain cases where earnings removed

65ZA.—(1) The amount of—

- (a) a Class 2 contribution payable by virtue of regulation 61A and paid during the period mentioned in paragraph (5) of that regulation;
- (b) a Class 2 contribution that satisfies the conditions in paragraph (2);
- (c) a Class 3 contribution payable by virtue of regulation 50B and paid during the period mentioned in paragraph (5) of that regulation,

shall, despite sections 12(3) and 13(6) of the Act, be calculated by reference to the weekly rate which would have been applicable if it had been paid during the contribution year to which it relates.

(2) The conditions mentioned in paragraph (1)(b) are that:

- (a) there is a liability to pay the contribution;
- (b) earnings were removed in the circumstances described in paragraph (2)(b) of regulation 61A; and
- (c) the contribution is paid during the period beginning with 1st October 2007 and ending on 5th April 2014.]

Textual Amendments

- F202** Reg. 65ZA inserted (1.10.2007) by [The Social Security \(Contributions\) \(Amendment No. 8\) Regulations 2007 \(S.I. 2007/2520\)](#), regs. 1, **8**

[^{F203} Amount of Class 3 contributions payable by virtue of regulation 50A

65A. The amount of a contribution payable by virtue of regulation 50A during the period mentioned in paragraph (3) of that regulation shall, notwithstanding section 13(6) of the Act, be calculated by reference to the weekly rate which would have been applicable if it had been paid during the contribution year to which it relates.]

Textual Amendments

- F203** Reg. 65A inserted (17.5.2004) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2004 \(S.I. 2004/1362\)](#), regs. 1(1), **5**

[^{F204} Amount of Class 3 contributions payable after issue of a full gender recognition certificate

65B. The amount of a contribution payable by virtue of regulation 49(2B) (Class 3 contributions not precluded where gender recognition certificate issued) which is paid in the year in which the full gender recognition certificate is issued or the following year shall, notwithstanding section 13(6) of the Act, be calculated by reference to the weekly rate which would have been applicable if it had been paid during the contribution year to which it relates.]

Textual Amendments

F204 Reg. 65B inserted (6.4.2005) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2005 \(S.I. 2005/778\)](#), regs. 1(1), 7

[^{F205}Late payment of voluntary Class 2 and 3 contributions for tax year 2005-06

65C.—(1) Paragraph (2) applies where a person who will reach pensionable age on or after 6th April 2010—

- (a) is entitled, but not liable, to pay a Class 2 or Class 3 contribution in respect of the tax year 2005-06; and
- (b) pays the contribution after the end of that year, but not later than 5th April 2012.

(2) Notwithstanding sections 12(3) and 13(6) of the Act, the amount of the contribution shall be calculated by reference to the weekly rate which would have been payable if it had been paid during the tax year 2005-06.]

Textual Amendments

F205 Reg. 65C inserted (6.4.2008) by [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2008 \(S.I. 2008/607\)](#), regs. 1(3)(b), 3

[^{F206}Late payment of voluntary Class 2 and 3 contributions for tax year 2006-07

65D.—(1) Paragraph (3) applies where a person who meets the conditions in paragraph (2)—

- (a) is entitled, but not liable, to pay a Class 2 or Class 3 contribution in respect of the tax year 2006-07; and
- (b) pays the contribution after the end of that year, but not later than 5th April 2013.

(2) The conditions are that—

- (a) the person will reach pensionable age on or after 6th April 2010; and
- (b) the person has been precluded from regular employment by responsibilities at home in any year.

(3) Notwithstanding sections 12(3) and 13(6) of the Act, the amount of the contribution shall be calculated by reference to the weekly rate which would have been payable if it had been paid during the tax year 2006-07.

(4) A person is precluded from regular employment by responsibilities at home in any year if they are taken to be such a person within the meaning of regulations made under paragraph 5(7)(b) of Schedule 3 to the Act.]

Textual Amendments

F206 Reg. 65D inserted (27.12.2008) by [The Social Security \(Contributions\) \(Amendment No.6\) Regulations 2008 \(S.I. 2008/3099\)](#), regs. 1, 2(2) (with reg. 2(3)(4))

Status: Point in time view as at 06/04/2012.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

PART 7

COLLECTION OF CONTRIBUTIONS (OTHER THAN CLASS 4 CONTRIBUTIONS) AND RELATED MATTERS

Notification of national insurance numbers to secondary contributors

66. Every employed earner, in respect of whom any person is liable to pay an earnings-related contribution, shall, on request, supply his national insurance number to that person.

Collection and recovery of earnings-related contributions, and Class 1B contributions

67.—(1) Subject to the provisions of regulations 68 and 70, earnings-related contributions and Class 1B contributions shall be paid, accounted for and recovered in like manner as income tax deducted from the [^{F207}general earnings from an office or employment by virtue of regulations under section 684 of ITEPA 2003 (PAYE Regulations)].

(2) ^{F208}...The provisions contained in Schedule 4, (which contains provisions derived from [^{F209}the PAYE Regulations] with extensions and modifications) shall apply to and for the purposes of earnings-related contributions and Class 1B contributions.

[^{F210}(3) Schedules 4A (real time returns) and 4B (additional information about payments) apply to and for the purposes of earnings-related contributions.]

Textual Amendments

F207 Words in reg. 67(1) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **15(a)**

F208 Words in reg. 67(2) omitted (1.4.2008) by virtue of [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2008 \(S.I. 2008/636\)](#), regs. 1(3)(a), **3**

F209 Words in reg. 67(2) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **15(b)**

F210 Reg. 67(3) inserted (6.4.2012) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2012 \(S.I. 2012/821\)](#), regs. 1(1), **3**

[^{F211}Penalty for failure to make payments on time: Class 1 contributions

67A. Schedule 56 to the Finance Act 2009 (“Schedule 56 FA 2009”) (penalty for failure to make payments on time) shall apply in relation to the late payment of Class 1 contributions, as if—

- (a) the Class 1 contributions were an amount of tax falling within item 2 of the Table in paragraph 1 of Schedule 56 FA 2009 (“the Table”),
- (b) references to the PAYE Regulations were references to these Regulations, and
- (c) references to “an assessment or determination” in item 24 of the Table were references to a decision made under section 8(1)(c) of the Social Security Contributions (Transfer of Functions, etc) Act 1999.

Textual Amendments

F211 Reg. 67A - Reg. 67B inserted (with application in accordance with reg. 1(3) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2010 \(S.I. 2010/721\)](#), regs. 1(2), **3**

Penalty for failure to make payments on time: Class 1A and Class 1B contributions

67B. Schedule 56 to the Finance Act 2009 (“Schedule 56 FA 2009”) shall apply in relation to the late payment of Class 1A and Class 1B contributions, as if—

- (a) the Class 1A and Class 1B contributions were an amount of tax falling within item 3 of the table in paragraph 1 of Schedule 56 FA 2009,
- (b) in the case of Class 1B contributions, the reference to “amount shown in return under section 254(1) of FA 2004” was a reference to the amount payable under section 10A of the Act, and
- (c) the reference to section 254(5) of the Finance Act 2004 was a reference to these Regulations.]

Textual Amendments

F211 Reg. 67A - Reg. 67B inserted (with application in accordance with reg. 1(3) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2010 \(S.I. 2010/721\)](#), regs. 1(2), 3

Other methods of collection and recovery of earnings-related contributions

68.—(1) The Board may authorise arrangements under which earnings-related contributions are to be paid in a different manner from that prescribed by regulation 67.

(2) The provisions of regulation 67 shall be in addition to any remedy otherwise available for the recovery of earnings-related contributions.

Transfer of liability from secondary contributor to employed earner: [^{F212}relevant employment income]

69. Schedule 5 contains provisions which have effect with respect to elections made jointly by a secondary contributor and an employed earner that the liability of the secondary contributor in respect of [^{F212}relevant employment income] shall be transferred to the employed earner.

Textual Amendments

F212 Words in reg. 69 and heading substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2004 \(S.I. 2004/2096\)](#), regs. 1(1), 4

Payment of Class 1A contributions

70.—(1) In the cases prescribed by paragraph (2), contributions shall be paid to the Board in accordance with regulations 71 to 83.

(2) The cases prescribed by this paragraph are cases where an employer is liable to pay a Class 1A contribution to the Board.

(3) For the purposes of this regulation and regulations 71 to 83 where—

- (a) any payment to the Board is made by cheque; 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 day on which the cheque was received by the Board, and related expressions shall be construed accordingly.

Status: Point in time view as at 06/04/2012.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

(4) In this regulation, and in regulations 71 to 83, “employer” ^{F213} means the person liable, in accordance with section 10(2) or 10ZA(4) ^{F214} of the Act, to pay a Class 1A contribution].

Textual Amendments

F213 Words in reg. 70(4) substituted (28.11.2002) by The Social Security (Contributions)(Amendment No. 5) Regulations 2002 (S.I. 2002/2929), regs. 1, reg. 3

F214 Section 10ZA was inserted by section 75 of the [Child Support, Pensions and Social Security Act 2000](#) (c. 19).

Due date for payment of a Class 1A contribution

71.—(1) Subject to regulation 72(2) or 73(2), as the case may be, an employer who is liable to pay a Class 1A contribution to the Board shall pay that contribution to them not later than 19th July ^{F215} or, where payment is made by an approved method of electronic communications in respect of earnings paid after 5th April 2004, not later than 22nd July] in the year immediately following the end of the year in respect of which it is payable.

(2) A Class 1A contribution paid to the Board in accordance with paragraph (1) shall be shown in a return made to them in accordance with regulation 80(1).

Textual Amendments

F215 Words in reg. 71(1) inserted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004](#) (S.I. 2004/770), regs. 1(1), **16**

Provisions relating to a Class 1A contribution due on succession to business

72.—(1) Paragraphs (2) and (3) apply in relation to the payment of a Class 1A contribution if—

- (a) there is a change in the employer who is liable to pay ^{F216} general earnings] to or for the benefit of all the persons who are employed in a business in respect of their employment in that business; and
- (b) the employees in question are those who ceased to be employed in that business before the change of employer occurred.

(2) Not later than 14 days ^{F217} or, where payment is made by an approved method of electronic communications in respect of earnings paid after 5th April 2004, 17 days] after the end of the relevant final ^{F218} tax month], the employer shall pay to the Board—

- (a) any Class 1A contribution referred to in paragraph (1) in respect of the relevant final year; and
- (b) where the relevant final ^{F218} tax month] is the month beginning on 6th April, 6th May or 6th June, any Class 1A contribution referred to in paragraph (1) in respect of the year immediately preceding the relevant final year.

(3) The employer shall include the amount of any Class 1A contribution which is payable in accordance with paragraph (2)(a) in the return required by regulation 80(1) for the relevant final year.

(4) In this regulation—

“business” includes any trade, concern or undertaking;

“emoluments” means so much of a person’s remuneration or profits derived from employed earner’s employment as constitutes earnings for the purposes of the Act; and

“employer” means the employer before the change referred to in paragraph (1)(a);

[^{F219}“general earnings” means so much of a person’s remuneration or profits derived from employed earner’s employment as constitutes earnings for the purposes of the Act;]

“relevant final [^{F220}tax month]” means the [^{F220}tax month] in which the employer has made any payments of emoluments which were, by reason of the change of employer referred to in paragraph (1)(a) in respect of the employment of all those persons who were employed by him in that [^{F220}tax month], the [^{F221}final payment of general earnings] to be made by him in the year in which those payments were made; ^{F222} ...

“relevant final year” means the year in which the relevant final income tax month occurs.

Textual Amendments

- F216** Words in reg. 72(1)(a) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **17(a)**
- F217** Words in reg. 72(2) inserted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **17(b)(ii)**
- F218** Words in reg. 72(2) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **17(b)(i)**
- F219** Words in reg. 72(4) inserted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **17(c)(i)**
- F220** Words in reg. 72(4) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **17(c)(ii)**
- F221** Words in reg. 72(4) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **17(c)(aa)(iii)**
- F222** Words in reg. 72(4) omitted (6.4.2004) by virtue of [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **17(c)(bb)(iii)**

Provisions relating to Class 1A contribution due on cessation of business

- 73.**—(1) Paragraphs (2) and (3) apply in relation to the payment of a Class 1A contribution if—
- (a) an employer ceases to carry on business and upon that cessation no other person becomes liable to pay [^{F223}general earnings] to or for the benefit of any employee in respect of his employment in that business; and
 - (b) the employees are all those who were employed in that business at any time in the relevant final year or the year immediately preceding the relevant final year.
- (2) Not later than 14 days [^{F224}or where payment is made by an approved method of electronic communications in respect of earnings paid after 5th April 2004, 17 days] after the end of the relevant final [^{F225}tax month], the employer shall pay to the Board—
- (a) any Class 1A contribution referred to in paragraph (1) in respect of the relevant final year; and
 - (b) where the relevant final [^{F225}tax month] is the month beginning on 6th April, 6th May or 6th June any Class 1A contribution referred to in paragraph (1) in respect of the year immediately preceding the relevant final year.
- (3) The employer shall include the amount of any Class 1A contribution which is payable in accordance with paragraph (2)(a) in the return required by regulation 80 for the relevant final year.
- (4) In this regulation—

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Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

“business” includes any trade, concern or undertaking;

“employer” means the employer before the cessation of business referred to in paragraph (1) (a);

[^{F226}“general earnings” means so much of a person’s remuneration or profits derived from employed earner’s employment as constitutes earnings for the purposes of the Act;]

“relevant final [^{F227}tax month]” means the [^{F227}tax month] in which the employer has made any payments of emoluments which were, by reason of the cessation of business referred to in paragraph (1)(a) in respect of the employment of all those persons who were employed by him in that [^{F227}tax month], the [^{F228}final payment of general earnings] to be made by him in the year in which those payments were made; ^{F229}...

“emoluments” means so much of a person’s remuneration or profits derived from employed earner’s employment as constitutes earnings for the purposes of the Act;

“relevant final year” means the year in which the relevant final [^{F227}tax month] occurs.

Textual Amendments

- F223** Words in reg. 73(1) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **18(a)**
- F224** Words in reg. 73(2) inserted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **18(b)(i)**
- F225** Words in reg. 73(2) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **18(b)(ii)**
- F226** Words in reg. 73(4) inserted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **18(c)(i)**
- F227** Words in reg. 73(4) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **18(c)(ii)**
- F228** Words in reg. 73(4) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **18(c)(aa)(iii)**
- F229** Words in reg. 73(4) omitted (6.4.2004) by virtue of [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **18(c)(bb)(iii)**

Employer failing to pay a Class 1A contribution

74.—(1) If—

- (a) the employer has paid no amount of a Class 1A contribution to the Board by the date which applies to him under regulation 71(1), 72(2) or 73(2) (as the case may be); and
- (b) the Board are unaware of the amount, if any, which the employer is liable so to pay, they may give notice to the employer requiring him to render, within 14 days, a return in the prescribed form showing the amount of a Class 1A contribution which the employer is liable to pay to them under that regulation in respect of the year in question.

(2) A notice may be given by the Board under paragraph (1) notwithstanding that an amount of a Class 1A contribution has been paid to them by the employer under regulation 71(1), 72(2) or 73(2), in respect of the year in question, if they are not satisfied that the amount so paid is the full amount which the employer is liable to pay to them for that year and the provisions of this regulation shall have effect accordingly.

(3) Upon receipt of a return made by an employer under paragraph (1) the Board may prepare a certificate showing the amount of a Class 1A contribution which the employer is liable to pay to them for the year in question.

(4) The production of the return made by the employer under paragraph (1) and of the certificate of the Board under paragraph (3) shall be sufficient evidence that the amount shown in the certificate is the amount of a Class 1A contribution which the employer is liable to pay to the Board in respect of the year in question.

(5) Any document purporting to be a certificate under paragraph (3) shall be presumed to be such a certificate until the contrary is proved.

Specified amount of a Class 1A contribution

75.—(1) If, following the date which applies to him under regulation 71(1), 72(2) or 73(2) (as the case may be), the employer has paid no amount of a Class 1A contribution to the Board in respect of the year in question and there is reason to believe that the employer is liable so to pay, the Board—

(a) in the case of the first year in which the employer is liable to pay such a contribution, upon consideration of any information which has been provided to them by the employer relating to his liability to pay such contributions; or

(b) in the case of any later year, upon consideration of the employer's record of past payments; may to the best of their judgment specify the amount of a Class 1A contribution which they consider the employer is liable to pay and give notice to him of that amount.

(2) If, on the expiration of the period of 7 days allowed in the notice, the specified amount of a Class 1A contribution or any part of that amount is unpaid, the amount so unpaid—

(a) shall be treated for the purposes of these Regulations to be an amount of a Class 1A contribution which the employer was liable to pay in respect of the year in question in accordance with regulation 71(1), 72(2) or 73(2); and

(b) may be certified by the Board.

(3) Paragraph (2) does not apply if, during the period allowed in the notice—

(a) the employer pays to the Board the full amount of a Class 1A contribution which he is liable to pay under regulation 71(1), 72(2) or 73(2), in respect of the year in question; or

(b) the employer satisfies the Board that no amount of such a contribution is due.

(4) The production of a certificate such as is mentioned in paragraph (2)(b) shall, until the contrary is established, be sufficient evidence that the employer is liable to pay to the Board the amount shown in the certificate, and any document purporting to be such a certificate shall be deemed to be such a certificate until the contrary is proved.

(5) A notice may be given by the Board under paragraph (1) notwithstanding that an amount of a Class 1A contribution has been paid to them by the employer under regulation 71(1), 72(2) or 73(2) in respect of the year in question, if, after seeking the employer's explanation as to the amount of a Class 1A contribution paid, they are not satisfied that the amount so paid is the full amount which the employer is liable to pay to them in respect of that year, and this regulation shall have effect accordingly, but paragraph (2) shall not apply if, during the period allowed in the notice, the employer satisfies the Board that no further amount of a Class 1A contribution is due in respect of that year.

(6) Where, during the period allowed in a notice given by the Board under paragraph (1), the employer claims, but does not satisfy the Board, that the payment of a Class 1A contribution made in respect of the year specified in the notice is the full amount of a Class 1A contribution which he is liable to pay to the Board in respect of that year, the employer may require the Board to inspect

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his documents and records as if they had called upon him to produce those documents and records in accordance with [^{F230}Schedule 36 to the Finance Act 2008 (information and inspection powers)].

(7) If the employer does require the Board to inspect his documents and records in accordance with paragraph (6), the provisions of [^{F231}paragraph 26A] of Schedule 4 shall apply in relation to that inspection and the notice given by the Board under paragraph (1) shall be disregarded.

Textual Amendments

F230 Words in reg. 75(6) substituted (1.4.2009) (with effect in accordance with reg. 1(2)(a) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2009 \(S.I. 2009/600\)](#), regs. 1(1), **4(a)**

F231 Words in reg. 75(7) substituted (1.4.2009) (with effect in accordance with reg. 1(2)(a) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2009 \(S.I. 2009/600\)](#), regs. 1(1), **4(b)**

Interest on an overdue Class 1A contribution

76.—(1) Where an employer has not paid a Class 1A contribution, which he is liable to pay, by the date which applies to him under regulation 71(1), 72(2) or 73(2) (as the case may be), any contribution not so paid shall carry interest at the rate applicable under paragraph 6(3) of Schedule 1 to the Act from the reckonable date until payment.

(2) Interest payable under this regulation shall be recoverable as if it were a Class 1A contribution which an employer is liable to pay to the Board under regulation 71(1), 72(2) or 73(2), as the case may be).

(3) A contribution to which paragraph (1) applies shall carry interest from the reckonable date even if that date is a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882^{F232}.

(4) A certificate of the Board that any amount of interest payable under this regulation has not been paid to the Board or, to the best of the Board's knowledge and belief, to any person acting on their behalf, shall be sufficient evidence that the employer is liable to pay to the Board the amount of interest shown on the certificate and that the sum is unpaid and due to be paid, and any document purporting to be such a certificate shall be deemed to be a certificate until the contrary is proved.

(5) For the purposes of this regulation, "the reckonable date" means the 19th July [^{F233}or where payment is made by an approved method of electronic communications in respect of earnings paid after 5th April 2004, the 22nd July] in the year immediately following the end of the year in respect of which the Class 1A contribution is payable to the Board.

Textual Amendments

F232 1882 c. 61: section 92 was amended by sections 3(1) and 4(4) of the [Banking and Financial Dealings Act 1971 \(c. 80\)](#).

F233 Words in reg. 76(5) inserted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **19**

Payment of interest on a repaid Class 1A contribution

77.—(1) Where—

- (a) a Class 1A contribution paid by an employer to the Board in respect of the year ended 5th April 1999 or any subsequent year is repaid to him; and

(b) that repayment is made after the relevant date,
any such repaid contribution shall carry interest at the rate applicable under paragraph 6(3) of Schedule 1 to the Act from the relevant date until the order for the repayment is issued.

(2) For the purposes of this regulation, “the relevant date” means—

- (a) the 14th day after the end of the year in respect of which the Class 1A contribution was paid; or
- (b) if later than that day, the date on which the contribution was paid.

Repayment of interest paid on a Class 1A contribution

78. If an employer has paid interest on a Class 1A contribution, that interest shall be repaid to him where—

- (a) the interest paid is found not to have been due to be paid, although the contribution in respect of which it was paid was due to be paid;
- (b) the Class 1A contribution in respect of which interest was paid is returned or repaid to the employer in accordance with the provisions of regulation 52 or 55.

Remission of interest on a Class 1A contribution

79.—(1) Where interest is payable in accordance with regulation 76 it shall be remitted for the period commencing on the first relevant date and ending on the second relevant date in the circumstances specified in paragraph (2).

(2) For the purposes of paragraph (1), the circumstances are that the liability, or a greater liability, to pay interest in respect of a Class 1A contribution arises as the result of an official error being made.

(3) For the purposes of this regulation—

“official error” means a mistake made, or something omitted to be done, by an officer of, or person employed in relation to, the Board acting as such, where the employer or any person acting on his behalf has not caused, or materially contributed to, that mistake or omission;

“the first relevant date” means the date defined in regulation 76(5) or, if later, the date on which the official error occurs; and

“the second relevant date” means the date 14 days after the date on which the official error is rectified and the employer is advised of its rectification.

Return by employer

80.—(1) Where a Class 1A contribution is payable to the Board in accordance with regulation 71(1), 72(2) or 73(2), the employer shall render to them a return, not later than 6th July following the end of the year, showing—

- (a) such particulars as they may require for the identification of the employer;
- (b) the year to which the return relates;
- (c) the amounts which are [^{F234}general earnings] in respect of which a Class 1A contribution is payable; and
- (d) the amount of any Class 1A contribution payable in respect of that year.

[^{F235}(1A) The employer must render the return required by paragraph (1)—

- (a) by sending it to the Board; or
- (b) arranging for the information which it would contain to be delivered to an official computer system by an approved method of electronic communications.]

Status: Point in time view as at 06/04/2012.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

- F236(1B)
- F236(1C)
- F236(1D)
- F236(1E)
- F236(1F)

(2) The return shall include a declaration by the person making the return to the effect that the return is, to the best of his knowledge, correct and complete.

[F237(3) The declaration must be—

- (a) signed by the employer; or,
- (b) where the employer is a body corporate, signed either by the secretary or by a director.]

[F238(3A) Where the return referred to in this regulation is rendered as mentioned in paragraph (1A)(b) the declaration must, instead of being signed, be authenticated by or on behalf of the employer in such a manner as may be approved by HMRC.]

(4) If, by the date which applies to him under regulation 71(1), 72(2) or 73(2) (as the case may be), an employer has failed to pay a Class 1A contribution which he is liable to pay, the Board may prepare a certificate showing the total amount of a Class 1A contribution remaining unpaid in respect of the year in question and regulation 76(1) and (2) shall, with any necessary modifications, apply to the amount shown in that certificate.

Textual Amendments

- F234** Words in reg. 80(1)(c) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **20(a)**
- F235** Reg. 80(1A) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **20(b)**
- F236** Reg. 80(1B)-(1F) omitted (6.4.2004) by virtue of [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **20(c)**
- F237** Reg. 80(3) substituted (6.4.2012) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2012 \(S.I. 2012/821\)](#), regs. 1(1), **19(a)**
- F238** Reg. 80(3A) inserted (6.4.2012) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2012 \(S.I. 2012/821\)](#), regs. 1(1), **19(b)**

Returns rendered electronically on another’s behalf

F239 **80A.**

Textual Amendments

- F239** Reg. 80A omitted (6.4.2004) by virtue of [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **21**

Penalties for failure to make a return and incorrect returns

81.—[F240(1) Schedule 24 to the Finance Act 2007 (penalties for errors) applies to the return of contributions referred to in regulation 80(1) (return by employer) as if—

- (a) Class 1A contributions were a tax; and

(b) that tax and the return of contributions in relation to it were listed in the table in paragraph 1 of that Schedule.

(1A) That Schedule also applies to decisions made under section 8(1)(c) of the Social Security Contributions (Transfer of Functions, etc) Act 1999 regarding Class 1A contributions and for that purpose a reference in the Schedule to an assessment is to be treated as if it included a reference to a decision and “under-assessment” shall be construed accordingly.

(1B) Paragraphs (6) to (9) do not apply in relation to penalties under paragraphs (1) and (1A).]

(2) Any person who fails to make a return referred to in paragraph (1) by the date which applies to him under regulation 71(1), 72(2) or 73(2), may be liable—

(a) within 6 years after the date of that failure, to a penalty of the relevant monthly amount for each month (or part of a month) during which the failure continues but excluding any month after the twelfth, or for which a penalty under this paragraph has already been imposed; and

(b) if the failure continues beyond 12 months, to a penalty not exceeding so much of the amount payable by him in accordance with the regulations for the year to which the return relates as remains unpaid at the end of 19th July after the end of that year.

(3) The penalty referred to in paragraph (2)(b) is without prejudice to any penalty which may be imposed under paragraph (2)(a) and may be imposed within six years after the date of the failure referred to in paragraph (2) or at any later time within three years of the final determination of the amount of a Class 1A contribution by reference to which the amount of that penalty is to be ascertained.

(4) For the purposes of paragraph (2), “the relevant monthly amount” in the case of a failure to make a return is—

(a) where the number of earners in respect of whom particulars of the amount of any Class 1A contribution payable should be included in the return is 50 or less, £100; or

(b) where that number is greater than 50, £100 for each 50 such earners and an additional £100 where that number is not a multiple of 50.

(5) The total penalty payable under paragraph (2)(a) shall not exceed the total amount of Class 1A contributions payable in respect of the year to which the return in question relates.

(6) Any penalty imposed in accordance with this regulation shall be recoverable as if it were a Class 1A contribution which the employer is liable to pay to the Board under regulation 71.

(7) A penalty imposed in accordance with this regulation shall be due and payable at the end of 30 days beginning with the date on which notice of the decision to impose it was issued.

(8) The Board may, in their discretion, mitigate any penalty, or stay or compound any proceedings for any penalty, imposed in accordance with the provisions of this regulation, and may also, after judgment, further mitigate or entirely remit such a penalty.

(9) For the purposes of this regulation a person shall be deemed not to have failed to have done anything required to be done within a limited time if he—

(a) did it within such further time as the Board allowed; or

(b) had a reasonable excuse for the failure and if that excuse ceased, did it without unreasonable delay after that excuse ceased.

Textual Amendments

F240 Reg. 81(1)(1A)(1B) substituted for reg. 81(1) (6.4.2010) (with application in accordance with reg. 1(3) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2010 \(S.I. 2010/721\)](#), regs. 1(2), 4

Status: Point in time view as at 06/04/2012.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

Application of the Management Act to penalties for failure to make a return and incorrect returns

82.—(1) Section 100 of the Management Act ^{F241} (determination of penalties by an officer of the Board) shall apply with any necessary modifications in relation to the determination of any penalty under regulation 81 as it applies to the determination of a penalty under the Taxes Acts.

(2) Section 100D ^{F242} of the Management Act (penalty proceedings before court) shall apply with any necessary modifications in relation to any proceedings for a penalty under regulation 81 as it applies to proceedings for a penalty under the Taxes Acts.

(3) Section 104 of the Management Act (saving for criminal proceedings) shall apply with any necessary modifications in relation to the provisions of regulation 81 as it applies to the provisions of the Taxes Acts.

(4) Section 105 of the Management Act (evidence in cases of fraudulent conduct) ^{F243} shall apply with any necessary modifications in respect of any proceedings for a penalty under regulation 81, or on appeal against the determination of such a penalty, as it applies in relation to any proceedings for a penalty, or on appeal against the determination of a penalty, under the Management Act.

(5) In this regulation—

“the Management Act” means the Taxes Management Act 1970 ^{F244}; and

“the Taxes Acts” has the same meaning as in section 118(1) of the Management Act (interpretation) ^{F245}.

Textual Amendments

F241 Sections 100 to 100D were substituted for section 100 by section 167 of the Finance Act 1989. Section 100 was amended by paragraph 3(2) of Schedule 11 to the [Finance Act 1990 \(c. 29\)](#), **paragraph 14** of Schedule 1 and Part 1 of Schedule 2 to [S.I. 1994/1813](#), and paragraph 38 of Schedule 19 to the [Finance Act 1998 \(c. 36\)](#).

F242 Section 100D was amended by Article 2 of, and the Schedule to [S.I. 1999/679](#).

F243 Section 105 was amended by sections 149(5) and 168(5) of the Finance Act 1989.

F244 [1970 c. 9](#).

F245 The definition was amended by paragraph 32(d) of Schedule 8 to the [Development Land Tax Act 1976 \(c. 24\)](#), **Schedule 31** to the Taxes Act 1988 and paragraph 2(1) of Schedule 10 to the [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#).

Set-off of Class 1A contributions falling to be repaid against earnings-related contributions

83.—(1) In the circumstance prescribed by paragraph (2), an amount in respect of a Class 1A contribution that falls to be repaid in accordance with these Regulations may be set off against liabilities under them to the extent prescribed in paragraph (3).

(2) The circumstance is that an employer has paid to the Board in accordance with regulations 70 to 82 an amount, in respect of Class 1A contributions, which he was not liable to pay.

(3) The extent of the set-off is that the employer shall be entitled to deduct the amount which he was not liable to pay in respect of Class 1A contributions from any payment in respect of secondary earnings-related contributions which he is subsequently liable to pay to a Collector under paragraph 10 or 11 of Schedule 4 for any income tax period in the same year.

(4) In this regulation “Collector”, “income tax period” and “year” have the meanings given in paragraph 1(2) of Schedule 4.

[^{F246} **Requirement to give security or further security for amounts of Class 1A contributions**

83A. Paragraphs 29M to 29X of Schedule 4 (security for payment of Class 1 contributions) apply in relation to Class 1A contributions as they apply in relation to Class 1 contributions but as if—

- (a) in paragraph 29N—
 - (i) the reference to “Class 1 contributions” were a reference to “Class 1A contributions”;
 - and
 - (ii) the reference to “paragraph 10, 11 or 11A” were a reference to “section 10 or 10ZA of the Social Security Contributions and Benefits Act 1992, or section 10 or 10ZA of the Social Security Contributions and Benefits (Northern Ireland) Act 1992, as the case may be”; and
- (b) in paragraph 29O(1) for “within the meaning given in paragraph 1(2)” there were substituted “within the meaning given in regulation 70(4)”.]

Textual Amendments

F246 Reg. 83A inserted (6.4.2012) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2012 \(S.I. 2012/821\)](#), regs. 1(1), 17

Special provisions relating to primary Class 1 contributions

[^{F247} **84.**—(1) If in accordance with an arrangement authorised under regulation 68, notwithstanding paragraph 3(1) of Schedule 1 to the Act (method of paying Class 1 contributions), an earner is required to make direct payments in respect of primary Class 1 contributions in respect of earnings paid to him or for his benefit, the following provisions of this regulation apply.

- (2) In a case to which this regulation applies—
 - (a) the earner shall be liable for such of the primary Class 1 contributions as are specified in the arrangements authorised under regulation 68, and
 - (b) the secondary contributor shall be liable for any other Class 1 contributions,in respect of earnings paid to the earner or for the earner’s benefit from the employment in question.

- (3) The Board shall notify the secondary contributor in writing of—
 - (a) the arrangement,
 - (b) the contributions for which, notwithstanding the arrangement, he will remain accountable to the Board, and
 - (c) the period to which the arrangement relates (“the relevant period”).

(4) During the relevant period, paragraph 3(1) of Schedule 1 to the Act (method of paying Class 1 contributions) shall not apply to the secondary contributor in respect of those contributions—

- (a) to which the arrangement relates, and
- (b) for which he would otherwise have been accountable to the Board,

unless and until the arrangement has been cancelled before the end of the period and the secondary contributor has been notified in writing of its cancellation.]

Textual Amendments

F247 Reg. 84 substituted (with effect in accordance with reg. 1(1) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment\) Regulations 2003 \(S.I. 2003/193\)](#), regs. 1(1), 8

Status: Point in time view as at 06/04/2012.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

Exception in relation to earnings to which regulation 84 applies

^{F248}85.

Textual Amendments

F248 Reg. 85 omitted (with effect in accordance with reg. 1(1) of the amending S.I.) by virtue of [The Social Security \(Contributions\) \(Amendment\) Regulations 2003 \(S.I. 2003/193\)](#), regs. 1(1), **9**

Special provisions relating to culpable employed earners and to secondary contributors or employers exempted by treaty etc., from enforcement of the Act or liability under it

86.—(1) As respects any employed earner’s employment—

(a) where there has been a failure to pay any primary contribution which a secondary contributor is, or but for the provisions of this regulation would be, liable to pay on behalf of the earner and the failure was due to an act or default of the earner and

[^{F249}(i)] not to any negligence on the part of the secondary contributor[^{F250}, or

(ii) it is shown to the satisfaction of an officer of the Board that the earner knows that the secondary contributor has wilfully failed to pay the primary contribution which the secondary contributor was liable to pay on behalf of the earner and has not recovered that primary contribution from the earner]

(b) where the secondary contributor is a person against whom, by reason of any international treaty or convention as mentioned in paragraph 30 of Schedule 4, the provisions of the Act are not enforceable and who is not willing to pay on behalf of the earner any contribution due in respect of earnings paid to or for the benefit of the earner in respect of that employment,

the provisions of paragraph 3(1) of Schedule 1 to the Act (method of paying Class 1 contributions) shall not apply in relation to that contribution.

(2) Where, as respects any employed earner’s employment the employer is a person who by reason of any such international treaty or convention is exempt from the provisions of the Act, he may, if he so wishes, pay contributions in respect of any earnings paid to or for the benefit of the earner in respect of the employment, or contributions under section 10 of the Act^{F251} ..., in either case to the same extent to which he could have paid such contributions if he had not been so exempt.

(3) In this regulation “employer” has the same meaning as it has in paragraph 30 of Schedule 4.

Textual Amendments

F249 Word in reg. 86(1)(a) inserted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **22(a)(i)**

F250 Reg. 86(1)(a)(ii) and word inserted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **22(a)(ii)**

F251 Words in reg. 86(2) omitted (6.4.2004) by virtue of [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **22(b)**

Notification of commencement or cessation of payment of Class 2 or Class 3 contributions [^{F252}on or before 5th April 2009]

87.—(1) Every person to whom paragraph (2) applies shall immediately notify the relevant date to the Board in writing or by such means of electronic communications as may be approved.

- (2) This paragraph applies to a person who [^{F253}on or before 5th April 2009]—
- (a) becomes, or ceases to be, liable to pay a Class 2 contribution;
 - (b) becomes, or ceases to be, entitled to pay a Class 2 contribution although not liable to do so; or
 - (c) is entitled to pay a Class 3 contribution and wishes either to do so or to cease doing so.

(3) If a person becomes liable to pay a Class 2 contribution and fails immediately to notify the Board in accordance with paragraph (1), he shall be liable to a penalty of £100.

This is subject to the qualification that a person shall be treated as having immediately notified the Board in accordance with paragraph (1) if he—

- (a) notifies the Board within such further time, if any, as the Board may allow;
- (b) has a reasonable excuse for not notifying the Board, and if that excuse ceases, notifies the Board without unreasonable delay after it ceases; or
- (c) shows to the Board's satisfaction that his earnings met the conditions set out in regulation 45(1) for the purposes of section 11(4) of the Act ^{F254} throughout the period beginning on the date on which he became liable to pay a Class 2 contribution and ending on the date on which he notified the Board.

(4) The penalty referred to in paragraph (3) shall be incurred—

- (a) in the case of a failure which first occurs on or after 30th April 2001 and continues throughout the period of three calendar months beginning with the first day of the calendar month following that in which he becomes liable to pay a Class 2 contribution, the date after the day on which that period ends; or
- (b) in the case of a failure which first occurs on or after 6th April 2001 but before 30th April 2001 and continues throughout the period ending on 31st July 2001, 1st August 2001.

(5) The penalty referred to in paragraph (3) may be imposed by a notice of decision by an officer of the Board under section 8(1)(k)(ii) of the Transfer Act within six years after the date on which the penalty is incurred in accordance with paragraph (4).

(6) The penalty referred to in paragraph (3)—

- (a) shall be due and payable at the end of the period of 30 days beginning with the date of the issue of the notice of decision referred to in paragraph (5); and
- (b) shall be recoverable as if it were a Class 2 contribution due and payable.

(7) The Board may, in their discretion, mitigate or remit any penalty imposed under this regulation, or stay or compound any proceedings for the penalty.

(8) In paragraph (1) “the relevant date” means, in relation to a person to whom—

- (a) paragraph (2)(a) applies, the date on which he commences or ceases to be a self-employed earner;
- (b) paragraph (2)(b) or (c) applies, the date on which he wishes to commence or cease paying either Class 2 or Class 3 contributions, as the case may be.

Textual Amendments

F252 Words in reg. 87 heading added (1.4.2009) (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2009 \(S.I. 2009/600\)](#), regs. 1(1), **5(a)**

F253 Words in reg. 87(2) inserted (1.4.2009) (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2009 \(S.I. 2009/600\)](#), regs. 1(1), **5(b)**

Status: Point in time view as at 06/04/2012.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

F254 Section 11(4) was amended by paragraph 12 of Schedule 3 to the Transfer Act and article 3 of [S.I. 2001/477](#).

[^{F255}Notification of commencement or cessation of payment of Class 2 or Class 3 contributions on or after 6th April 2009

87A.—(1) A person (P) to whom paragraph (2) applies shall immediately notify the relevant date to HMRC in writing or by such means of electronic communications as may be approved.

- (2) This paragraph applies where P on or after 6th April 2009—
- (a) becomes, or ceases to be, liable to pay a Class 2 contribution;
 - (b) becomes, or ceases to be, entitled to pay a Class 2 contribution although not liable to do so; or
 - (c) is entitled to pay a Class 3 contribution and wishes either to do so or to cease doing so.
- (3) In paragraph (1) “the relevant date” means—
- (a) in relation to a person to whom paragraph (2)(a) applies, the date on which P commences or ceases to be a self-employed earner;
 - (b) in relation to a person to whom paragraph (2)(b) or (c) applies, the date on which P wishes to commence or cease paying either Class 2 or Class 3 contributions, as the case may be.
- (4) P is to be treated as having immediately notified HMRC in accordance with paragraph (1) if P has notified HMRC within such further time, if any, as HMRC may allow.

Textual Amendments

F255 Regs. 87A-87G inserted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2009 \(S.I. 2009/600\)](#), regs. 1(1), 6

Penalty for failure to notify

- 87B.**—(1) A penalty is payable by P where—
- (a) P becomes liable to pay a Class 2 contribution;
 - (b) P fails to comply with the requirement to notify in accordance with regulation 87A(1); and
 - (c) notification has not been made by 31st January following the end of the year in which P became liable to pay a Class 2 contribution.
- (2) A failure by P to comply with the requirement to notify is—
- (a) “deliberate and concealed” if the failure is deliberate and P makes arrangements to conceal the situation giving rise to the requirement, and
 - (b) “deliberate but not concealed” if the failure is deliberate but P does not make arrangements to conceal the situation giving rise to the requirement.
- (3) The penalty payable under paragraph (1) is—
- (a) for a deliberate and concealed failure to comply with the requirement to notify, 100% of the lost contributions,
 - (b) for a deliberate but not concealed failure to comply with the requirement, 70% of the lost contributions, and
 - (c) for any other case, 30% of the lost contributions.
- (4) “The lost contributions” are the amount of Class 2 contributions which P is liable to pay—

- (a) beginning on the date on which P becomes liable to pay a Class 2 contribution, and
 - (b) ending on the 31st January preceding the day on which HMRC received notification of, or otherwise became fully aware of P's liability to pay Class 2 contributions.
- (5) When calculating the amount of “the lost contributions” no account is to be taken of any Class 2 contribution—
- (a) that is unpaid after the end of the sixth year following the year in which liability for that contribution arose, or
 - (b) in respect of which P's earnings meet the conditions set out in regulation 45(1) for the purposes of section 11(4) of the Act (exception from liability for Class 2 contributions on account of small earnings).
- (6) Liability to a penalty under paragraph (1) does not arise in relation to a failure to comply with the requirement to notify which is not deliberate if P satisfies HMRC or (on appeal) the tribunal that there is a reasonable excuse for the failure.
- (7) For the purposes of paragraph (6)—
- (a) an insufficiency of funds is not a reasonable excuse unless attributable to events outside P's control,
 - (b) where P relies on any other person to notify HMRC, that is not a reasonable excuse unless P took reasonable care to avoid the failure,
 - (c) where P had a reasonable excuse but the excuse has ceased, P is to be treated as having continued to have that excuse if P notifies without unreasonable delay after the excuse ceased.
- (8) For the purposes of this regulation, the reference to a failure by P includes a failure by a person who acts on P's behalf; but P is not liable to a penalty in respect of a failure by P's agent where P satisfies HMRC or (on appeal) the tribunal that P took reasonable care to avoid the failure.

Textual Amendments

F255 Regs. 87A-87G inserted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2009 \(S.I. 2009/600\)](#), regs. 1(1), 6

Disclosure

- 87C.**—(1) Regulation 87D makes provision for the reduction of a penalty where P discloses a failure to comply with the requirement to notify.
- (2) P discloses a failure to comply with the requirement to notify by—
- (a) telling HMRC about it,
 - (b) giving HMRC reasonable help in quantifying the contributions unpaid by reason of it, and
 - (c) allowing HMRC access to records for the purpose of checking the amount of contributions so unpaid.
- (3) Disclosure of a failure to comply with the requirement to notify—
- (a) is “unprompted” if made at a time when the person making it has no reason to believe that HMRC have discovered or are about to discover the failure to comply with the requirement to notify, and
 - (b) otherwise, is “prompted”.
- (4) In relation to disclosure “quality” includes timing, nature and extent.

Status: Point in time view as at 06/04/2012.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

Textual Amendments

F255 Regs. 87A-87G inserted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2009 \(S.I. 2009/600\)](#), regs. 1(1), 6

Reduction of penalty for disclosure

87D.—(1) Where P, who would otherwise be liable to a 100% penalty has made an unprompted disclosure, HMRC shall reduce the 100% to a percentage not below 30%, which reflects the quality of the disclosure.

(2) Where P, who would otherwise be liable to a 100% penalty has made a prompted disclosure, HMRC shall reduce the 100% to a percentage, not below 50%, which reflects the quality of the disclosure.

(3) Where P, who would otherwise be liable to a 70% penalty has made an unprompted disclosure, HMRC shall reduce the 70% to a percentage, not below 20%, which reflects the quality of the disclosure.

(4) Where P, who would otherwise be liable to a 70% penalty has made a prompted disclosure, HMRC shall reduce the 70% to a percentage not below 35%, which reflects the quality of the disclosure.

(5) Where P, who would otherwise be liable to a 30% penalty has made an unprompted disclosure, HMRC shall reduce the 30%—

- (a) if HMRC become aware of the failure to notify less than 12 months after 31st January following the end of the year during which a person became liable to pay a Class 2 contribution, to a percentage (which may be 0%), or
- (b) in any other case, to a percentage not below 10%,

which reflects the quality of the disclosure.

(6) Where P, who would otherwise be liable to a 30% penalty has made a prompted disclosure, HMRC shall reduce the 30%—

- (a) if HMRC become aware of the failure to notify less than 12 months after the 31st January following the end of the year during which a person became liable to pay a Class 2 contribution, to a percentage not below 10%, or
- (b) in any other case, to a percentage not below 20%,

which reflects the quality of the disclosure.

Textual Amendments

F255 Regs. 87A-87G inserted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2009 \(S.I. 2009/600\)](#), regs. 1(1), 6

Special reduction

87E.—(1) If HMRC think it right because of special circumstances, they may reduce a penalty under regulation 87B(1).

- (2) In paragraph (1) “special circumstances” does not include P's ability to pay.
- (3) In paragraph (1) the reference to reducing a penalty includes a reference to—
 - (a) staying a penalty, and

- (b) agreeing a compromise in relation to proceedings for a penalty.

Textual Amendments

F255 Regs. 87A-87G inserted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2009 \(S.I. 2009/600\)](#), regs. 1(1), 6

Notice of decision etc.

87F.—(1) Where P becomes liable for a penalty in accordance with regulation 87B(1) an officer of Revenue and Customs shall—

- (a) make a decision in accordance with section 8(1)(k)(ii) of the Transfer Act;
- (b) notify P; and
- (c) state in the notice of decision the amount of the penalty imposed and the period to which it relates.

(2) The penalty referred to in regulation 87B(1)—

- (a) must be paid before the end of the period of 30 days beginning with the date of the issue of the notice of decision; and
- (b) shall be recoverable as if it were a Class 2 contribution due and payable.

(3) A notice of decision must be issued before the end of the period of 12 months beginning with—

- (a) where there has been a decision that P was liable to pay Class 2 contributions and a determination of the amount P was or is liable to pay, the end of the appeal period; or
- (b) if there is no such decision, the date on which the contributions unpaid by reason of the failure to notify are finally determined.

(4) In paragraph (3)(a) “appeal period” means the period during which—

- (a) an appeal could be brought, or
- (b) an appeal that has been brought has not been determined or withdrawn.

(5) A notice of decision under paragraph (1), may be combined with an assessment issued in accordance with paragraph 16 of Schedule 41 to the Finance Act 2008.

Textual Amendments

F255 Regs. 87A-87G inserted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2009 \(S.I. 2009/600\)](#), regs. 1(1), 6

Double jeopardy

87G. P is not liable to a penalty under regulation 87B(1) in respect of a failure or action in respect of which P has been convicted of an offence.]

Textual Amendments

F255 Regs. 87A-87G inserted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2009 \(S.I. 2009/600\)](#), regs. 1(1), 6

Status: Point in time view as at 06/04/2012.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

Notification of change of address

88. A person liable to pay Class 2 contributions; or paying Class 2 contributions (although not liable to do so) or Class 3 contributions, shall immediately notify the Board of any change of his address in writing or by such means of electronic communications as may be approved.

Method of, and time for, payment of Class 2 and Class 3 contributions etc.

89.—(1) Where Class 2 or Class 3 contributions are payable by a person other than in accordance with arrangements approved under regulation 90, such contributions shall be paid in accordance with paragraph (2), [^{F256}(2A),] (3) or (4), as the case may be.

[^{F257}(1A) Where a person who is liable to pay a Class 2 contribution in respect of any contribution week in a biannual contribution period has notified HMRC of his liability in accordance with the provisions of regulation 87 or 87A HMRC shall, no later than the notification date, issue to him a written notice of the number of contribution weeks in that biannual contribution period and of the weekly rate at which the contribution is payable.]

[^{F258}(2) Where a person who is liable to pay a Class 2 contribution in respect of any contribution week in a biannual contribution period has notified HMRC of his liability in accordance with the provisions of regulation 87 or 87A that person shall, subject to paragraph (4) below, pay to HMRC—

- (a) the amount of contributions for which he is liable in relation to the first biannual contribution period not later than 31st January following the end of that period;
- (b) the amount of contributions for which he is liable in relation to the second biannual contribution period not later than 31st July following the end of that period.]

[^{F259}(2A) Where—

- (a) a person who is entitled, although not liable, to pay a Class 2 contribution in any year has notified HMRC of his entitlement in accordance with the provisions of regulation 87 or 87A; and
- (b) HMRC has, no later than the notification date, issued him with written notice of the amount he may pay in respect of his entitlement in that period;

that person may, if the person so wishes, pay to HMRC a sum not exceeding that amount.]

(3) Where—

- (a) a person ^{F260}... who is entitled to pay a Class 3 contribution, in any year, has notified [^{F261}HMRC] of his entitlement in accordance with the provisions of regulation 87 [^{F262}or 87A]; and
- (b) [^{F261}HMRC], within 14 days after the end of a contribution quarter which commences in that year, have issued him with written notice of the amount he may pay in respect of his entitlement in that quarter;

that person may, if he so wishes, pay to the Board a sum not exceeding that amount.

(4) Where—

- (a) paragraph (5) or (6) applies to a person; and
- (b) [^{F263}HMRC] have then, in respect of that person's liability for Class 2 contributions or entitlement to pay Class 2 or Class 3 contributions, issued or re-issued him, as the case may be, with written notice of the number of contribution weeks in respect of which the liability arises together with the weekly rate, and of the date specified as the date of notification, or, where he is entitled to pay contributions, of the amount of his entitlement;

that person shall, if he is liable to pay a contribution, pay the amount of contributions for which he is liable not later than [^{F264}the date for payment specified in the notice] and, if he is entitled to pay a contribution, he may pay a sum not exceeding the amount of his entitlement, to [^{F263}HMRC].

[^{F265}(5) This paragraph applies to a person who—

- (a) has notified HMRC in accordance with the provisions of regulation 87 or 87A that—
 - (i) he is liable to pay a Class 2 contribution in respect of one or more weeks in a biannual contribution period, or
 - (ii) he is entitled although not liable to pay a Class 2 contribution in a biannual contribution period, or is entitled to pay a Class 3 contribution in a contribution quarter; and
- (b) has—
 - (i) not, by the notification date, had written notice issued to him in respect of that week or weeks of the kind referred to in paragraph (2A);
 - (ii) not had written notice issued to him in respect of that week or weeks of a kind mentioned in paragraph (3) and more than 14 days have elapsed since the end of the contribution quarter in question; or
 - (iii) notified HMRC in accordance with regulation 87 or 87A that he has ceased to be liable to pay Class 2 contributions or ceased to be entitled to pay Class 2 or Class 3 contributions as the case may be.]

[^{F265}(6) This paragraph applies to a person—

- (a) to whom a written notice of the kind referred to in paragraph (1A), (2A), (3) or (4) has been issued and who has informed HMRC immediately—
 - (i) that the notice he received has since been lost, destroyed or defaced, or
 - (ii) that he disputes the amount of contributions which he is liable or entitled to pay in the biannual contribution period or contribution quarter in question; or
- (b) who—
 - (i) in relation to a notice of the kind referred to in paragraph (1A) or (2A) has notified HMRC not later than 28 days after the notification date that he has not received such a notice;
 - (ii) in relation to a notice of the kind referred to in paragraph (3) has notified HMRC not later than 28 days after the end of the contribution quarter in question that he has not received such a notice.]

[^{F265}(7) In this regulation—

- (a) “biannual contribution period” means either the first biannual contribution period or the second biannual contribution period;
- (b) “first biannual contribution period” means the 26 contribution weeks beginning with the first day of the first contribution week of any year;
- (c) “second biannual contribution period” means the period of not less than 26 contribution weeks commencing on the first day of the twenty seventh contribution week in that year;
- (d) “contribution quarter” means one of the four periods of not less than 13 contribution weeks commencing on the first, fourteenth, twenty-seventh or fortieth contribution week, as the case may be, in any year;
- (e) “notification date” means—
 - (i) in relation to the first biannual contribution period, 1st December following the end of that period;

Status: Point in time view as at 06/04/2012.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

- (ii) in relation to the second biannual contribution period, 1st June following the end of that period.]

Textual Amendments

- F256** Word in reg. 89(1) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2011 \(S.I. 2011/797\)](#), regs. 1(1), **6(a)**
- F257** Reg. 89(1A) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2011 \(S.I. 2011/797\)](#), regs. 1(1), **6(b)**
- F258** Reg. 89(2) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2011 \(S.I. 2011/797\)](#), regs. 1(1), **6(c)**
- F259** Reg. 89(2A) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2011 \(S.I. 2011/797\)](#), regs. 1(1), **6(d)**
- F260** Words in reg. 89(3)(a) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2011 \(S.I. 2011/797\)](#), regs. 1(1), **6(e)(i)**
- F261** Word in reg. 89(3) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2011 \(S.I. 2011/797\)](#), regs. 1(1), **6(e)(iii)**
- F262** Words in reg. 89(3) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2011 \(S.I. 2011/797\)](#), regs. 1(1), **6(e)(ii)**
- F263** Word in reg. 89(4) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2011 \(S.I. 2011/797\)](#), regs. 1(1), **6(f)(ii)**
- F264** Words in reg. 89(4) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2011 \(S.I. 2011/797\)](#), regs. 1(1), **6(f)(i)**
- F265** Reg. 89(5)-(7) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2011 \(S.I. 2011/797\)](#), regs. 1(1), **6(g)**

Arrangements approved by the Board for method of, and time for, payment of Class 2 and Class 3 contributions

90.—(1) The Board may from time to time approve arrangements under which contributions are paid at times or in a manner different from those prescribed by regulation 89. This is subject to paragraphs (2) to (4).

(2) When granting approval under paragraph (1), the Board may impose such conditions as they see fit.

(3) The Board may, in particular, grant approval under paragraph (1) if, as respects any year in which a person is both an employed earner and a self-employed earner, the condition in paragraph (4) is satisfied.

(4) The condition is that the Board are satisfied that the [^{F266}total amounts of primary Class 1 contributions and Class 2 contributions] likely to be paid by or in respect of that person in respect of that year will exceed [^{F267}the amount equal to 53 primary Class 1 contributions payable on earnings at the upper earnings limit for that year at the main primary percentage].

(5) The provisions of these Regulations shall, subject to the provisions of the arrangements, apply to the person affected by the arrangements.

(6) Where in respect of an earner arrangements are approved under paragraph (1) for payment of contributions by way of direct debit of a bank, those arrangements shall be subject to the condition

that any payment by way of direct debit on account of such contributions after the authority of the bank to make such payment has for any reason ceased to be effective, shall not be a payment of contributions for the purposes of the Act.

Textual Amendments

- F266** Words in reg. 90(4) substituted (with effect in accordance with reg. 1(1) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment\) Regulations 2003 \(S.I. 2003/193\)](#), regs. 1(1), **10(a)**
- F267** Words in reg. 90(4) substituted (with effect in accordance with reg. 1(1) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment\) Regulations 2003 \(S.I. 2003/193\)](#), regs. 1(1), **10(b)**

[^{F268}PART 7A

Electronic Communications

Textual Amendments

- F268** Pt. 7A inserted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **23**

Whether information has been delivered electronically

90A.—(1) For the purposes of these Regulations, information is taken to have been delivered to an official computer system by an approved method of electronic communications only if it is accepted by that official computer system.

(2) References in these Regulations to information and to the delivery of information must be construed in accordance with section 135(8) of the Finance Act 2002 (mandatory e-filing).

Proof of content of electronic delivery

90B.—(1) A document certified by the Board to be a printed-out version of any information delivered by an approved method of electronic communications is evidence, unless the contrary is proved, that the information—

- (a) was delivered by an approved method of electronic communications on that occasion, and
- (b) constitutes everything which was delivered on that occasion.

(2) A document which purports to be a certificate given in accordance with paragraph (1) is presumed to be such a certificate unless the contrary is proved.

Proof of identity of person sending or receiving electronic delivery

90C. The identity of—

- (a) the person sending any information delivered by an approved method of electronic communications to the Board,
- (b) the person receiving any information delivered by an approved method of electronic communications by the Board,

is presumed, unless the contrary is proved, to be the person recorded as such on an official computer system.

Status: Point in time view as at 06/04/2012.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

Information sent electronically on behalf of a person

90D.—(1) Any information delivered by an approved method of electronic communications—

- (a) to the Board, or
- (b) to an official computer system,

on behalf of a person is taken to have been delivered by that person.

(2) But this does not apply if the person proves that the information was delivered without the person's knowledge or connivance.

Proof of delivery of information sent electronically

90E.—(1) The use of an approved method of electronic communications is presumed, unless the contrary is proved, to have resulted in the delivery of information—

- (a) to the Board, if the delivery of the information has been recorded on an official computer system;
- (b) by the Board, if the despatch of the information has been recorded on an official computer system.

(2) The use of an approved method of electronic communications is presumed, unless the contrary is proved, not to have resulted in the delivery of information—

- (a) to the Board, if the delivery of the information has not been recorded on an official computer system;
- (b) by the Board, if the despatch of the information has not been recorded on an official computer system.

(3) The time of receipt or despatch of any information delivered by an approved method of electronic communications is presumed, unless the contrary is proved, to be the time recorded on an official computer system.

Proof of payment sent electronically

90F.—(1) The use of a method of electronic communications is presumed, unless the contrary is proved, to have resulted in the making of a payment—

- (a) to the Board, if the making of the payment has been recorded on an official computer system;
- (b) by the Board, if the despatch of the payment has been recorded on an official computer system.

(2) The use of a method of electronic communications is presumed, unless the contrary is proved, not to have resulted in the making of a payment—

- (a) to the Board, if the making of the payment has not been recorded on an official computer system;
- (b) by the Board, if the despatch of the payment has not been recorded on an official computer system.

(3) The time of receipt or despatch of any payment sent by a method of electronic communications is presumed, unless the contrary is proved, to be the time recorded on an official computer system.

Use of unauthorised method of electronic communications

90G.—(1) This regulation applies to information which is required to be delivered to the Board or to an official computer system under a provision of these Regulations.

(2) The use of a method of electronic communications for the purpose of delivering such information is conclusively presumed not to have resulted in the delivery of that information, unless that method of electronic communications is for the time being approved for delivery of that kind under that provision.

Mandatory electronic payment

90H.—^{F269}(1) An employer who is a large employer within the meaning of regulation ^{F270}198A (large employers)] of the PAYE Regulations must pay the specified payment using an approved method of electronic communications]

(2) Paragraph (1) applies regardless of whether a payment of tax is due under regulation ^{F271}67G or] 68 of the PAYE Regulations (payment and recovery of tax by employer).

(3) If the Board have given a direction under regulation 199(3) of the PAYE Regulations requiring a particular method of electronic communications to be used in the case of an employer, he must use that method.

[
^{F272}(4) This regulation does not apply to a payment of contributions, whether primary or secondary, in respect of retrospective earnings where those earnings relate to a tax year which is closed (see paragraph 1(2) of Schedule 4) at the time the relevant retrospective contributions regulations come into force]

[
^{F273}(5) A specified payment is not treated as received in full by HMRC on or before the date by which that specified payment is required in accordance with paragraph 10 or paragraph 11 of Schedule 4 unless it is made in a manner which secures (in a case where the specified payment is made otherwise than in cash) that, on or before that date, all transactions can be completed which need to be completed before the whole amount of the specified payment becomes available to the Commissioners for Her Majesty’s Revenue and Customs.]

Textual Amendments
F269 Reg. 90H(1) substituted (6.4.2010) (with application in accordance with reg. 1(3) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2010 \(S.I. 2010/721\)](#), regs. 1(2), **5(a)**
F270 Words in reg. 90H(1) substituted (6.4.2010) (with application in accordance with reg. 1(4) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2010 \(S.I. 2010/721\)](#), regs. 1(2), **5(b)**
F271 Words in reg. 90H(2) inserted (6.4.2012) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2012 \(S.I. 2012/821\)](#), regs. 1(1), **4**
F272 Reg. 90H(4) added (6.4.2007) by [The Social Security Contributions \(Consequential Provisions\) Regulations 2007 \(S.I. 2007/1056\)](#), regs. 1, **6**
F273 Reg. 90H(5) inserted (6.4.2010) (with application in accordance with reg. 1(3) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2010 \(S.I. 2010/721\)](#), regs. 1(2), **5(c)**

Employer in default if specified payment not received by applicable due date

^{F274}**90I.**

Status: Point in time view as at 06/04/2012.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

Textual Amendments

F274 Reg. 90I omitted (6.4.2010) (with application in accordance with reg. 1(3) of the amending S.I.) by virtue of [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2010 \(S.I. 2010/721\)](#), regs. 1(2), **6(a)**

Default notice and appeal

^{F275}**90J.**

Textual Amendments

F275 Reg. 90J omitted (6.4.2010) (with application in accordance with reg. 1(3) of the amending S.I.) by virtue of [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2010 \(S.I. 2010/721\)](#), regs. 1(2), **6(b)**

Default surcharge

^{F276}**90K.**

Textual Amendments

F276 Reg. 90K omitted (6.4.2010) (with application in accordance with reg. 1(3) of the amending S.I.) by virtue of [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2010 \(S.I. 2010/721\)](#), regs. 1(2), **6(c)**

Surcharge notice and appeal

^{F277}**90L.**

Textual Amendments

F277 Reg. 90L omitted (6.4.2010) (with application in accordance with reg. 1(3) of the amending S.I.) by virtue of [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2010 \(S.I. 2010/721\)](#), regs. 1(2), **6(d)**

[^{F278}Paragraph 22 return and specified payments]

90M. In this Part—

[^{F279}“paragraph 22 return” means the return and accompanying information required by paragraph 22 of Schedule 4 (return by employer at the end of the year);]

[^{F280}“specified payments” means payments of earnings-related contributions under paragraph 10 (payments made monthly by employer) or paragraph 11 (payments made quarterly by employer) of Schedule 4.]

Textual Amendments

- F278** Reg. 90M heading substituted (13.8.2009) (with effect in accordance with reg. 1(4) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2009 \(S.I. 2009/2028\)](#), regs. 1(2), 4
- F279** Words in reg. 90M substituted (13.8.2009) (with effect in accordance with reg. 1(4) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2009 \(S.I. 2009/2028\)](#), regs. 1(2), 5(a)
- F280** Words in reg. 90M substituted (6.4.2010) (with application in accordance with reg. 1(3) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2010 \(S.I. 2010/721\)](#), regs. 1(2), 7

[^{F281}Mandatory use of electronic communications

90N.—(1) An employer (as to which see regulation 90NA) must deliver a paragraph 22 return to an official computer system using an approved method of electronic communications.

(2) If the Commissioners for Her Majesty’s Revenue and Customs have made a direction under regulation [^{F282}205(2)] of the PAYE Regulations requiring a particular method of electronic communication to be used in the case of an employer, the employer must use that method.

(3) This regulation does not apply to a return in respect of retrospective earnings where those earnings relate to a tax year which is closed (see paragraph 1(2) of Schedule 4) at the time the relevant retrospective contributions regulations come into force.

Textual Amendments

- F281** Regs. 90N 90NA substituted for reg. 90N (with application in accordance with reg. 1(3) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2010 \(S.I. 2010/721\)](#), regs. 1(2), 8(1)
- F282** Word in reg. 90N(2) substituted (6.4.2010) (with application in accordance with reg. 1(4) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2010 \(S.I. 2010/721\)](#), regs. 1(2), 8(2)

Employers

90NA.—(1) For the purposes of regulation 90N, the following shall not be regarded as employers—

- (a) an individual who is a practising member of a religious society or order whose beliefs are incompatible with the use of electronic communications,
- (b) a partnership, if all the partners fall within sub-paragraph (a),
- (c) a company, if all the directors and company secretary fall within sub-paragraph (a),
- (d) an employer who is authorised by HMRC to deduct tax from relevant payments made to employees in accordance with regulation 34 of the PAYE Regulations (simplified deduction scheme for personal employees) and who has not received an incentive payment, and
- (e) a care and support employer.

(2) In paragraph (1)(c), “company” means a body corporate or unincorporated association but does not include a partnership.

Status: Point in time view as at 06/04/2012.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

(3) In paragraph (1)(e), a “care and support employer” means an individual (“the employer”) who employs a person to provide domestic or personal services at or from the employer’s home where—

- (a) the services are provided to the employer or a member of the employer’s family,
- (b) the recipient of the services has a physical or mental disability, or is elderly or infirm,
- (c) the employer has not received an incentive payment in respect of the last 3 tax years, and
- (d) it is the employer who delivers the paragraph 22 return (and not some other person on the employer’s behalf).

(4) In this regulation “incentive payment” means an incentive payment received under the Income Tax (Incentive Payments for Voluntary Electronic Communication of PAYE Returns) Regulations 2003.]

Textual Amendments

F281 Regs. 90N 90NA substituted for reg. 90N (with application in accordance with reg. 1(3) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2010 \(S.I. 2010/721\)](#), regs. 1(2), **8(1)**

Standards of accuracy and completeness

90O.—(1) [^{F283}Any paragraph 22 return] delivered by a method of electronic communications must meet the standards of accuracy or completeness set by specific or general directions given by the Board.

(2) [^{F283}Any paragraph 22 return] which fails to meet those standards must be treated as not having been delivered.

Textual Amendments

F283 Words in reg. 90O substituted (13.8.2009) (with effect in accordance with reg. 1(4) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2009 \(S.I. 2009/2028\)](#), regs. 1(2), **7**

Penalties and appeals

90P.—(1) An employer who fails to deliver [^{F284}a paragraph 22 return] or any part of it in accordance with regulation 90N is liable to a penalty.

[^{F285}(2) Table 2 sets out the penalties for employers for the tax year ending 5th April 2010, depending on the number of employees for whom particulars should have been included with the paragraph 22 return.

Table 2

Penalties: tax year ending 5th April 2010

| 1 Number of employees for whom particulars should have been included with the return | 2 Penalty |
|--|-----------|
| 1-5 | 0 |

| | |
|--------------|-------|
| 6-49 | £100 |
| 50-249 | £600 |
| 250-399 | £900 |
| 400-499 | £1200 |
| 500-599 | £1500 |
| 600-699 | £1800 |
| 700-799 | £2100 |
| 800-899 | £2400 |
| 900-999 | £2700 |
| 1000 or more | £3000 |

(2A) Table 3 sets out the penalties for employers for the tax years ending 5th April 2011 and subsequent years, depending on the number of employees for whom particulars should have been included with the paragraph 22 return.

Table 3**Penalties: tax year ending 5th April 2011 and subsequent years**

| 1 Number of employees for whom particulars should have been included with the return | 2 Penalty |
|--|-----------|
| 1-5 | £100 |
| 6-49 | £300 |
| 50-249 | £600 |
| 250-399 | £900 |
| 400-499 | £1200 |
| 500-599 | £1500 |
| 600-699 | £1800 |
| 700-799 | £2100 |
| 800-899 | £2400 |
| 900-999 | £2700 |
| 1000 or more | £3000] |

Status: Point in time view as at 06/04/2012.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

- (3) An employer is not liable to a penalty if the employer had—
 - (a) a reasonable excuse for failing to comply with regulation 90N which had not ceased at the time the [^{F286}paragraph 22 return] was delivered, or
 - ^{F287}(b) been subject to a penalty for failing to deliver the return and accompanying information required by regulation 73 of the PAYE Regulations (annual return of relevant payments liable to deduction of tax (Forms P35 and P14)) in accordance with regulation 205 (mandatory use of electronic communication) of those Regulations.]
- (4) A notice of appeal against a determination under section 100 of the Management Act of a penalty under this paragraph can only be on the grounds that—
 - (a) the employer did comply with regulation 90N,
 - [the employer is not regarded as an employer for the purposes of regulation 90N,]
 - ^{F288}(aa)
 - (b) the amount of the penalty is incorrect, or
 - (c) paragraph (3) applies.
- (5) Section 103A of the Management Act (interest on penalties) applies to penalties payable under this paragraph.

Textual Amendments

- F284** Words in reg. 90P(1) substituted (13.8.2009) (with effect in accordance with reg. 1(4) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2009 \(S.I. 2009/2028\)](#), regs. 1(2), **8(a)**
- F285** Reg. 90P(2)(2A) substituted for reg. 90P(2) (13.8.2009) (with effect in accordance with reg. 1(4) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2009 \(S.I. 2009/2028\)](#), regs. 1(2), **8(b)**
- F286** Words in reg. 90P(3)(a) substituted (13.8.2009) (with effect in accordance with reg. 1(4) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2009 \(S.I. 2009/2028\)](#), regs. 1(2), **8(c)(i)**
- F287** Reg. 90P(3)(b) substituted (6.4.2010) (with application in accordance with reg. 1(4) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2010 \(S.I. 2010/721\)](#), regs. 1(2), **9(a)**
- F288** Reg. 90P(4)(aa) inserted (6.4.2010) (with application in accordance with reg. 1(3) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2010 \(S.I. 2010/721\)](#), regs. 1(2), **9(b)**

Appeals: supplementary provisions

90Q.—^{F289}(1) Section 31A(5) of the Management Act applies to appeals under regulation 90J as it applies to an appeal under section 31 of that Act.]

^{F290}(2)

^{F290}(3)

Textual Amendments

- F289** Reg. 90Q(1) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 75(1)**

F290 Reg. 90Q(2)(3) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 2 para. 75\(2\)](#)

Interpretation

90R. In this Part “the Management Act” means the Taxes Management Act 1970.]

PART 8

CLASS 4 CONTRIBUTIONS

Exception from Class 4 liability of persons over pensionable age and persons not resident in the United Kingdom

91. Any earner who—

- (a) at the beginning of a year of assessment is over pensionable age; or
- (b) for the purposes of income tax is not resident in the United Kingdom in the year of assessment;

shall be excepted from liability for contributions under section 15 of the Act (Class 4 contributions).

Exception of divers and diving supervisors from liability for Class 4 contributions

92. A person who performs the duties of an employment to which section 314 of the Taxes Act applies (divers and diving supervisors) shall be excepted from liability for contributions under section 15 of the Act on so much of his profits or gains as are derived from that employment.

Exception of persons under the age of 16 from liability for Class 4 contributions

93.—(1) Where, as respects any year of assessment, a person to whom this regulation applies wishes to be excepted from liability to pay contributions under section 15 of the Act for that year, the following provisions of this regulation shall apply, subject to the provisions of regulations 97 and 98.

(2) Any such person shall make application to the Board for a certificate of exception for that year.

(3) If it is shown to the satisfaction of the Board that the applicant is a person to whom this regulation applies and the application is made before the beginning of the year of assessment to which it relates, the Board shall issue in respect of the applicant such a certificate of exception for that year.

(4) If the application is not made until the beginning of the year of assessment to which it relates, but is made before contributions under that section 15 of the Act for that year become due and payable and it is shown to the satisfaction of the Board that the applicant is a person to whom this regulation applies, the Board may issue in respect of the applicant a certificate of exception for that year.

(5) Where under paragraphs (1) to (4) a certificate of exception has been issued in respect of an applicant for any year of assessment, the Board shall not collect any contributions under section 15 of the Act from the applicant for that year.

(6) This regulation applies to any person who at the beginning of the year of assessment is under the age of 16.

Status: Point in time view as at 06/04/2012.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

[^{F291}Exception from Class 4 liability in respect of earnings from employed earner's employment chargeable to income tax under Schedule D.]

94.—[^{F292}(1) If, for any year of assessment—

- (a) an earner has earnings from employment which is employed earner's employment; and
- (b) those earnings are chargeable to income tax under Schedule D;

the earner shall be excepted from liability to pay contributions under section 15 of the Act on those earnings.

This is subject to the following qualification.]

(2) It shall be a condition of exception from liability that the earner makes an application for such an exception to the Board before the beginning of the year of assessment to which the application relates, or before such later date as the Board may allow.

(3) An application under paragraph (2) shall be made in such manner as the Board may direct and, for the purpose of enabling the Board to determine whether the earner is entitled to the exception, the earner shall furnish the Board with such information and evidence as the Board may require, whether the requirement is made at the time of the application or later.

(4) Without prejudice to the earner's right to any such exception, nothing in paragraphs (1) to (3) shall affect the Board's powers under regulation 95 to defer, pending the determination of the application, the earner's liability under section 15 of the Act.

Textual Amendments

F291 Reg. 94 substituted (with effect in accordance with reg. 1(1) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment\) Regulations 2003 \(S.I. 2003/193\)](#), regs. 1(1), **11(2)**

F292 Reg. 94(1) substituted (with effect in accordance with reg. 1(1) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment\) Regulations 2003 \(S.I. 2003/193\)](#), regs. 1(1), **11(3)**

[^{F293}Exception from Class 4 liability in respect of certain amounts chargeable to income tax under Schedule D

94A. Where —

- (a) an earner has earnings from employment which is employed earner's employment; and
- (b) an amount representing those earnings is included in the calculation of the profits chargeable to income tax under Schedule D,

the earner shall be excepted from liability to pay contributions under section 15 of the Act (Class 4 contributions) on that amount.]

Textual Amendments

F293 Reg. 94A and heading inserted (with effect in accordance with reg. 2 of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 7\) Regulations 2003 \(S.I. 2003/2958\)](#), regs. 1(1), **4**

Deferment of Class 4 liability where such liability is in doubt

95. Where, as respects any year of assessment, it appears to the Board that, by virtue of the provisions of this Part, there is doubt as to the extent, if any, of an earner's liability to pay contributions under section 15 of the Act (Class 4 contributions) for that year, or that at the date on which any application under regulation 96 is made, it is not possible to determine whether, having

regard to the provisions of these Regulations, the earner is or will be liable to pay such contributions for that year, the Board may issue in respect of the earner a certificate of deferment deferring that earner's liability for such contributions [^{F294}and for such period] as the Board may direct.

Textual Amendments

F294 Words in reg. 95 substituted (with effect in accordance with reg. 1(1) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment\) Regulations 2003 \(S.I. 2003/193\)](#), regs. 1(1), **12**

Application for deferment of Class 4 liability

96.—(1) If a person wishes his liability to pay contributions under section 15 of the Act for any year of assessment to be deferred, he shall make an application for that purpose to the Board.

(2) Any such application—

- (a) shall be made before the beginning of that year or before such later date as the Board may allow; and
- (b) is subject to regulations 97 and 98.

General conditions for application for, and issue of, certificates of exception and deferment

97.—(1) Any application made under any of regulations 91 to 96, for a certificate of exception from, or deferment of, liability to pay contributions under section 15 of the Act for any particular year of assessment shall be made in such form and in such manner as the Board may approve.

(2) Any person making such application shall furnish, or cause to be furnished, to the Board such information or evidence as they may require for the purpose of enabling them to determine whether such a certificate should be issued in respect of that person.

(3) On the issue of such a certificate the person in respect of whom the certificate is issued shall be excepted from liability to pay the contributions to which the certificate relates or his liability for such payment shall be deferred.
This is subject to paragraph (4).

(4) If, for the purpose of obtaining a certificate of exception or deferment, the person making the application furnishes or causes to be furnished to the Board information which is erroneous, or fails to furnish or cause to be furnished to them information which is relevant, and but for such furnishing or failure the certificate would not have been issued for any particular year of assessment—

- (a) the Board may revoke the certificate in so far as it relates to that year; and
- (b) the person who made the application shall be liable to pay contributions under section 15 of the Act for that year to the extent to which he would have been so liable if the certificate had not been issued.

Revocation of certificates of exception and deferment

98. Where under regulation 97(4)(a) the Board revoke a certificate of exception or deferment—

- (a) they shall be responsible for calculating the contributions due under section 15 of the Act for the year specified in paragraph 97(4)(b) (being the current or a past year) and for the collection of those contributions;
- (b) the applicant shall—
 - (i) furnish, or cause to be furnished, to the Board all such information or evidence as they may require for the purpose of calculating those contributions, and

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Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

- (ii) within such period as the Board may direct, pay to them the contributions so calculated.

Calculation of liability for, and recovery of, Class 4 contributions after issue of certificate of deferment

99.—(1) Where a certificate of deferment has been issued in respect of any earner under regulations 91 to 98—

- (a) the profits or gains of that earner, in respect of which contributions would be payable under section 15 of the Act (Class 4 contributions), but for the issue of the certificate of deferment, shall be assessed under the Income Tax Acts for each year to which the certificate relates, in all respects as if no such certificate had been issued, provided that (without prejudice to the validity of the assessment of the amount of the earner's profits or gains and his right of appeal against that assessment) no figure representing [^{F295}contributions, the payment of which has been deferred,] shall be shown in any such assessment or on any notice of such assessment nor shall any of the provisions of the Income Tax Acts (as applied or modified by section 16 of, and Schedule 2 to, the Act) as to collection, repayment or recovery apply to any such assessment; and
- (b) the Board shall be responsible for the calculation, administration and recovery of Class 4 contributions ultimately payable in respect of the profits or gains so assessed for any year of assessment to which the certificate of deferment relates.

(2) Any such calculation shall be subject to the provisions of regulations 94 and 100 and for the purpose of the calculation where the total amount of the profits or gains for any year of assessment to which the certificate relates includes a fraction of £1, that fraction shall be disregarded.

(3) For the purpose of enabling the Board to make the calculation, they shall certify the amount of the earner's profits or gains, computed under Schedule 2 to the Act for each year of assessment. [^{F296}This is subject to the following qualification.]

(4) Notwithstanding paragraph (3), the Board shall not be required to certify the amount referred to in that paragraph unless the assessment made under this regulation has become [^{F297}final and conclusive.]—

- (a) the Board and the earner have come to an agreement, whether in writing or otherwise; or
- (b) it appears to the General Commissioners or the Special Commissioners;

that the amount of the earner's profits or gains so computed is not less than the higher of the two money sums specified in section 15(3) of the Act.

(5) The Board, on making the calculation referred to in paragraph (3), shall give notice to the earner of the amount of the contributions due from him under section 15 of the Act for each year to which the certificate of deferment relates.

(6) The earner shall pay to the Board those contributions within the period of 28 days from the receipt of the notice from them, unless before the expiry of that period the earner—

- (a) has appealed out of time or made a claim or appealed against the decision on a claim made under the Income Tax Acts on any matter concerning the amount of the profits or gains certified as mentioned in paragraph (3), and has notified the Board accordingly; or
- (b) has appealed against a decision made under section 8 of the Transfer Act relating to those contributions.

(7) If the amount of any assessment made under this regulation for any year is altered for any reason, or if a further assessment is made in respect of that year, subsequently to the certification by the Board of the amount of an earner's profits or gains computed in accordance with the provisions of this regulation and that alteration or further assessment affects the amount of the earner's profits

or gains so computed they shall immediately, or in the case of a further assessment when that further assessment has become final and conclusive, certify to the earner the altered amount of the earner's profits or gains.

Textual Amendments

- F295** Words in reg. 99(1)(a) substituted (with effect in accordance with reg. 1(1) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment\) Regulations 2003 \(S.I. 2003/193\)](#), regs. 1(1), **13(2)**
- F296** Words in reg. 99(3) substituted (with effect in accordance with reg. 1(1) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment\) Regulations 2003 \(S.I. 2003/193\)](#), regs. 1(1), **13(3)**
- F297** Words in reg. 99(4) substituted (with effect in accordance with reg. 1(1) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment\) Regulations 2003 \(S.I. 2003/193\)](#), regs. 1(1), **13(4)**

Annual maximum of Class 4 contributions due under section 15 of the Act

^{F298}**100.**—(1) If, in respect of any year, there are payable by or in respect of an earner Class 4 contributions under section 15 of the Act and also—

- (a) primary Class 1 contributions or Class 2 contributions; or
- (b) primary Class 1 contributions and Class 2 contributions,

paragraph (2) applies.

(2) If this paragraph applies, the earner's liability for Class 4 contributions shall not exceed the maximum found in accordance with paragraph (3).

- (3) The maximum is found as follows.

Step One

Subtract the lower profits limit from the upper profits limit for the year.

Step Two

Multiply the result of Step One by [^{F299}9 per cent].

Step Three

Add to the result of Step Two 53 times the weekly amount of the appropriate Class 2 contribution.

Step Four

Subtract from the result of Step Three the aggregate amount of any Class 2 contributions and primary Class 1 contributions paid at the main primary percentage.

The application of the following steps is determined by reference to the following three Cases.

Case 1

If the result of this step is a positive value, and exceeds the aggregate of—

- (a) primary Class 1 contributions payable at the main primary percentage,
- (b) Class 2 contributions; and
- (c) Class 4 contributions payable at the main Class 4 percentage,

in respect of the earner's earnings, profits and gains for the year, the result of this step is the maximum amount of Class 4 contributions payable.

Case 2

If the result of this step is a positive value, but does not exceed the aggregate mentioned in Case 1, the result of this step is the maximum amount of Class 4 contributions payable at the main Class 4 percentage.

Status: Point in time view as at 06/04/2012.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

Case 3

If the result of this step is a negative value, the maximum amount of a Class 4 contribution payable at the main Class 4 percentage is nil and the result of this step is treated as nil.

If Case 1 applies, Steps Five to Nine do not, but if Case 2 or Case 3 applies those Steps do apply.

Step Five

Multiply the result of Step Four by [^{F300}100/9]

Step Six

Subtract the lower profits limit from the lesser of the upper profits limit and the amount of profits for the year.

Step Seven

Subtract the result of Step Five from the result of Step Six.

If the result of this step is a negative value, it is treated as nil.

Step Eight

Multiply the result of Step Seven by [^{F301}2 per cent].

Step Nine

Multiply the amount by which the profits and gains for the year exceed the upper profits limit for the year by [^{F302}2 per cent].

The maximum amount of Class 4 contributions payable is—

- (a) where Case 1 of Step Four applies, the result of that step, and
- (b) where Case 2 or Case 3 of Step Four applies, the amount produced by adding together the results of Steps Four, Eight and Nine.

This is subject to the qualifications in paragraphs (4) to (6).

In this paragraph—

“lower profits limit” means the lesser of the two monetary sums specified in section 15(3) (a) of the Act; and

“upper profits limit” means the greater of those sums.

(4) For the purpose only of determining the extent of the earner’s liability for contributions under paragraph (3), the amount of a primary Class 1 contribution which would otherwise be payable at the main primary percentage but which is paid at a rate less than [^{F303}12 per cent.] because the earner—

- (a) is in contracted-out employment, or
- (b) is a married woman who has made an election to pay contributions at the reduced rate as mentioned in regulation 127,

shall be treated as equal to the amount of the primary Class 1 contribution payable at the main primary percentage, which would be so payable if the employment were non-contracted-out employment or the election had not been made (as the case may be).

(5) Paragraph (2) is subject to the provisions of section 12 of the Act and to regulations 63 to 65.

(6) Notwithstanding paragraphs (1) to (5), an earner shall be liable, in the first instance, for the full amount of the contributions which would have been payable but for this regulation.]

Textual Amendments

- F298** Reg. 100 substituted (with effect in accordance with reg. 1(1) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment\) Regulations 2003 \(S.I. 2003/193\)](#), regs. 1(1), **14**
- F299** Words in reg. 100(3) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment\) Regulations 2012 \(S.I. 2012/573\)](#), regs. 1(1), **2(3)(a)(i)**
- F300** Words in reg. 100(3) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment\) Regulations 2012 \(S.I. 2012/573\)](#), regs. 1(1), **2(3)(a)(ii)**
- F301** Words in reg. 100(3) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment\) Regulations 2012 \(S.I. 2012/573\)](#), regs. 1(1), **2(3)(a)(iii)**
- F302** Words in reg. 100(3) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment\) Regulations 2012 \(S.I. 2012/573\)](#), regs. 1(1), **2(3)(a)(vi)**
- F303** Words in reg. 100(4) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment\) Regulations 2012 \(S.I. 2012/573\)](#), regs. 1(1), **2(3)(b)**

Disposal of Class 4 contributions under section 15 of the Act which are not due

101. Where for any year of assessment any payment is made by an earner as on account of contributions under section 15 of the Act (Class 4 contributions) and—

- (a) a certificate of exception is issued for that year, or would have been so issued if application had been made for its issue before the beginning of that year;
- (b) that payment is made in error^{F304} ...;
- (c) the payment is in excess of the amount which, subject to an exception under regulation 94, is due from that earner for that year or would have been so due if application for exception had been made under that regulation before the beginning of that year; or
- (d) the payment is in excess of the amount calculated in accordance with regulation 100,

the Board may treat that payment as made on account of other contributions properly payable by that person under the Act.

Textual Amendments

- F304** Words in reg. 101(b) omitted (8.10.2002) by virtue of [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2002 \(S.I. 2002/2366\)](#), regs. 1, **14**

Repayment of Class 4 contributions under section 15 of the Act which are not due

102.—(1) Subject to paragraph (2), any payment such as is specified in regulation 101 shall, except in so far as it is, under that regulation, treated by the Board as made on account of contributions under the Act, be repaid [^{F305}to the earner], unless the net amount of such repayment would not exceed in value 50 pence.

[^{F306}(2) It is a condition of repayment under this regulation that the earner makes an application for the repayment—

- (a) in such form and manner as the Board may determine; and
 - (b) in the case of contributions falling within paragraph (b) of regulation 101, within the time prescribed in paragraph (3).]
- (3) The period referred to in paragraph (2) is one of—

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Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

- (a) six years beginning with 6th April in the year of assessment next following that in respect of which the payment was made where the application is in respect of any year of assessment ending before 6th April 1996,
- (b) five years beginning with 1st February in the year of assessment next following that in respect of which the payment was made where the application is in respect of any year of assessment beginning on or after 6th April 1996, or
- (c) if later than sub-paragraph (a) or (b), two years beginning with 6th April in the year of assessment next following that in which the payment was made.

Textual Amendments

F305 Words in reg. 102(1) substituted (8.10.2002) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2002 \(S.I. 2002/2366\)](#), regs. 1, **15(a)**

F306 Reg. 102(2) substituted (8.10.2002) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2002 \(S.I. 2002/2366\)](#), regs. 1, **15(b)**

Class 4 liability of earners treated as self-employed earners who would otherwise be employed earners

103.—(1) Subject to regulation 108, where—

- (a) an earner, in respect of any one or more employments of his, is treated by regulations under section 2(2)(b) of the Act (treatment of a person in employment of any prescribed description as falling in one or other of the categories of earner) as being self-employed;
- (b) in any year he has earnings from any such employment (one or more) which fall within section 11(3) of the Act (higher weekly rate of Class 2 contributions), but is not liable for a higher weekly rate of Class 2 contributions by virtue of regulations under that section;
- (c) those earnings are chargeable to income tax [^{F307}as general earnings]; and
- (d) the total of those earnings exceeds the sum specified in section 18(1)(c) of the Act,

paragraph (2) applies.

(2) If this paragraph applies, the earner shall be liable, in respect of the earnings mentioned in paragraph (1), to pay a Class 4 contribution (referred to in this Part as a “special Class 4 contribution”) [^{F308}of an amount equal to the aggregate of—

- (a) the main Class 4 percentage of so much of the total of those earnings as exceeds the lower, but does not exceed the higher, of the money sums, and
- (b) the additional Class 4 percentage of so much of the total of those earnings as exceeds the higher of the money sums,

for the time being specified in section 18(1A).]

Textual Amendments

F307 Words in reg. 103(1)(c) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **24**

F308 Words in reg. 103(2) substituted (with effect in accordance with reg. 1(1) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment\) Regulations 2003 \(S.I. 2003/193\)](#), regs. 1(1), **15**

Notification of national insurance number and recording of category letter on deductions working sheet

104.—(1) Any earner to whom regulation 103 applies shall, on request, notify his national insurance number to the person who pays him the earnings referred to in that regulation.

(2) The person who pays those earnings shall record on the earner's deductions working sheet the earner's national insurance number, and the appropriate category letter as indicated by the Board.

(3) In this regulation "deductions working sheet" has the same meaning as in Schedule 4.

Calculation of earnings for the purposes of special Class 4 contributions

105. For the purpose of the calculation of an earner's liability for a special Class 4 contribution for any year—

- (a) the earnings of that earner for that year shall, subject to paragraph (b), be calculated by the Board on the basis that they are earnings to which regulations 24 and 25 and Schedules 2 and 3 apply;
- (b) in the calculation of these earnings, if the total amount of the earnings for the year includes a fraction of a pound, that fraction shall be disregarded.

Notification and payment of special Class 4 contributions due

106. The Board shall, subject to any other arrangements notified by them to the earner specified in regulation 105, give notice to the earner of the special Class 4 contribution due from him for any year, and the earner shall pay that contribution to the Board within the period of 28 days from the receipt of the notice unless, before the expiry of that period, the earner has appealed against a decision made under section 8 of the Transfer Act relating to that contribution.

Recovery of deferred Class 4 and special Class 4 contributions after appeal, claim or further assessment under the Income Tax Acts or appeal under section 8 of the Transfer Act

107.—(1) Where—

- (a) the Board have been notified that there has been such a claim or appeal as is specified in regulation 99(6) or regulation 106; or
- (b) the Board have certified in accordance with regulation 99(7) an altered amount of earner's profits or gains,

paragraph (2) applies.

(2) If this paragraph applies, the Board shall, as soon as may be after the prescribed time, give to the earner notice or, as the case may be, revised notice of such contributions as might, having regard to the final decision on the claim or appeal or, the altered amount of profits or gains, be due from the earner—

- (a) under section 15 of the Act (Class 4 contributions) for the year or years to which the certificate referred to in regulation 99(7) relates; or
- (b) by way of a special Class 4 contribution for the year to which the notice specified in regulation 106 relates,

and the earner shall within 28 days of receipt of that notice pay to the Board the contribution or contributions specified in that notice.

(3) In this regulation "prescribed time" means—

- (a) except where sub-paragraph (c) applies—
 - (i) in the case of an appeal out of time, the date of the determination of the appeal, and

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- (ii) in the case of a claim or appeal against a decision on a claim made under the Income Tax Acts, the date on which the time for appealing against the decision on the claim expires, or the date of the determination of the appeal, whichever is the later;
- (b) in the case of an appeal under section 8 of the Transfer Act, the date on which the time for appealing against that decision expires or the date of the determination of the appeal, whichever is the later;
- (c) in the case of an altered amount of profits or gains being certified by the Board, the date on which they are so certified.

Annual maximum of special Class 4 contribution

108.—(1) Where for any year there are payable (or, but for this regulation, there would be payable) by or in respect of an earner a special Class 4 contribution and also any contribution under section 15 of the Act (in this regulation referred to as “an ordinary Class 4 contribution”) or any primary Class 1 contribution or any Class 2 contribution, or any combination of such contributions, the maximum amount of the special Class 4 contribution payable for that year shall not exceed the maximum specified in paragraph (2).

(2) The maximum is—

- (a) in the case of a special Class 4 contribution and an ordinary Class 4 contribution, the amount (if any) equal to the difference between the maximum amount of a special Class 4 contribution for which provision is made in section 18(1) of the Act and the amount of the ordinary Class 4 contributions ultimately payable for that year; or
- (b) in any other case (whether or not a Class 4 contribution is also payable), the amount (if any) equal to the difference between the maximum amount prescribed in regulation 100 and the amount of such Class 4, primary Class 1 and Class 2 contributions as are ultimately payable for that year.

(3) Paragraphs (1) and (2) are without prejudice to the earner’s liability in the first instance for the full amount payable apart from those paragraphs.

Disposal of special Class 4 contributions paid in excess or error

109. Where any payment has been made by a person on account of a special Class 4 contribution and that payment has been made in excess of the amount prescribed under regulation 108 or has been made in error, the Board may treat that payment as made on account of other contributions properly payable by that person under the Act.

Return of special Class 4 contributions paid in excess or error

110.—(1) Subject to regulation 109 and paragraphs (2) and (3), where any payment has been made by a person as on account of a special Class 4 contribution and that payment has been made in excess of the amount prescribed in regulation 108 or has been made in error, that payment shall be returned by the Board to that person, unless the net amount to be returned does not exceed 50 pence, if application is made to the Board, in writing or in such other form and manner as the Board may allow, within the time specified in paragraph (3).

(2) In calculating the amount of any return of a special Class 4 contribution to be made under paragraph (1) there shall be deducted the amount (if any) treated under regulation 109 as paid on account of other contributions.

(3) Any person desiring to apply for the return of a special Class 4 contribution [^{F309}the applicant] shall make the application within the period of six years from the end of the year in which the contribution [^{F310}was due to be paid.

This is subject to the following qualification.

If the application is made after the end of that period, an officer of the Board shall admit it if satisfied that—

- (a) the applicant had reasonable excuse for not making the application within that period; and
- (b) the application was made without unreasonable delay after the excuse had ceased.]

Textual Amendments

- F309** Words in reg. 110(3) inserted (8.10.2002) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2002 \(S.I. 2002/2366\)](#), regs. 1, **16(a)**
- F310** Words in reg. 110(3) substituted (8.10.2002) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2002 \(S.I. 2002/2366\)](#), regs. 1, **16(b)**

PART 9

SPECIAL CLASSES OF EARNERS

Case A—

Airmen

Interpretation

111. In this Case, unless the context otherwise requires—

“airman” means a person who is, or has been, employed under a contract of service either as a pilot, commander, navigator or other member of the crew of any aircraft, or in any other capacity on board any aircraft where—

- (a) the employment in that other capacity is for the purposes of the aircraft or its crew or of any passengers or cargo or mails carried on that aircraft; and
- (b) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the aircraft is in flight,

but does not include a person in so far as his employment is as a serving member of the forces;

“British aircraft” means any aircraft belonging to Her Majesty and any aircraft registered in the United Kingdom of which the owner (or managing owner if there is more than one owner) resides or has his principal place of business in the United Kingdom, and references to the owner of an aircraft shall, in relation to an aircraft which has been hired, be taken as referring to the person for the time being entitled as hirer to possession and control of the aircraft by virtue of the hiring or any subordinate hiring.

Modification of employed earner’s employment

112.—(1) Subject to paragraphs (2) and (3), where an airman is employed as such on board any aircraft, and the employer of that airman or the person paying the airman his earnings in respect of the employment (whether or not the person making the payment is acting as agent for the employer) or the person under whose directions the terms of the airman’s employment and the amount of the earnings to be paid in respect of that employment are determined has—

- (a) in the case of the aircraft being a British aircraft, a place of business in Great Britain or Northern Ireland; or
- (b) in any other case, his principal place of business in Great Britain or Northern Ireland,

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then, notwithstanding that the airman does not fulfil the conditions of section 2(1)(a) of the Act (definition of employed earner), he shall be treated as employed in employed earner's employment and, for the purposes of regulation 145(1)(a), in respect of that employment, as present in Great Britain or Northern Ireland (as the case requires).

(2) Subject to paragraph (3), notwithstanding that an airman is employed in an employment to which the provisions of paragraph (1) applies, if that airman is neither domiciled nor has a place of residence in Great Britain or Northern Ireland (as the case requires) no contributions shall be payable by or in respect of him as an employed earner.

(3) Paragraph (2) is subject to any Order in Council giving effect to any reciprocal agreement made under section 179 of the Administration Act (reciprocal agreements with countries outside the United Kingdom).

Application of the Act and regulations

113. Part I of the Act and so much of Part VI of the Act as relates to contributions and the regulations made under those provisions, so far as they are not inconsistent with this Case, apply to an airman with the modification that, where an airman is, on account of his being outside the United Kingdom by reason of his employment as an airman, unable to perform an act required to be done either immediately or upon the happening of a certain event or within a specified time, he shall be deemed to have complied with such requirement if he performs the act as soon as is reasonably practicable, although after the happening of the event or the expiration of the specified time.

Case B—

Continental Shelf^{F311}

Textual Amendments

F311 The enabling power for this Case is section 120 of the Act; there is no equivalent provision in the Social Security Contributions and Benefits (Northern Ireland) Act 1992. However, contributions in respect of employment on the Continental Shelf would fall to be treated as satisfying the corresponding requirement in Northern Ireland by virtue of Article 2 of the Memorandum set out in Schedule 1 to [S.I. 1976/1003](#) and Schedule 1 to [S.R. 1976 No. 196](#). Article 2 of the Memorandum was amended by paragraph 3 of the first letter in the Schedule to [S.I. 1999/2227](#) and [S.R. 1999 No. 350](#).

Application to employment in connection with continental shelf of Part I of the Act and so much of Part VI of the Act as relates to contributions

114.—(1) For the purposes of section 120 of the Act (employment at sea (continental shelf operations))^{F312}, prescribed employment shall be any employment (whether under a contract of service or not) in any area which may from time to time be designated by Order in Council under section 1(7) of the Continental Shelf Act 1964^{F313}, where the employment is in connection with any activity mentioned in section 11(2) of the Petroleum Act 1998^{F314} in the designated area.

(2) Where a person is employed in any employment specified in paragraph (1), the provisions of Part I of the Act and so much of Part VI of the Act as relates to contributions shall, subject to the provisions of paragraph (3), apply as though the area so designated were in Great Britain, and notwithstanding that he does not satisfy the conditions as of residence or presence in Great Britain prescribed in regulation 145(1)(a).

(3) Where a person employed in any employment specified in paragraph (1) is, on account of his being outside Great Britain by reason of that employment, unable to perform any act required to be done either immediately or on the happening of a certain event or within a specified time, he

shall be deemed to have complied with the requirement if he performs the act as soon as reasonably practicable, although after the happening of the event or the expiration of the specified time.

Textual Amendments

F312 Section 120 was amended by paragraph 70 of Schedule 7 to the [Social Security Act 1998 \(c. 14\)](#) and paragraph 26 of Schedule 3, and paragraph 8 of Schedule 7 to the Transfer Act.

F313 [1964 c. 29](#).

F314 [1998 c. 17](#).

Case C—

Mariners

Interpretation

115. In this Case—

“British ship” means—

- (a) any ship or vessel belonging to Her Majesty; or
- (b) any ship or vessel whose port of registry is a port in the United Kingdom; or
- (c) a hovercraft which is registered in the United Kingdom;

“foreign-going ship” means any ship or vessel which is not a home-trade ship;

“home-trade ship” includes—

- (a) every ship or vessel employed in trading or going within the following limits, that is to say, the United Kingdom (including for this purpose the Republic of Ireland), the Channel Islands, the Isle of Man, and the continent of Europe between the river Elbe and Brest inclusive;
- (b) every fishing vessel not proceeding beyond the following limits—
 - on the South, Latitude 48°30iN.,
 - on the West, Longitude 12°W., and
 - on the North, Latitude 61°N.;

“managing owner” means the owner of any ship or vessel who, where there is more than one such owner, is responsible for the control and management of that ship or vessel;

“mariner” means a person who is or has been in employment under a contract of service either as a master or member of the crew of any ship or vessel, or in any other capacity on board any ship or vessel where—

- (c) the employment in that other capacity is for the purposes of that ship or vessel or her crew or any passengers or cargo or mails carried by the ship or vessel; and
- (d) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the ship or vessel is on her voyage;

but does not include a person in so far as his employment is as a serving member of the forces;

“owner” in relation to any ship or vessel, means the person to whom the ship or vessel belongs and who, subject to the right of control of the captain or master of the ship or vessel (“the master’s rights”), is entitled to control of that ship or vessel, and references to the owner of a ship or vessel shall, in relation to a ship or vessel which has been demised, be construed as referring to the person who for the time being is entitled as charterer to possession and, subject to the master’s rights, to control of the ship or vessel by virtue of the demise or any sub-demise;

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“passenger” means any person carried on a ship except—

- (a) a person employed or engaged in any capacity on board the ship on the business of the ship; or
- (b) a person on board the ship either in pursuance of the obligation to carry shipwrecked, distressed or other persons, or by reason of any circumstance that neither the master nor the owner nor the charterer (if any) could have prevented or forestalled;

“pay period” in relation to any payment of a mariner’s earnings means the period in respect of which the payment is made;

“radio officer” means a mariner employed in connection with the radio apparatus of any ship or vessel and holding a certificate of competence in radio telephony granted by the Secretary of State or by an authority empowered in that behalf by the legislature of some part of the Commonwealth or of the Republic of Ireland and recognised by the Secretary of State as equivalent to the like certificate granted by him;

“share fisherman” means any person who—

- (a) is ordinarily employed in the fishing industry, otherwise than under a contract of service as the master or a member of the crew of any United Kingdom fishing vessel within the meaning of section 1(3) of the Merchant Shipping Act 1995 ^{F315}, manned by more than one person, and who is remunerated in respect of that employment in whole or in part by a share of the profits or gross earnings of the fishing vessel, or
- (b) has ordinarily been so employed, but who by reason of age or infirmity permanently ceases to be so employed and becomes ordinarily engaged in employment ashore in the United Kingdom, otherwise than under a contract of service, making or mending any gear appurtenant to a United Kingdom fishing vessel or performing other services ancillary to or in connection with that vessel and is remunerated in respect of that employment in whole or in part by a share of the profits or gross earnings of that vessel and has not ceased to be ordinarily engaged in such employment;

“ship or vessel” for the purposes of this Case other than those of regulations 116 to 120 includes hovercraft;

“voyage period” means a pay period comprising an entire voyage or series of voyages (including any period of leave on pay which immediately follows the day on which the termination of that voyage or series of voyages occurs);

“week” means a period of 7 consecutive days and “weekly” shall be construed accordingly.

Textual Amendments

F315 1995 c. 21.

Modification of section 162(5) of the Administration Act

116. In section 162 of the Administration Act (destination of contributions), subsection (5) ^{F316} (which specifies the amount of the national health service allocation to be deducted from each class of contribution prior to their payment into the National Insurance Fund) shall be modified, in the case of contributions paid at the rate reduced in accordance with regulation 119(1), as if, instead of the percentage figure specified in paragraph (b) of that subsection, there were specified the percentage figure “0.6”.

Textual Amendments

F316 Subsection (5) was amended by section 2(1) of the [Social Security \(Contributions\) Act 1994 \(c. 1\)](#), [section 65\(2\)](#) of, and paragraph 99(3) of Schedule 7 to, the [Social Security Act 1998 \(c. 14\)](#), [paragraph 9\(2\)](#) of Part III of Schedule 9 to the Welfare Reform Act and section 74(7) of the Child Support, Pensions and Social Security Act (c. 19).

Conditions of domicile or residence

117.—(1) As respects any employment of a person as a mariner and liability for payment of any contribution under the Act as an employed earner by or on behalf, or in respect, of that mariner in respect of that employment—

- (a) the provisions of Case F of these Regulations relating to conditions as to residence or presence in Great Britain or Northern Ireland (as the case requires) shall not apply; but
- (b) it shall be a condition of liability to pay a contribution under the Act that the mariner is domiciled or resident in Great Britain or Northern Ireland (as the case requires); and
- (c) it shall be a condition of liability to pay a secondary contribution under the Act that the secondary contributor is resident or has a place of business in Great Britain or Northern Ireland (as the case requires).

This is subject to the following qualification.

(2) This regulation has effect subject to any Order in Council giving effect to any reciprocal agreement made under section 179 of the Administration Act (reciprocal agreements with countries outside the United Kingdom).

Modification of employed earner's employment

118. Where a mariner—

- (a) is employed as such and—
 - (i) the employment is on board a British ship, or
 - (ii) the employment is on board a ship and the contract in respect of the employment is entered into in the United Kingdom with a view to its performance (in whole or in part) while the ship or vessel is on her voyage, and
 - (iii) in a case to which sub-paragraph (ii) applies, the person by whom the mariner's earnings are paid, or, in the case of employment as a master or member of the crew of a ship or vessel, either that person or the owner of the ship or vessel (or the managing owner if there is more than one owner) has a place of business in Great Britain or Northern Ireland (as the case requires); or
- (b) is employed as a master, member of the crew or as a radio officer on board any ship or vessel, not being a mariner to whom paragraph (a) applies, and—
 - (i) in the case of employment as a radio officer, if the contract under which the employment is performed is entered into in the United Kingdom, the employer or the person paying the radio officer his earnings for that employment has a place of business in Great Britain or Northern Ireland (as the case requires), or
 - (ii) in the case of the employment being a master, member of the crew or as a radio officer, if the contract is not entered into in the United Kingdom, the employer or the person paying the earnings has his principal place of business in Great Britain or Northern Ireland (as the case requires),

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then, notwithstanding that he does not fulfil the conditions of section 2(1)(a) of the Act (definition of employed earner), the employment of the mariner as mentioned above shall be treated as employed earner's employment.

Modification of section 9(2) of the Act

119.—(1) As respects earnings paid to or for the benefit of a mariner for employment as such in any employment specified in paragraph (2), being employment which by virtue of regulation 118 is treated as employed earner's employment, from the figure specified as the secondary percentage in section 9(2) of the Act ^{F317} there shall be subtracted 0.5 per cent and section 9 of the Act shall be modified accordingly.

(2) The employment referred to in paragraph (1) is employment as a master or member of the crew of a ship where—

- (a) the employment is on a foreign-going ship and the payment of earnings is exclusively in respect of that employment; or
- (b) the employment is partly on a foreign-going ship and partly otherwise than on such a ship and the payment of earnings in respect of that employment is made during the employment on the foreign-going ship.

(3) In this regulation the word “employment” includes any period of leave, other than leave for the purpose of study, accruing from the employment.

Textual Amendments

F317 Section 9 was substituted by paragraph 5 of Part I of Schedule 9 to the Welfare Reform Act.

Earnings periods for mariners and apportionment of earnings

120.—(1) For the purposes of liability for and calculation of earnings-related contributions, paragraphs (2) to (9) apply where earnings are paid to or for the benefit of a mariner in respect of his employment as such for a voyage period.

(2) In this regulation “a relevant change” means a change affecting the calculation of earnings-related contributions under the Act not being—

- (a) a change in the amount of the mariner's earnings; or
- (b) a change in one or more of the following figures applicable in respect of the mariner's employment—
 - (i) [^{F318}the main primary percentage or the additional primary percentage] for a primary Class 1 contribution specified in section 8(2) of the Act ^{F319} or the percentage rate for a secondary Class 1 contribution specified in section 9(2) of the Act,
 - (ii) the contracted-out rate applying in the case of a primary or secondary Class 1 contribution in section 41(1) of the Pension Act ^{F320},
 - (iii) the amount by which the percentage rate of a secondary Class 1 contribution is reduced in accordance with regulation 119(1),
 - (iv) the lower or upper earnings limit for primary Class 1 contributions specified in section 5(1) of the Act ^{F321}.

(3) Where a voyage period falls wholly in one year, then—

- (a) if no relevant change occurs during the voyage period, the earnings period shall be the voyage period;

- (b) if one or more than one relevant change occurs during the voyage period the earnings shall be apportioned to such periods as comprise—
 - (i) the day on which the voyage period began and the day immediately before which the change occurred, and for any subsequent change, the day on which the immediately preceding change occurred and the day before which the next succeeding change occurred, and
 - (ii) so much of the voyage period as remains,
according to the amounts earned in each period, and the earnings period in respect of each amount so apportioned shall be the length of the period to which it is apportioned.
- (4) Where a voyage period falls partly in one or more other years, then if no relevant change occurs during the voyage period—
 - (a) the earnings shall be apportioned to those years according to the amounts earned in each year; and
 - (b) the earnings period in respect of each amount shall be the length of the period to which that amount is apportioned.
- (5) Where a voyage period falls partly in one and partly in one or more other years and one or more than one relevant change occurs during the voyage period, then—
 - (a) in respect of a year during which a relevant change or more than one relevant change occurs the earnings shall be apportioned to such periods as comprise—
 - (i) the day on which the voyage period began, or where it began in another year, the beginning of the year in which the change occurred, and the day immediately before which the change occurred, and for any subsequent change, the day on which the immediately preceding change occurred and the day before which the next succeeding change occurred, and
 - (ii) so much of the voyage period as remains in the year,
according to the amounts earned in each period, and the earnings period in respect of each amount so apportioned shall be the length of the period to which it is apportioned; and
 - (b) in respect of other years, the earnings shall be apportioned to those years according to the amounts earned in each year and the earnings period in respect of each amount so apportioned shall be the length of the period to which it is apportioned.
- (6) Where under paragraphs (3) to (5) an earnings period—
 - (a) is less than a week, that period shall for the purposes of those paragraphs be treated as a week;
 - (b) exceeds a week or a whole multiple of a week by a part of a week,
 - (i) if that part of a week is a period in excess of 3 days, that part of a week shall be treated as a week for the purposes of paragraphs (3) to (5), and
 - (ii) if that part of a week is a period of 3 days or less, it shall be disregarded for those purposes.
- (7) For the purposes of paragraphs (3) to (5)—
 - (a) where a period of leave on pay immediately follows the day on which the termination of an entire voyage or series of voyages occurs—
 - (i) the earnings for that period of leave shall be treated as if they were earned during that period and shall be excluded from the earnings for any other period or periods, and
 - (ii) for the purpose of apportionment, the earnings for the period of leave shall be deemed to accrue from day to day by equal daily amounts; and

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- (b) “earned” includes treated as earned under this paragraph.
- (8) Where under paragraphs (1) to (7) earnings are apportioned to a period—
 - (a) each amount so apportioned shall be treated as paid at the end of the period to which it is apportioned; and
 - (b) contributions paid in respect of the amount so apportioned shall be treated as paid in respect of the year in which the end of that period falls.
- (9) Notwithstanding paragraphs (3) to (5) and (8), where a voyage period extends beyond the date on which the earnings are paid, any amount of earnings which, by virtue of paragraphs (1) to (8), would be apportioned to a period in the year following that in which the earnings are paid—
 - (a) shall be treated as paid at the end of the year in which the earnings are paid but shall not be aggregated with any other amount of earnings paid or treated as paid at the end of that year; and
 - (b) the earnings period in respect of that amount shall be a period of the same length as that to which it is apportioned.

Textual Amendments

- F318** Words in reg. 120(2)(b)(i) substituted (6.4.2003) by [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2003 \(S.I. 2003/964\)](#), regs. 1, 4
- F319** Section 8 was substituted by paragraph 4 of Part I of Schedule 9 to the Welfare Reform Act.
- F320** Section 41(1) was amended by paragraph 127 of Schedule 7 of the Social Security Act 1998 and paragraph 6(2) of Part II of Schedule 9 to the Welfare Reform Act.
- F321** Section 5 was substituted by paragraph 1 of Part I of Schedule 9 to the Welfare Reform Act.

Calculation of earnings-related contributions for mariners

- 121.**—(1) For the purpose of the calculation of earnings-related contributions payable in respect of earnings paid to or for the benefit of a person in respect of that person’s employment as a mariner—
- (a) regulation 12(1) shall apply, save that in the case of a contribution payable on earnings above the upper earnings limit or the prescribed equivalent of that limit, the appropriate contributions calculator prepared by the Board may be applied;
 - (b) in the alternative, paragraphs (2), (3) or (4) and (5) of that regulation shall, except in relation to secondary Class 1 contributions payable at a rate reduced in accordance with regulation 119, apply in respect of those earnings.
- (2) Subject to paragraphs (3), (4) and (5) of regulation 12 where the secondary Class 1 contribution is payable at a rate reduced in accordance with regulation 119, that contribution may be calculated in accordance with the scale prepared by the Board appropriate to that rate or, in the case of such a contribution payable on earnings above the upper limit or the prescribed equivalent of that limit, a contributions calculator appropriate to that rate, prepared by the Board.

Prescribed secondary contributors

122. In relation to any payment of earnings to or for the benefit of a mariner in respect of employment to which the provisions of regulation 118 apply, where the person employing the mariner does not satisfy the conditions specified in regulation 117(1)(c), but the person who pays the mariner those earnings does satisfy either of those conditions, that person shall be treated as the secondary contributor, whether or not he makes the payment as agent for the employer.

Payments to be disregarded

^{F322}123.

Textual Amendments

F322 Reg. 123 omitted (6.4.2012) by virtue of *The Social Security (Contributions) (Amendment No. 2) Regulations 2012 (S.I. 2012/817)*, regs. 1(1), 7(2)

Application of the Act and regulations

124.—(1) Part I of the Act and so much of Part VI of the Act as relates to contributions and the regulations made under those provisions shall, insofar as they are not inconsistent with the provisions of this Case, apply to mariners with the modification set out in paragraph (2).

(2) The modification is that, where a mariner is, on account of his being at sea or outside Great Britain or Northern Ireland (as the case requires) by reason of his employment as a mariner, unable to perform an act required to be done either immediately or on the happening of a certain event or within a specified time, he shall be deemed to have complied with that requirement if he performs the act as soon as is reasonably practicable, although after the happening of the event or the expiration of the specified time.

Modification in relation to share fishermen of Part I of the Act and so much of Part VI of the Act as relates to contributions

125. Part I of the Act and so much of Part VI of the Act as relates to contributions shall apply to share fishermen with the modification that—

- (a) employment as a share fisherman shall be employment as a self-employed earner notwithstanding that it is not employment in the United Kingdom;
- (b) as respects liability of a share fishermen to pay Class 2 contributions in respect of his employment as a share fisherman, regulation 117(1)(a) and (b) and (2) shall apply as if the share fisherman were a mariner and as if the reference in regulation 117(1) to an employed earner were a reference to a self-employed earner and as if the words “or on behalf, or in respect, of” were omitted;
- (c) for the purposes of entitlement to a contribution-based job seeker’s allowance, the weekly rate of any Class 2 contribution payable by a share fisherman for any contribution week while he is ordinarily employed as a share fisherman shall, notwithstanding the provisions of section 11(1) of the Act (Class 2 contributions)^{F323}, be [^{F324}£3.30];
- (d) regulations 21, 100 and 108 shall apply to contributions payable at the weekly rate specified in paragraph (c) of this regulation as if references in those regulations to Class 2 contributions included, as may be appropriate, references to Class 2 contributions at that rate;
- (e) regulation 43 shall apply to a share fisherman as if there were included at the end of paragraph (1)(a) of that regulation the words “or is entitled to a contribution-based jobseeker’s allowance or, but for a failure to satisfy the contribution conditions for that benefit, would be so entitled”;
- (f) insofar as Class 4 contributions in respect of the profits or gains of a share fisherman in respect of his employment as such are not collected by the Board under section 16 of the Act^{F325} (assessment and collection, etc. of Class 4 contributions) regulations 103 to 110 shall apply as if the share fisherman were a person to whom section 18(1)(a) and (b) of

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the Act applied (Class 4 contributions for persons treated under section 2(2)(b) of the Act as self-employed earners)^{F326}; and

- (g) for the purposes of section 12 of the Act^{F327} and for the purposes of that section as modified by regulations 63 to 65, where an earner was a share fisherman when liability for Class 2 contributions arose, any reference in section 12 to an ordinary contribution, and any reference in those regulations to the weekly applicable rate of a contribution, shall be a reference to the rate of Class 2 contributions prescribed for a share fisherman.

Textual Amendments

- F323** Section 11 was amended by paragraph 12 of Schedule 3 to the Transfer Act and by article 2 of [S.I. 2000/755](#).
- F324** Word in reg. 125(c) substituted (6.4.2012) by [The Social Security \(Contributions\) \(Re-rating\) Consequential Amendment Regulations 2012 \(S.I. 2012/867\)](#), regs. 1(2), 2
- F325** Section 16 was amended by paragraph 16 of Schedule 3, and Schedule 10, to the Transfer Act.
- F326** Section 18 was amended by paragraph 7 of Schedule 1 to the Transfer Act, paragraph 18 of Schedule 3 to that Act and article 4 of [S.I. 2000/755](#).
- F327** Section 12 was amended by paragraph 13 of Schedule 3 and paragraph 3 of Schedule 9 to the Transfer Act.

Case D—

Married Women and Widows

Interpretation

126.—(1) In this Case, unless the context otherwise requires—

“personal death benefit” means any death benefit which, apart from any regulations made under section 73 of the Administration Act (overlapping benefits—general)^{F328}, is payable to a person otherwise than in respect of another person who is a child or an adult dependant;

“Personal Injuries Scheme” means any scheme made under the Personal Injuries (Emergency Provisions) Act 1939^{F329} or under the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939^{F330};

“qualifying widow” has the meaning assigned to it in regulation 127(1);

“reduced rate” means the rate specified in regulation 131;

“regulation 91 of the 1975 Regulations” and “regulation 94 of the 1975 Regulations” mean respectively regulation 91 and regulation 94 of the Social Security (Contributions) Regulations 1975^{F331} before section 3(1) of the Social Security Pensions Act 1975^{F332} (married women and widows) came into force and sections 5(3) and 130(2) of the Social Security Act 1975^{F333} (Class 1 reduced rate and married women and widows) were repealed;

“Service Pensions Instrument” means those provisions and only those provisions of any Royal Warrant, Order in Council or other instrument (not being a 1914–1918 War Injuries Scheme) under which a death or disablement pension (not including a pension calculated by reference to length of service) and allowances for dependants payable with either such pension may be paid out of public funds in respect of any death or disablement, wound, injury or disease due to service in the naval, military or air forces of the Crown or in any nursing service or other auxiliary service of any of those forces or in the Home Guard or in any other organisation established under the control of the Defence Council or formerly established under the control of the Admiralty, the Army Council or the Air Council;

“1914–1918 War Injuries Scheme” means any scheme made under the Injuries in War (Compensation) Act 1914 ^{F334} or under the Injuries in War Compensation Act 1914 (Session 2) ^{F335} or under any Government scheme for compensation in respect of persons injured in any merchant ship or fishing vessel as a result of hostilities during the 1914–1918 War.

(2) Where by any provision of this Case notice is required to be or may be given in writing it shall be given on a form approved by the Board or in such other manner, being in writing, as they may accept as sufficient in any case.

Textual Amendments

- F328** Section 73 was amended by paragraph 49 of Schedule 2 to the [Jobseekers Act 1995 \(c. 18\)](#).
F329 [1939 c. 82](#).
F330 [1939 c. 83](#).
F331 [S.I. 1975/492](#).
F332 [1975 c. 60](#).
F333 [1975 c. 14](#).
F334 [1914 c. 30](#).
F335 [5 & 6 Geo. 5 c. 18](#).

Elections by married women and widows

127.—(1) A woman who on 6th April 1977 (the date on which section 3(1) of the [^{F336}Social Security Pensions Act 1975] (married women and widows) came into force) was married or was a widow who satisfied the conditions prescribed in paragraph (8) (“a qualifying widow”) may—

- (a) elect that her liability in respect of primary Class 1 contributions shall be a liability to contribute at the reduced rate; and
- (b) elect that she shall be under no liability to pay Class 2 contributions.

(2) Any election made for the purpose of paragraph (1)(a) shall be treated as also made for the purpose of paragraph (1)(b) and any election made for the purpose of paragraph (1)(b) shall be treated as also made for the purpose of paragraph (1)(a) and any revocation of an election for the one purpose shall be treated also as a revocation of an election for the other purpose.

[^{F337}(3) Where a woman has made an election to which this regulation applies—

- (a) any primary Class 1 contributions which are—
 - (i) attributable to section 8(1)(a) of the Act, and
 - (ii) payable in respect of earnings paid to her or for her benefit in the period during which the election has effect under the following provisions of this Case, shall be payable at the reduced rate; and
- (b) she shall be under no liability to pay any Class 2 contribution for any contribution week in that period.]

(4) Subject to regulation 134, no woman shall be entitled to make an election specified in paragraph (1) after 11th May 1977.

(5) Every election shall be made by notice in writing to the Board and by notice in writing to the Board may be revoked by the woman who made the election.

(6) Any revocation may be cancelled by notice in writing to the Board before the date upon which the notice of revocation is to have effect, and upon cancellation the revocation shall cease to have effect.

Status: Point in time view as at 06/04/2012.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

(7) Every woman who makes an election under this regulation shall furnish such certificates, documents, information and other evidence for the purpose of enabling the Board to consider the validity of the election as the Board may require.

(8) The conditions referred to in paragraph (1) are that the widow—

(a) was entitled to—

(i) widow's benefit under the Social Security Act 1975,

(ii) any personal death benefit which was payable to her as a widow under the provisions of Chapter IV of Part II of that Act at a weekly rate which was not less than the basic pension specified for the time being in section 6(1)(a) of the Social Security Pensions Act 1975 (rate of Category A retirement pension),

(iii) any personal death benefit by way of pension or allowance payable to her as a widow under any Personal Injuries Scheme or Service Pensions Instrument or any 1914–1918 War Injuries Scheme (not being a pension or allowance calculated by reference to the needs of the beneficiary), the rate of which is as set out in head (ii) above, or

(iv) benefit under section 39(4) of the Social Security Act 1975 (retirement benefits for the aged), other than a Category C retirement pension; and

(b) was not disentitled to payment of any such benefit by reason of her living with a man, to whom she was not married, as his wife.

Textual Amendments

F336 Words in reg. 127(1) substituted (6.4.2003) by [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2003 \(S.I. 2003/964\)](#), regs. 1, **5(a)**

F337 Reg. 127(3) substituted (6.4.2003) by [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2003 \(S.I. 2003/964\)](#), regs. 1, **5(b)**

Duration of effect of election

128.—(1) Subject to paragraph (2), any election made under regulation 127 shall have effect from and including 6th April 1977 (the date on which section 3(1) of the Social Security Pensions Act 1975 (married women and widows) came into force) until whichever of the following events first occurs after the date of the election, namely—

(a) the date on which the woman ceases to be married otherwise than by reason of the death of her husband;

(b) the end of the year in which she ceases to be a qualifying widow;

(c) the end of any two consecutive years which begin on or after 6th April 1978 and in which the woman who made the election has no earnings in respect of which any primary Class 1 contributions are payable in those years and in which that woman is not at any time a self-employed earner;

(d) in the case of a revocation which has not been cancelled in accordance with regulation 127(6), the end of the week in which the notice of revocation is given or, if the woman so wishes, the end of any subsequent week in the same year specified in the notice;

(e) where in any year after 5th April 1982 a payment (“an erroneous payment”) is made by or on behalf of a woman on account of primary Class 1 contributions at the contracted-out rate and the woman wishes to pay contributions at the [F338 main primary percentage] from the beginning of the year next following that year, the end of the year in respect of which the erroneous payment is made; or

(f) where—

- (i) in any year after 5th April 1982 a payment is made by or on behalf of a woman on account of primary Class 1 contributions at the non-contracted-out rate, (“an erroneous payment”), or more than one such payment is made,
 - (ii) from the time of making that payment or, if there is more than one such payment, the first, to the time at which she notifies the Board in accordance with head (v), no contributions have been paid by her or on her behalf at the reduced rate and no contributions have been payable by her or on her behalf in respect of any contracted-out employment.
 - (iii) she has not procured a refund in respect of any erroneous payment,
 - (iv) she wishes to pay contributions at the [^{F339}main primary percentage] from the date on which the only or first erroneous payment was made, and
 - (v) after 5th April 1983 and on or before the 31st December in the next complete calendar year following the end of the year in which any erroneous payment was made, she notifies the Board of her wish to pay contributions at the [^{F340}main primary percentage] in accordance with head (iv),
- the date on which the only or first erroneous payment was made.

(2) Where a woman, to whom paragraph (1)(b) applies, remarries or again becomes a qualifying widow before the end of the year in which she ceases to be a qualifying widow, that woman’s election shall, notwithstanding that sub-paragraph, but without prejudice to the application of paragraph (1) (c), (d), (e) or (f), continue to have effect from the end of that year.

Textual Amendments

F338 Words in reg. 128(1)(e) substituted (6.4.2003) by [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2003 \(S.I. 2003/964\)](#), regs. 1, [9\(1\)\(2\)\(a\)](#)

F339 Words in reg. 128(1)(f)(iv) substituted (6.4.2003) by [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2003 \(S.I. 2003/964\)](#), regs. 1, [9\(1\)\(2\)\(a\)](#)

F340 Words in reg. 128(1)(f)(v) substituted (6.4.2003) by [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2003 \(S.I. 2003/964\)](#), regs. 1, [9\(1\)\(2\)\(a\)](#)

Continuation of elections under regulation 91 of the 1975 Regulations

129. Where, but for regulation 91 of the 1975 Regulations ceasing to have effect on 6th April 1977 (the date on which section 130(2) of the Social Security Act 1975 was repealed) an election made under that regulation before that date would have continued to have effect on that date, that election shall be treated as made under regulation 127 and this Case shall apply accordingly.

Continuation of elections on widowhood

130.—(1) If on 6th April 1977 (the date on which section 3(1) of the Social Security Pensions Act 1975 came into force) a woman—

- (a) was married and subsequently becomes a widow; or
- (b) was a widow and subsequently remarries and again becomes a widow,

paragraph (2) applies to her.

(2) Where this paragraph applies to a woman any election—

- (a) which she had made under regulation 127 before the death of the husband which renders a widow; or

Status: Point in time view as at 06/04/2012.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

- (b) which she is, by virtue of regulation 129, treated as having made under regulation 127 before that death;
- and which is still effective at the time of the husband's death, shall, subject to paragraphs (4) and (5) and notwithstanding regulation 128, continue to have effect until the end of the appropriate period.
- (3) For the purposes of this regulation the end of the appropriate period is—
- (a) the earliest of—
- (i) the end of the second year specified in regulation 128(1)(c),
 - (ii) the end of the period specified in regulation 128(1)(d) or (e), or
 - (iii) the date specified in regulation 128(1)(f); or
- (b) subject to sub-paragraph (a) and paragraphs (4) and (5)—
- (i) where the husband's death occurs before 1st October in any year, the end of that year,
 - (ii) where the husband's death occurs after 30th September in any year, the end of the year next following that in which the death occurs.
- (4) Subject to regulation 128(1)(c), (d), (e) and (f) and to paragraph (5), if at the end of the year specified in head (i) or head (ii) of paragraph (3)(b) there is pending a claim or application made by or on behalf of the woman as a widow within 182 days (including Sundays) of her husband's death for any benefit specified in head (i) or (iv) or, irrespective of its rate, in head (ii) or (iii) of regulation 127(8)(a), the end of the appropriate period shall be the end of the year in which the claim or application is determined.
- (5) If at the end of the year specified in head (i) or (ii) of paragraph (3)(b) or, as the case may be, in paragraph (4) the woman is a qualifying widow or married, the election shall continue to have effect, unless she is then a person to whom regulation 128(1)(c), (d), (e) or (f) applies.

[^{F341} Reduced rate of primary Class 1 contributions otherwise payable at the main primary percentage

131. On and after [^{F342}6th April 2011], the reduced rate of contribution for the purposes of section 19(4) of the Act (power to regulate liability in respect of certain married women and widows) in respect of so much of a married woman's liability for primary Class 1 contributions as is attributable to section 8(1)(a) of the Act shall be [^{F343}5.85] per cent.]

Textual Amendments

- F341** Reg. 131 substituted (6.4.2003) by [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2003 \(S.I. 2003/964\)](#), regs. 1, **6**
- F342** Words in reg. 131 substituted (6.4.2011) by [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2011 \(S.I. 2011/940\)](#), regs. 1(2), **5(a)**
- F343** Word in reg. 131 substituted (6.4.2011) by [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2011 \(S.I. 2011/940\)](#), regs. 1(2), **5(b)**

Class 3 contributions

132. A woman who has made, or is under the regulations 126 to 131 treated as having made, an election under regulation 127 shall be precluded from paying Class 3 contributions for any year in respect of the whole of which that election has effect.

Certificates of election

133.—(1) As represents any election made, or by virtue of regulation 129 as treated as made, under regulation 127—

- (a) where a woman makes an election under regulation 127, the Board shall issue without charge, a certificate of election (“a certificate”) to her;
- (b) where a woman is treated as making such an election, the Board shall, on application without charge, issue a certificate to her; and
- (c) the certificate shall remain the property of the Board.

(2) A woman to whom a certificate has been issued shall be responsible for its custody unless and until it is delivered to a secondary contributor or returned to the Board.

(3) A woman in respect of whom an election has effect in accordance with regulations 126 to 132 shall, if any primary Class 1 contribution is payable by her or on her behalf, immediately deliver to the secondary contributor a certificate which is currently in force in respect of her and upon the delivery of the certificate, the secondary contributor shall become responsible for its custody unless and until it is delivered again to the woman or to the Board.

(4) Where a certificate has ceased to be in force, the woman in respect of whom the certificate was issued shall immediately return it to the Board and for that purpose, if at the time when the certificate ceases to be in force it is in the custody of a secondary contributor, that contributor shall immediately return it to the woman.

(5) The Board may at any time require the person for the time being responsible for the custody of a certificate to return it to the Board, and if at that time the election to which that certificate relates continues to have effect, the Board shall issue to that person a replacement certificate.

(6) Where a woman in respect of whom an election has effect has more than one employed earner’s employment the Board shall issue to her without charge, on her application, such number of certificates as will enable her to comply with the requirements of paragraph (3) in relation to each secondary contributor.

(7) Where a certificate has been lost or destroyed the person responsible for its custody shall inform the Board of that loss or destruction.

- (8) When a woman gives notice in writing to the Board that she revokes an election she shall—
 - (a) if the certificate is with a secondary contributor, recover it from him; and
 - (b) deliver the certificate to the Board.

(9) Where a secondary contributor holds a certificate and—

- (a) is informed by the woman to whom it was issued that she intends to revoke her election and is requested to return the certificate to her so that she may return it to the Board; or
- (b) the employment by him of the woman to whom the certificate was issued has terminated,

he shall immediately return the certificate to her.

(10) Where under the foregoing provisions of this Case an election has been made by a woman [^{F344}to pay at the reduced rate in respect of so much of her liability for primary Class 1 contributions as is attributable to section 8(1)(a) of the Act] and that election ceases to have effect, it shall be the duty of that woman to inform the secondary contributor accordingly.

(11) Any certificate issued for the purpose of an election made or deemed to have been made under the regulation 91 of the 1975 Regulations shall, if by virtue of regulation 124 the election is treated as made under regulation 127, continue in force for the purposes of that regulation.

Status: Point in time view as at 06/04/2012.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

Textual Amendments

F344 Reg. 133(10) substituted (6.4.2003) by [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2003 \(S.I. 2003/964\)](#), regs. 1, 7

Special transitional provisions consequent upon passing of the Social Security Pensions Act 1975

134.—(1) Any woman to whom this regulation applies—

- (a) shall, in respect of [^{F345}so much of her liability for primary Class 1 contributions as is attributable to section 8(1)(a) of the Act], be liable to pay [^{F346}those contributions] at the reduced rate; and
- (b) shall not be liable to pay any Class 2 contribution which, apart from the provisions of this paragraph, she would be liable to pay.

(2) Subject to paragraphs (3) to (7), this regulation applies to any woman—

- (a) to whom, before 6th April 1977 (the date on which section 3(1) of the Social Security Pensions Act 1975 came into force and sections 5(3) and 130(2) of the Social Security Act 1975 were repealed), the provisions of section 5(3) of the Social Security Act 1975 or of regulation 94 of the 1975 Regulations (newly widowed woman) applied and to whom those provisions would have continued to apply but for those provisions having been repealed or, as the case may be, having ceased to have effect on that date;
- (b) who, not being a person to whom regulation 130 applies—
 - (i) on 6th April 1977 was a married woman and became a widow during the period from and including that date to 6th April 1978, or
 - (ii) on 6th April 1977 was a qualifying widow, remarried after that date and again became a widow during that period; or
- (c) who on 6th April 1977 was married or a qualifying widow and had attained the age of 59.

(3) In the case of a woman specified in paragraph (2)(a) or (b), the provisions of paragraph (1) shall, subject to the provisions of paragraphs (4) and (5), apply only during the period which—

- (a) in the case of a woman specified in paragraph (2)(a)—
 - (i) began at the beginning of the year in which section 3(1) came into force; and
 - (ii) ended at the end of that year;
- (b) in the case of a woman specified in paragraph (2)(b)—
 - (i) began on the date on which that woman became or, as the case may be, again became a widow, and
 - (ii) ends at the end of whichever of the two periods specified in regulation 130(2)(b) is appropriate in her case in so far as that regulation relates to the date of the death of the husband.

(4) In the case of a woman to whom paragraph (3)(a) or (b) applies, those sub-paragraphs shall be subject to regulation 130(4) and paragraph (5) below with the modification that—

- (a) in regulation 130(4), the reference to sub-paragraphs (d) and (e) of regulation 128(1) shall be omitted;
- (b) in so far as the provisions of regulation 128(1)(c) are incorporated in regulation 130(4) as modified for the purposes of this regulation, references in regulation 128(1)(c) to any election made under regulation 127 and to a woman who made the election shall

respectively be construed as references to the application of paragraph (1) and to the woman to whom that paragraph applies.

- (5) Any woman—
- (a) who by virtue of paragraph (1)—
 - (i) was, in respect of [^{F347}so much of her liability for primary Class 1 contributions as is attributable to section 8(1)(a) of the Act], liable to pay that contribution at the reduced rate, or
 - (ii) was not liable to pay any Class 2 contribution which apart from the provisions of that paragraph she would have been liable to pay; but
 - (b) to whom by virtue of paragraphs (2) to (4), paragraph (1) ceases so to apply; and
 - (c) who has not, in relation to the application of paragraph (1), given the notice prescribed in paragraph (7),

may, subject to the conditions prescribed in paragraph (6), make an election under and in accordance with regulation 127, notwithstanding that she has not done so before the date prescribed in that regulation, and regulations 126 to 133 shall apply accordingly from the end of the year in which paragraph (1) ceases to apply to her.

- (6) The conditions referred to in paragraph (5) are that the woman—
- (a) shall make the election not later than 11th May next following the end of the year in which paragraph (1) ceases to apply to her; and
 - (b) is, at the beginning of the year next following the year in which paragraph (1) so ceases to apply, married or a qualifying widow.

(7) Any woman to whom, by virtue of paragraph (2)(a) or (b), paragraph (1) applies may give notice in writing to the Board that she does not wish paragraph (1) to apply to her and upon the giving of such notice it shall accordingly cease to apply.

Textual Amendments

F345 Words in reg. 134(1)(a) substituted (6.4.2003) by [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2003 \(S.I. 2003/964\)](#), regs. 1, **8(2)(a)**

F346 Words in reg. 134(1)(a) substituted (6.4.2003) by [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2003 \(S.I. 2003/964\)](#), regs. 1, **8(2)(b)**

F347 Words in reg. 134(5)(a)(i) substituted (6.4.2003) by [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2003 \(S.I. 2003/964\)](#), regs. 1, **8(3)**

Deemed election of married women and widows excepted from contribution liability under the National Insurance Act 1965

135. Where immediately before 6th April 1975 there was, or is deemed to have been, in issue a current certificate of exception under regulation 9(3) or (4A) of the National Insurance (Contributions) Regulations 1969 ^{F348} (exception for certain widows), or there was current an election under regulation 2(1)(a) of the National Insurance (Married Women) Regulations 1973 ^{F349} (married women who are employed persons), or a woman then was, or but for any exception under or by virtue of another provision of the National Insurance Act 1965 ^{F350} would have been, excepted under regulation 3(1)(a) of the 1973 Regulations (married women who are self-employed persons) from liability for contributions as a self-employed person under that Act and in any of these cases on that day the woman is a widow or, as the case may be, a married woman, that woman shall be deemed to have made an election under regulation 91 of the 1975 Regulations.

Status: Point in time view as at 06/04/2012.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

Textual Amendments

F348 S.I. 1969/1696; the relevant amending instrument is S.I. 1970/1580.

F349 S.I. 1973/693.

F350 1965 c. 51.

Special transitional provisions regarding deemed elections

136.—(1) If, under regulation 135 a woman is deemed to have made an election under regulation 91 of the 1975 Regulations, this regulation applies.

(2) Before the woman first becomes liable to pay a primary Class 1 contribution she may revoke any such election by notice in writing given to the Board and, if she so specified in that notice, the revocation shall have effect from and including the beginning of the year in which the notice is given.

(3) If no notice of revocation is given and—

(a) in the first year (not being more than 2 years after 6th April 1978) in which the woman becomes liable to pay primary Class 1 contributions—

(i) she shall be entitled to choose whether with effect from the beginning of that year, to pay such contributions at the [^{F351}main primary percentage] or at the reduced rate,

(ii) she shall notify any secondary contributor whether he is to pay such contributions on her behalf at the [^{F352}main primary percentage] or the reduced rate, and

(iii) such secondary contributor shall pay those contributions in accordance with that notification until the woman notifies him to the contrary in accordance with the provisions of regulation 133(10);

(b) in that first year (not being more than 2 years after 6th April 1978) any primary Class 1 contribution at the standard rate is paid by or on behalf of the woman, unless it is shown to the satisfaction of the Board that the woman did not intend, by the making of that payment, to revoke the election she shall be deemed to have revoked the election.

Textual Amendments

F351 Words in reg. 136(3)(a)(i) substituted (6.4.2003) by [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2003 \(S.I. 2003/964\)](#), regs. 1, [9\(1\)\(2\)\(b\)](#)

F352 Words in reg. 136(3)(a)(ii) substituted (6.4.2003) by [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2003 \(S.I. 2003/964\)](#), regs. 1, [9\(1\)\(2\)\(b\)](#)

Application of regulations 126 to 134 to elections and revocation of elections deemed made under regulations 135 and 136

137.—(1) Subject to paragraph (2), regulations 126 to 134, save only in so far as inconsistent with regulations 135 and 136, shall apply to any election deemed to have been made under regulation 91 of the 1975 Regulations by virtue of regulation 135 as if it had been made under, and in accordance with, regulation 127 except that the Board shall not be obliged to issue a certificate, and as if any revocation which is deemed to be made under regulation 136 were made under, and in accordance with, regulation 127(5).

(2) Where a woman who under regulation 135 is not liable for a primary Class 1 contribution otherwise than at the reduced rate and to whom no certificate of election under the Act has been issued becomes employed in employed earner's employment, she shall make application in writing

to the Board for such a certificate and, notwithstanding paragraph (1), the Board shall issue such a certificate to her.

Savings

138. For the purpose of facilitating the introduction of the scheme of social security contributions within the meaning of paragraph 9(1)(a)(i) of Schedule 3 to the Social Security (Consequential Provisions) Act 1975^{F353} regulations 2(2) (married women who are employed persons), 3(2) (married women who are self-employed persons), 4(2) (married women who are non-employed persons) and 16 (notice of marriage) of the National Insurance (Married Woman) Regulations 1973 shall be saved.

Textual Amendments

F353 1975 c. 18.

Modification of the Act

139. [^{F354}Part 1, Part 2 (except section 60), and Parts 3 and 4 of the Act] shall have effect as respects married woman and widows subject to the modifications contained in this Case.

Textual Amendments

F354 Words in reg. 139 substituted (6.4.2003) by [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2003 \(S.I. 2003/964\)](#), regs. 1, **10**

Case E—

Members of the Forces^{F355}

Textual Amendments

F355 This Case applies to Northern Ireland by virtue of the powers conferred by section 116 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 on the Treasury. These powers are exercisable, as in Great Britain, with the concurrence of the Secretary of State (and not the Department for Social Development).

Establishments and organisations of which Her Majesty's forces are taken to consist

140. Except in relation to the employment in any of the establishments or organisations specified in Part I of Schedule 6 of any person specified in Part II of that Schedule, Her Majesty's forces shall, for the purpose of the Act, be taken to consist of the establishments and organisations specified in Part I of that Schedule, and this Case shall be construed accordingly.

Treatment of serving members of the forces as present in Great Britain

141. For the purposes of regulation 145(1)(a) a serving member of the forces shall, in respect of his employment as such, be treated as present in Great Britain^{F356}.

Status: Point in time view as at 06/04/2012.

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

Textual Amendments

F356 See however regulation 6 of [S.I. 1975/493](#) as to the treatment of contributions paid by members of the forces for the purposes of entitlement to benefit in Northern Ireland.

Treatment of contributions paid after that date

142. For the purpose of any entitlement to benefit, any earnings-related contributions paid after the due date in respect of earnings paid to or for the benefit of a person in respect of his employment as a member of the forces shall be treated as paid on that date.

Special provisions concerning earnings-related contributions

143.—(1) For the purposes of earnings-related contributions, there shall be excluded from the computation of a person's earnings as a serving member of the forces any payment in so far as it is—

- (a) a payment of or in respect of an Emergence Service grant;
- (b) a payment of any sum referred to in ^{F357}sections 297 and 298 of ITEPA 2003 (armed forces' food, drink and mess allowances and reserve and auxiliary forces' training allowances)]; or
- (c) a payment of liability bounty in recognition of liability for immediate call-up in times of emergency.

(2) The earnings period for a person who is a serving member of the forces shall be as follows—

- (a) in the case of a person serving in the regular naval, military or air forces of the Crown, whatever is the accounting period from time to time applying in his case under the Naval Pay Regulations or, as the case may be, the Army Pay Warrant, Queen's Regulations for the Army or for the Royal Air Force or the Air Council Instructions; or
- (b) in the case of a person undergoing training in any of the establishments or organisations specified in paragraphs 2 to 9 of Part I of Schedule 6, a month.

Textual Amendments

F357 Words in reg. 143(1)(b) substituted (6.4.2004) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **25**

Application of the Act and regulations

144.—(1) The provisions of Part I of the Act and so much of Part VI of the Act as relates to contributions and the regulations made under those provisions shall, in so far as they are not inconsistent and the provisions of this Case, apply in relation to persons who are serving members of the forces with the modification prescribed in paragraph (2).

(2) The modification is that where any such person is, on account of his being at sea or outside the United Kingdom by reason of his employment as a serving member of the forces, unable to perform an act required to be done either immediately or on the happening of a certain event or within a specified time, he shall be deemed to have complied with that requirement if he performs the act as soon as is reasonably practicable, although after the happening of the event or the expiration of the specified time,

Case F—

Residence and Persons Abroad

Condition as to residence or presence in Great Britain or Northern Ireland

145.—(1) Subject to [^{F358}paragraph (2)], for the purposes of section 1(6) of the Act (conditions as to residence or presence in Great Britain for liability or entitlement to pay Class 1 or Class 2 contributions, liability to pay Class 1A or Class 1B contributions or entitlement to pay Class 3 Contributions) ^{F359} the conditions as to residence or presence in Great Britain or Northern Ireland (as the case requires) shall be—

- (a) as respects liability of an employed earner to pay primary Class 1 contributions in respect of earnings for an employed earner's employment, that the employed earner is resident or present in Great Britain or Northern Ireland (or but for any temporary absence would be present in Great Britain or Northern Ireland) at the time of that employment or is then ordinarily resident in Great Britain or Northern Ireland (as the case may be);
- (b) as respect liability to pay secondary Class 1 contributions, Class 1A contributions or Class 1B contributions that the person who, but for any conditions as to residence or presence in Great Britain or Northern Ireland (as the case may be and including the having of a place of business in Great Britain or Northern Ireland), would be the secondary contributor or the person liable for the payment of Class 1B contributions (in this Case referred to as "the employer") is resident or present in Great Britain or Northern Ireland when such contributions become payable or then has a place of business in Great Britain or Northern Ireland (as the case may be), so however that nothing in this paragraph shall prevent the employer paying the said contributions if he so wishes;
- (c) as respects entitlement of a self-employed earner to pay Class 2 contributions, that that earner is present in Great Britain or Northern Ireland (as the case may be) in the contribution week for which the contribution is to be paid;
- (d) as respects liability of a self-employed earner to pay Class 2 contributions, that the self-employed earner is ordinarily resident in Great Britain or Northern Ireland (as the case may be), or, if he is not so ordinarily resident, that before the period in respect of which any such contributions are to be paid he has been resident in Great Britain (as the case may be) for a period of at least 26 out of the immediately preceding 52 contribution weeks under the Act, the Social Security Act 1975 ^{F360} or the National Insurance Act 1965 ^{F361} or under some or all of those Acts.
- (e) as respects entitlement of a person to pay Class 3 contributions in respect of any year, either that—
 - (i) that person is resident in Great Britain or Northern Ireland (as the case may be) throughout the year,
 - (ii) that person has arrived in Great Britain or Northern Ireland (as the case may be) during that year and has been or is liable to pay Class 1 or Class 2 contributions in respect of an earlier period during that year,
 - (iii) that person has arrived in Great Britain or Northern Ireland (as the case may be) during that year and was either ordinarily resident in Great Britain or Northern Ireland (as the case may be) throughout the whole of that year or became ordinarily resident during the course of it, or
 - (iv) that person not being ordinarily resident in Great Britain or Northern Ireland (as the case may be), has arrived in that year or the previous year and has been continuously present in Great Britain or Northern Ireland (as the case may be) for 26 complete

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contribution weeks, entitlement where the arrival has been in the previous year arising in respect only of the next year.

(2) Where a person is ordinarily neither resident nor employed in the United Kingdom and, in pursuance of employment which is mainly employment outside the United Kingdom by an employer whose place of business is outside the United Kingdom (whether or not he also has a place of business in the United Kingdom) that person is employed for a time in Great Britain or Northern Ireland (as the case may be) as an employed earner and, but for the provisions of this paragraph, the provisions of sub-paragraph (a) of paragraph (1) would apply, the conditions prescribed in that sub-paragraph and in sub-paragraph (b) of that paragraph shall apply subject to the proviso that—

- (a) no primary or secondary Class 1 contribution shall be payable in respect of the earnings of the employed earner for such employment;
- (b) no Class 1A contribution shall be payable in respect of something which is made available to the employed earner or to a member of his family or household by reason of such employment; and
- (c) no Class 1B contribution shall be payable in respect of any PAYE settlement agreement in connection with such employment, after the date of the earner’s last entry into Great Britain or Northern Ireland (as the case may be) and before he has been resident in Great Britain or Northern Ireland (as the case may be) for a continuous period of 52 contribution weeks from the beginning of the contribution week following that in which that date falls.

^{F362}(3)

Textual Amendments

F358 Words in [reg. 145\(1\)](#) substituted (6.4.2012) by [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2012 \(S.I. 2012/817\)](#), [regs. 1\(1\), 7\(3\)\(a\)](#)

F359 Section 1(6) was amended by paragraph 56(3) of Schedule 7 to the [Social Security Act 1998 \(c. 47\)](#).

F360 1975 c. 14.

F361 1965 c. 51.

F362 [Reg. 145\(3\)](#) omitted (6.4.2012) by virtue of [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2012 \(S.I. 2012/817\)](#), [regs. 1\(1\), 7\(3\)\(b\)](#)

Payment of contributions for periods abroad

146.—(1) Where an earner is gainfully employed outside the United Kingdom, and that employment, if it had been in Great Britain or Northern Ireland, would have been employed earner’s employment, that employment outside the United Kingdom shall be treated as employed earner’s employment for the period for which under paragraph (2)(a) contributions are payable in respect of the earnings paid to the earner in respect of that employment provided that—

- (a) the employer has a place of business in Great Britain or Northern Ireland (as the case may be);
- (b) the earner is ordinarily resident in Great Britain or Northern Ireland (as the case may be); and
- (c) immediately before the commencement of the employment the earner was resident in Great Britain or Northern Ireland (as the case may be).

(2) Where, under paragraph (1), the employment outside the United Kingdom is treated as an employed earner’s employment, the following provisions shall apply in respect of the payment of contributions—

- (a) primary and secondary Class 1 contributions shall be payable in respect of any payment of earnings for the employment outside the United Kingdom during the period of 52

contribution weeks from the beginning of the contribution week in which that employment begins to the same extent as that to which such contributions would have been payable if the employment had been in Great Britain or Northern Ireland (as the case may be);

- (b) subject to ^{F363}regulations 148 and 148A], any earner by or in respect of whom contributions are or have been payable under sub-paragraph (a) shall be entitled to pay Class 3 contributions in respect of any year during which the earner is outside the United Kingdom from and including that in which the employment outside the United Kingdom begins until that in which he next returns to Great Britain or Northern Ireland (as the case may be);
- (c) Class 1A contributions and Class 1B contributions shall be payable in respect of the period specified in sub-paragraph (a).

Textual Amendments

F363 Words in reg. 146(2)(b) substituted (18.7.2007) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/1838\)](#), regs. 1(1), 4

Class 2 and Class 3 contributions for periods abroad

147.—(1) Subject to ^{F364}regulations 148 and 148A], a person (other than a person to whom regulation 146(2)(a) applies) may, notwithstanding the provisions of regulation 145(1)(c) and (e), if he so wishes and if he satisfies the conditions specified in paragraph (3) below pay contributions in respect of periods during which he is outside the United Kingdom as follows—

- (a) in respect of any contribution week throughout which he is gainfully employed outside the United Kingdom in employment which is not employment in respect of earnings from which Class 1 contributions are payable, he may, if immediately before he last left Great Britain or Northern Ireland (as the case may be), he was ordinarily an employed earner or a self-employed earner, pay a contribution as a self-employed earner;
- (b) in respect of any year which includes a period during which he is outside the United Kingdom he may pay Class 3 contributions.

(2) A person who is gainfully employed outside Great Britain and falls within the provisions of paragraph (1)(a) shall for the purposes of that paragraph be treated as being outside the United Kingdom for any period during which he is temporarily in the United Kingdom.

(3) Subject to paragraph (4), the conditions referred to in paragraph (1) are that—

- (a) the person has been resident in Great Britain or Northern Ireland (as the case may be) for a continuous period of not less than three years at any time before the period for which the contributions are to be paid;
- (b) there have been paid by or on behalf of that person contributions of the appropriate amount—
 - (i) for each of 3 years ending at any time before the relevant period,
 - (ii) for each of 2 years ending at any time before the relevant period and, in addition, 52 contributions under either or both the Social Security Act 1975 or the National Insurance Act 1965, or
 - (iii) for any one year ending at any time before the relevant period and, in addition, 104 contributions under either or both the Social Security Act 1975 or the National Insurance Act 1965, or
- (c) there have been paid by or on behalf of that person 156 contributions under either or both the Social Security Act 1975 or the National Insurance Act 1965.

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Changes to legislation: There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001. (See end of Document for details)

(4) In paragraph (3)—

“contributions of the appropriate amount” means contributions under the Act the earnings factor derived from which is not less than 52 times the lower earnings limit for the time being for primary Class 1 contributions;

“contributions under either or both the Social Security Act 1975 or the National Insurance Act 1965” means contributions of any class under section 4, 7 or 8 of the Social Security Act 1975 or section 3 of the National Insurance Act 1965 in respect of any period; and

“the relevant period” means the period for which it is desired to pay the Class 2 or Class 3 contributions specified in paragraph (1).

Textual Amendments

F364 Words in reg. 147(1) substituted (18.7.2007) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/1838\)](#), regs. 1(1), **5**

Conditions of payment of Class 2 or Class 3 contributions for periods abroad

148. Entitlement to pay Class 2 or Class 3 contributions under regulations 146 and 147 shall be subject to the following conditions—

- (a) that the payment is made within the period specified in regulation 48(3)(b)(i); and
- (b) that the payment is made only to the extent to which it could have been made if the contributor had been present in Great Britain or Northern Ireland (as the case may be) and otherwise entitled to make it.

[^{F365} Conditions of payment of Class 3 contributions: transfers to the Communities’ pension scheme

148A.—(1) Entitlement to pay Class 3 contributions under regulations 146 and 147 is subject to the condition set out in paragraph (2).

(2) The condition is that a person may not pay a Class 3 contribution for any part of the period to which that person’s Communities transfer relates.

(3) For the purposes of this regulation—

a “Communities transfer” means a transfer to the Communities pension scheme of rights to relevant benefits;

“the Communities’ pension scheme” means the pension scheme provided for officials and other servants of Community institutions and bodies in accordance with regulations adopted by the Council of the European Communities;

“relevant benefits” means benefits under—

- (a) Parts 2 to 5 and 10 of the Act,
- (b) sections 36 and 37 of the National Insurance Act 1965 (graduated retirement benefit), and
- (c) sections 1(2) and 2 of the Jobseekers Act 1995 (contribution-based jobseeker’s allowance).]

Textual Amendments

F365 Reg. 148A inserted (18.7.2007) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/1838\)](#), regs. 1(1), **6**

CASE G—

VOLUNTEER DEVELOPMENT WORKERS

Interpretation

149.—(1) In this Case “volunteer development worker” means a person in respect of whom the Board has certified that it is consistent with the proper administration of the Act that, subject to the satisfaction of the conditions in paragraph (2), that person should be entitled to pay Class 2 contributions under regulation 151.

(2) The conditions are—

- (a) that that person is ordinarily resident in Great Britain or Northern Ireland (as the case may be); and
- (b) that he is employed [^{F366}outside the United Kingdom] .

Textual Amendments

F366 Words in reg. 149(2)(b) substituted (8.10.2002) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2002 \(S.I. 2002/2366\)](#), regs. 1, 17

Certain volunteer development workers to be self-employed earners

150. Any employment as a volunteer development worker, which is not employment in respect of earnings from which Class 1 contributions are payable, or, where section 6A of the Act applies ^{F367}, are treated as having been paid, shall be employment as a self-employed earner notwithstanding that it is not employment in Great Britain or Northern Ireland.

Textual Amendments

F367 Section 6A was inserted by paragraph 3 of Part I of Schedule 9 to the Welfare Reform Act.

Option to pay Class 2 contributions

151. Notwithstanding section 11(1) of the Act and regulation 150, a volunteer development worker who by virtue of that regulation is a self-employer earner—

- (a) shall be excepted from liability to pay a Class 2 contribution; but
- (b) shall be entitled to pay such a contribution if he so wishes at the rate prescribed in regulation 152(b).

Special provision as to residence, rate, annual maximum and method of payment

152. In relation to the Class 2 contributions a volunteer development worker is entitled to pay by virtue of regulation 151—

- (a) the provision of Case F of these Regulations shall not apply;
- (b) the weekly rate of any Class 2 contributions payable by a volunteer development worker for any contribution week while he is ordinarily employed as a volunteer development worker shall, notwithstanding the provisions of section 11(1) of the Act (Class 2 contributions) be 5 per cent. of the lower earnings limit for the year in which falls the week in respect of which the contribution is paid;

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- (c) for the purpose of determining the extent of an earner's liability for contributions under regulation 21 the amount prescribed in that regulation shall be reduced by the amount of any contributions paid in respect of the year in question by virtue of regulation 151; and
- (d) regulation 89 shall not apply.

Late paid contributions

153.—(1) This regulation applies to any Class 2 contribution a volunteer development worker is entitled to pay by virtue of regulation 151, which is paid in respect of a week falling within a tax year (“the contribution year”) earlier than the tax year in which it is paid.

(2) Section 12 of the Act (late paid Class 2 contributions) shall not apply.

(3) Subject to paragraph (4), the amount of a contribution to which this regulation applies shall be the amount which the volunteer development worker would have had to pay if he had paid the contribution in the contribution year.

(4) In any case where—

- (a) the volunteer development worker pays a contribution to which this regulation applies after the end of the tax year immediately following the contribution year; and
- (b) the weekly rate of contributions applicable under regulation 152(b), for the week in respect of which the contribution is paid, differs from the weekly rate so applicable at the time of payment,

the amount of the contributions shall be computed by reference to the highest weekly rate of contributions applicable in the period from the week in respect of which the contribution is paid to the day on which it is paid.

Modification of the Act and these Regulations

154. Part 1 of the Act and these Regulations shall have effect as respects volunteer development workers subject to the modification contained in this Case.

PART 10

MISCELLANEOUS PROVISIONS

Treatment of contribution week falling in two years

155. For the purposes of Class 2 contributions, where a contribution week falls partly in one year and partly in another, it shall be treated as falling wholly within the year in which it begins.

^{F368}Decisions taken by officers of the Inland Revenue in respect of contributions which are prescribed for the purposes of section 8(1)(m) of the Transfer Act

155A.—(1) For the purposes of section 8(1)(m) of the Transfer Act the decisions specified in paragraphs (2) to (5) are prescribed.

(2) The decisions specified in this paragraph are—

- (a) whether a notice should be given under regulation 3(2B) and, if so, the terms of such a notice;
- (b) whether a notice given under regulation 3(2B) should cease to have effect;
- (c) whether a direction should be given under regulation 31 and, if so, the terms of the direction;

- (d) whether the condition in regulation 50(2) is satisfied;
 - (e) whether a late application under [^{F369}regulation 52(8)] for the refund of a contribution should be admitted;
 - (f) whether a late application under regulation 54(3) for the return of a Class 1 contribution paid at the wrong rate should be admitted;
 - (g) whether a late application under regulation 55(3) for the repayment of a Class 1A contribution should be admitted;
 - (h) whether, in a case where the secondary contributor has failed to pay a primary Class 1 contribution on behalf of the primary contributor, that failure was with the consent or connivance of the primary contributor or attributable to any negligence on the part of the primary contributor, as mentioned in regulation 60;
 - (i) whether the condition in regulation 61(2) is satisfied;
 - (j) whether, in the case of a Class 2 contribution remaining unpaid by the due date, the reason for the non-payment is the contributor's ignorance or error, and, if so, whether that ignorance or error was due to his failure to exercise due care and diligence, as mentioned in regulation 65(2);
 - (k) whether the reason for a contributor's failure to pay a Class 3 contribution within the period prescribed for its payment is his ignorance or error, and, if so, whether that ignorance or error was due to his failure to exercise due care and diligence, as mentioned in regulation 65(3);
 - (l) whether the reason for a contributor's failure to pay a Class 3 contribution falling to be computed under section 13(6) of the Act and which remains unpaid after the end of the second year following the contribution year, is his ignorance or error and if so whether that ignorance or error was due to his failure to exercise due care and diligence, as mentioned in regulation 65(4); and
 - (m) whether a late application under regulation 110(3) for the return of a special Class 4 contribution should be admitted.
- (3) The decisions specified in this paragraph are—
- (a) whether a contribution (other than a Class 4 contribution) has been paid in error as mentioned in [^{F370}regulation 52(1)]; and
 - (b) whether there has been a payment of contributions in excess of the amount specified in regulation 21, as mentioned in [^{F371}regulation 52A(1)],
- to the extent that they are not decisions falling within section 8(1)(c) or (d) (decisions as to liability and entitlement to pay contributions) of the Transfer Act.
- (4) The decisions specified in this paragraph are—
- (a) whether the delay in making payment of a contribution, payable by an employer on behalf of an insured person, was neither with the consent or connivance of the insured person nor attributable to any negligence on the part of the insured person, as mentioned in regulation 23 of the National Insurance (Contributions) Regulations 1969;
 - (b) whether, in the case of a contribution paid after the due date, the failure to pay the contribution before that time was attributable to ignorance or error on the part of the insured person, and, if so, whether that ignorance or error was due to the failure on the part of the insured person to exercise due care and diligence, as mentioned in regulation 24 of those Regulations; and
 - (c) whether the failure to pay a contribution to which regulation 32 of those Regulations applies within the prescribed period was attributable to ignorance or error on the part of

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the person entitled to pay it and, if so, whether that ignorance or error was due to the failure of the person entitled to pay the contribution to exercise due care and diligence.

- (5) The decisions specified in this paragraph are—
- (a) whether the delay in making payment of a primary Class 1 contribution which is payable on a primary contributor's behalf by a secondary contributor was neither with the consent or connivance of the primary contributor nor attributable to any negligence on the part of the primary contributor, as mentioned in regulation 5 of the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations 2001 (treatment for the purpose of any contributory benefit of late paid primary Class 1 contributions where there was no consent, connivance or negligence by the primary contributor); and
 - (b) whether, in the case of a contribution paid by or in respect of a person after the due date, the failure to pay the contribution before that time was attributable to ignorance or error on the part of that person or the person making the payment and if so whether that ignorance or error was due to the failure on the part of such person to exercise due care and diligence, as mentioned in regulation 6 of the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations 2001 (treatment for the purpose of any contributory benefit of contributions under the Act paid late through ignorance or error).]

Textual Amendments

- F368** Reg. 155A inserted (8.10.2002) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2002 \(S.I. 2002/2366\)](#), regs. 1, **18**
- F369** Words in reg. 155A(2)(e) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **26(a)**
- F370** Words in reg. 155A(3)(a) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **26(b)(i)**
- F371** Words in reg. 155A(3)(b) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions, Categorisation of Earners and Intermediaries\) \(Amendment\) Regulations 2004 \(S.I. 2004/770\)](#), regs. 1(1), **26(b)(ii)**

Northern Ireland

156.—(1) Except where otherwise provided, the provisions of these Regulations shall apply to Northern Ireland as they apply to Great Britain.

(2) Paragraph (1) does not apply to the provisions of Case B^{F372}... of Part 9 of these Regulations.

(3) In the application of these Regulations to Northern Ireland other than this regulation, a reference to a provision of an enactment, which applies only to Great Britain shall be construed so far as necessary as including a reference to the corresponding enactment applying in Northern Ireland.

(4) Schedule 7 contains a Table showing, in column (1) details of enactments applying in Great Britain for which the enactment shown in column (2) is the corresponding enactment in Northern Ireland.

Neither this paragraph nor Schedule 7 limits the operation of paragraph (3).

(5) The reference—

- (a) to an Order in Council under section 179 of the Administration Act shall be taken to include a reference to an order under section 155 of the Social Security Administration (Northern Ireland) Act 1992 ^{F373}; and
- (b) to the Secretary of State in regulation 59(3)(b) shall be taken to include a reference to the Department of Health and Social Services for Northern Ireland, but any other reference to the Secretary of State shall be taken to include a reference to the Department for Social Development.
- (6) The rate of interest prescribed for the purposes of regulations 75 and 76(1) and paragraphs 17(1) and 18(1) and (3) of Schedule 4, in their application to Northern Ireland, is the rate applicable under paragraph 6(3)(a) of Schedule 1 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992 ^{F374} for the purpose of paragraph 6(3) of Schedule 1 to the Social Security Contributions and Benefits Act 1992.

Textual Amendments

F372 Words in reg. 156(2) omitted (6.4.2003) by virtue of [The Social Security \(Contributions\) \(Amendment No. 2\) Regulations 2003 \(S.I. 2003/964\)](#), regs. 1, **11**

F373 1992 c. 8.

F374 1992 c. 7.

Revocations

157.—(1) The Regulations specified in column (1) of Parts I and II of Schedule 8 are revoked to the extent mentioned in column (3) of that Schedule.

Part I of Schedule 8 contains revocations of provisions which extend either to Great Britain or to the whole of the United Kingdom, whilst Part II contains revocations of provisions which extend only to Northern Ireland.

(2) Anything done, permitted to be done or required to be done, under any provision of the instruments revoked by these Regulations shall be treated as though it had been done or were permitted or required to be done (as the case may be) under the corresponding provision of these Regulations.

(3) Without prejudice to the generality of paragraph (2), a person who would have been liable, immediately before the revocation of regulation 53A(4) of the Social Security (Contributions) Regulations 1979 ^{F375} by paragraph (1) to a penalty in respect of a failure which commenced before these Regulations come into force shall continue to be liable to that penalty.

(4) The revocation by these Regulations of an instrument which itself revoked an earlier instrument subject to savings does not prevent the continued operation of those savings, insofar as they are capable of continuing to have effect.

(5) In this regulation “instrument” includes a Statutory Rule of Northern Ireland.

Textual Amendments

F375 [S.I. 1979/591](#); regulation 53A was inserted by regulation 4 of [S.I. 1993/260](#) and paragraphs (4) to (9) were added by regulation 2 of [S.I. 2001/45](#).

Status: Point in time view as at 06/04/2012.

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Clive Betts
Greg Pope
Two of the Lords Commissioners of Her
Majesty's Treasury

The Secretary of State hereby concurs

Jeff Rooker
Minister of State,
Department of Social Security

The Department of Social Development hereby concurs
Sealed with the Official Seal of the Department for Social Development on 12th March 2001.

L.S.

John O'Neill
Senior Officer of the
Department for Social Development

Nick Montagu
Dave Hartnett
Two of the Commissioners of Inland Revenue

Status:

Point in time view as at 06/04/2012.

Changes to legislation:

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