

## STATUTORY INSTRUMENTS

# 2001 No. 1004

## The Social Security (Contributions) Regulations 2001

### PART 5 **U.K.**

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

##### Exception from <sup>F1</sup>... Class 2 contributions **U.K.**

**43.**—(1) Subject to paragraphs (2) and (3), a self-employed earner [<sup>F2</sup>shall not be treated under section 11(5B) of the Act as having actually paid] a Class 2 contribution for any contribution week—

- (a) in respect of the whole of which the earner is in receipt of incapacity benefit;
- [<sup>F3</sup>(ab) in respect of the whole of which the earner is in receipt of employment and support allowance;]
- (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 [<sup>F4</sup>carer's allowance][<sup>F5</sup>, carer support payment under the Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023] or an unemployment 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 [<sup>F6</sup>is not treated as having actually paid] 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

- F1** Words in reg. 43 heading omitted (6.4.2015) by virtue of [The Social Security \(Miscellaneous Amendments No. 2\) Regulations 2015 \(S.I. 2015/478\)](#), regs. 1(4), 4(2)
- F2** Words in reg. 43(1) substituted (6.4.2024) by [The Social Security \(Class 2 National Insurance Contributions\) \(Consequential Amendments and Savings\) Regulations 2024 \(S.I. 2024/377\)](#), regs. 1(1), 6(3)(a) (with reg. 1(4))
- F3** Reg. 43(1)(ab) inserted (6.4.2015) by [The Social Security \(Miscellaneous Amendments No. 2\) Regulations 2015 \(S.I. 2015/478\)](#), regs. 1(4), 4(3)

- F4** 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)**
- F5** Words in reg. 43(1)(e) inserted (E.W.S.) (19.11.2023) by [The Carer’s Assistance \(Carer Support Payment\) \(Scotland\) Regulations 2023 \(Consequential Amendments\) Order 2023 \(S.I. 2023/1218\)](#), arts. 1(2), **12**
- F6** Words in reg. 43(3) substituted (6.4.2024) by [The Social Security \(Class 2 National Insurance Contributions\) \(Consequential Amendments and Savings\) Regulations 2024 \(S.I. 2024/377\)](#), regs. 1(1), **6(3)(b)** (with reg. 1(4))

**Application for, and duration and cancellation of, certificates of exception** **U.K.**

<sup>F7</sup>**44.** .....

**Textual Amendments**  
**F7** Regs. 44-47 omitted (6.4.2015) by virtue of [The Social Security \(Miscellaneous Amendments No. 2\) Regulations 2015 \(S.I. 2015/478\)](#), regs. 1(4), **24(1)(b)**

**Earnings for the purposes of certificates of exception** **U.K.**

<sup>F7</sup>**45.** .....

**Textual Amendments**  
**F7** Regs. 44-47 omitted (6.4.2015) by virtue of [The Social Security \(Miscellaneous Amendments No. 2\) Regulations 2015 \(S.I. 2015/478\)](#), regs. 1(4), **24(1)(b)**

**Certificates of exception—exception from liability for, and entitlement to pay, Class 2 contributions** **U.K.**

<sup>F7</sup>**46.** .....

**Textual Amendments**  
**F7** Regs. 44-47 omitted (6.4.2015) by virtue of [The Social Security \(Miscellaneous Amendments No. 2\) Regulations 2015 \(S.I. 2015/478\)](#), regs. 1(4), **24(1)(b)**

**Return of Class 2 contributions paid by low earners** **U.K.**

<sup>F7</sup>**47.** .....

**Textual Amendments**  
**F7** Regs. 44-47 omitted (6.4.2015) by virtue of [The Social Security \(Miscellaneous Amendments No. 2\) Regulations 2015 \(S.I. 2015/478\)](#), regs. 1(4), **24(1)(b)**

### Class 3 contributions **U.K.**

**48.**—(1) Subject to sections 13(2) and 14(1) of the Act (Class 3 contributions only payable for purposes of satisfying certain <sup>F8</sup>... conditions and circumstances in which persons shall not 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 [<sup>F9</sup>regulations 50, 50A<sup>F10</sup>[<sup>F11</sup>... [<sup>F12</sup>, 50C and 65BA(1)]]] 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

- F8** Word in reg. 48(1) omitted (coming into force in accordance with art. 1(2)(b) of the amending S.I.) by virtue of [The Pensions Act 2014 \(Consequential, Supplementary and Incidental Amendments\) Order 2015 \(S.I. 2015/1985\)](#), arts. 1(2)(b), **21(2)**
- F9** 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**
- F10** Word in reg. 48(3)(b) omitted (6.4.2015) by virtue of [The Social Security \(Miscellaneous Amendments No. 2\) Regulations 2015 \(S.I. 2015/478\)](#), regs. 1(4), **24(2)**
- F11** Words in reg. 48(3)(b) substituted (with application in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment and Application of Schedule 38 to the Finance Act 2012\) Regulations 2013 \(S.I. 2013/622\)](#), regs. 1, **34**
- F12** Words in reg. 48(3)(b) substituted (5.4.2023) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2023 \(S.I. 2023/309\)](#), regs. 1, **4(2)**

**Precluded Class 3 contributions** **U.K.**

- 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 [<sup>F13</sup>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 <sup>F14</sup> 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 [<sup>F13</sup>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 [<sup>F13</sup>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;
  - <sup>F15</sup>(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.

[<sup>F16</sup>Sub-paragraphs (a), (b) and (c) are subject to the following qualification.]

- (2) <sup>F17</sup>... 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 [<sup>F18</sup>widowed mother’s allowance, widowed parent’s allowance<sup>F19</sup>... or widow’s pension] and he has not satisfied that condition at the beginning of that year; or
  - (b) the contribution condition for<sup>F20</sup>... widow’s payment and he has not satisfied that condition at the beginning of that year.

[<sup>F21</sup>(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, [<sup>F22</sup>a state pension under section 2 or 4 of the Pensions Act 2014], widowed mother’s allowance [<sup>F23</sup>, widowed parent’s allowance<sup>F24</sup>...] and widow’s pension.

#### Textual Amendments

- F13** 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
- F14** [S.I. 2001/769](#).
- F15** 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)**
- F16** 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)**
- F17** 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)**
- F18** 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)**
- F19** Words in [reg. 49\(2\)\(a\)](#) omitted (coming into force in accordance with art. 1-3 of the amending S.I.) by virtue of [The Pensions Act 2014 \(Consequential, Supplementary and Incidental Amendments\) Order 2017 \(S.I. 2017/422\)](#), arts. 1(2), **18(a)(i)**
- F20** Words in [reg. 49\(2\)\(b\)](#) omitted (coming into force in accordance with art. 1-3 of the amending S.I.) by virtue of [The Pensions Act 2014 \(Consequential, Supplementary and Incidental Amendments\) Order 2017 \(S.I. 2017/422\)](#), arts. 1(2), **18(a)(ii)**
- F21** [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)**
- F22** Words in [reg. 49\(3\)](#) inserted (coming into force in accordance with art. 1(2)(b) of the amending S.I.) by [The Pensions Act 2014 \(Consequential, Supplementary and Incidental Amendments\) Order 2015 \(S.I. 2015/1985\)](#), arts. 1(2)(b), **21(3)**
- F23** 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)**
- F24** Words in [reg. 49\(3\)](#) omitted (coming into force in accordance with art. 1-3 of the amending S.I.) by virtue of [The Pensions Act 2014 \(Consequential, Supplementary and Incidental Amendments\) Order 2017 \(S.I. 2017/422\)](#), arts. 1(2), **18(b)**

#### [<sup>F25</sup>Conditions relating to Class 3 contributions: transfers to the Communities’ pension scheme **U.K.**

**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

**F25** 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 **U.K.**

[<sup>F26</sup>**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

**F26** Reg. 50 substituted (8.10.2002) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2002 \(S.I. 2002/2366\)](#), regs. 1, 7

### [<sup>F27</sup>**Class 3 contributions: tax years 1996-97 to 2001-02** **U.K.**

**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 [<sup>F28</sup>regulation 50 or 50B].]

**Textual Amendments**

- F27** Reg. 50A inserted (17.5.2004) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2004 \(S.I. 2004/1362\)](#), regs. 1(1), **4**
- F28** 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**

**Class 3 contributions: tax years 1993-94 to 2007-08** **U.K.**

<sup>F29</sup>**50B.** . . . . .

**Textual Amendments**

- F29** Reg. 50B omitted (6.4.2015) by virtue of [The Social Security \(Miscellaneous Amendments No. 2\) Regulations 2015 \(S.I. 2015/478\)](#), regs. 1(4), **24(1)(c)**

**[<sup>F30</sup>Class 3 contributions: tax years 2006-07 to 2015-16: unavailability of pension statements 2013-14 to 2016-17** **U.K.**

**50C.**—(1) This regulation applies to Class 3 contributions payable in respect of one or more of the tax years 2006-07 to 2015-16 (“the relevant contribution years”).

- (2) Paragraph (3) applies if a person (“the contributor”)—
- (a) was entitled under regulation 48, 146(2)(b) or 147(1)(b) to pay a Class 3 contribution in respect of one or more of the relevant contribution years;
  - (b) had not, before the coming into force of this regulation, paid that contribution; and
  - (c) will reach pensionable age on or after 6th April [<sup>F31</sup>2016].

(3) The contributor may pay a Class 3 contribution under this regulation, in respect of any of the relevant contribution years, within the period specified in paragraph (4).

(4) The period within which the contribution may be paid is the period beginning on 6th April 2013 and ending on [<sup>F32</sup>5th April 2025].

(5) Notwithstanding section 13(6) of the Act, the amount of a Class 3 contribution payable under this regulation shall be—

- (a) in respect of contribution years 2006-07 to 2009-10, the amount payable in relation to tax year 2012-13; or
- (b) in respect of contribution years 2010-11 to 2015-16, the amount payable in the contribution year to which the payment relates.

(6) Paragraph (5) does not apply to a Class 3 contribution paid on or after 6th April 2019.

[

<sup>F33</sup>(6A) Notwithstanding section 13(6) of the Act, the amount of a Class 3 contribution payable under this regulation, which is paid on or after 6th April 2023, shall be the amount payable in relation to tax year 2022-23.]

(7) Nothing in this regulation limits the application of regulations 50, 50A and 50B.]

#### Textual Amendments

- F30** Reg. 50C inserted (with application in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment and Application of Schedule 38 to the Finance Act 2012\) Regulations 2013 \(S.I. 2013/622\)](#), regs. 1, **35**
- F31** Word in reg. 50C(2)(c) substituted (18.4.2013) by [The Social Security \(Contributions\) \(Amendment\) Regulations 2013 \(S.I. 2013/718\)](#), regs. 1, **2(2)**
- F32** Words in reg. 50C(4) substituted (26.7.2023) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2023 \(S.I. 2023/751\)](#), regs. 1, **2(2)**
- F33** Reg. 50C(6A) inserted (5.4.2023) by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2023 \(S.I. 2023/309\)](#), regs. 1, **3(2)**

#### Modifications etc. (not altering text)

- C1** Reg. 50C(4) modified (18.4.2013) by [The Social Security \(Contributions\) \(Amendment\) Regulations 2013 \(S.I. 2013/718\)](#), regs. 1, **3**

### Disposal of contributions not properly paid **U.K.**

**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, [<sup>F34</sup>HMRC] 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 [<sup>F34</sup>HMRC] to any person under [<sup>F35</sup>regulation 52 or 52A] or any part of a Class 1A contribution falls to be repaid by [<sup>F34</sup>HMRC][<sup>F36</sup>to any person under regulation 55(1), or regulation 55A,][<sup>F34</sup>HMRC] 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

- F34** 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)**
- F35** 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**
- F36** 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)**



**[F37] Return of contributions paid in error U.K.**

**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.

(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**

**F37** 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** **U.K.**

**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 [<sup>F38</sup>contributions actually paid by the earner] 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[<sup>F39</sup>.]

<sup>F40</sup>(d) .....

<sup>F40</sup>(e) .....

<sup>F41</sup>(6) .....

<sup>F41</sup>(7) .....

<sup>F41</sup>(8) .....

(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**

- F37** 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**
- F38** Words in reg. 52A(3) substituted (6.4.2016) by [The Social Security \(Contributions\) \(Amendment\) \(No. 2\) Regulations 2016 \(S.I. 2016/352\)](#), regs. 1, **13(a)** (with reg. 20)
- F39** Reg. 52A(5)(c) substituted (6.4.2016) by [The Social Security \(Contributions\) \(Amendment\) \(No. 2\) Regulations 2016 \(S.I. 2016/352\)](#), regs. 1, **13(b)** (with reg. 20)
- F40** Reg. 52A(5)(d)(e) omitted (6.4.2016) by virtue of [The Social Security \(Contributions\) \(Amendment\) \(No. 2\) Regulations 2016 \(S.I. 2016/352\)](#), regs. 1, **13(c)** (with reg. 20)
- F41** Regs. 52A(6)-(8) omitted (6.4.2016) by virtue of [The Social Security \(Contributions\) \(Amendment\) \(No. 2\) Regulations 2016 \(S.I. 2016/352\)](#), regs. 1, **13(d)** (with reg. 20)

**Return of contributions: further provisions** **U.K.**

<sup>F42</sup>**53.** . . . . .

**Textual Amendments**

- F42** 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** **U.K.**

<sup>F43</sup>**54.** . . . . .

**Textual Amendments**

- F43** Reg. 54 omitted (6.4.2016) by virtue of [The Social Security \(Contributions\) \(Amendment\) \(No. 2\) Regulations 2016 \(S.I. 2016/352\)](#), regs. 1, **14** (with reg. 20)

**Repayment of Class 1A contributions** **U.K.**

**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 [<sup>F44</sup>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 [<sup>F45</sup>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 [<sup>F46</sup>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

- F44** 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**
- F45** 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)**
- F46** 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)**

#### [<sup>F47</sup>Repayment of Class 1A contributions: certain earnings no longer treated as earnings for income tax purposes **U.K.**

**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

- F47** 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 **U.K.**

**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.

#### [<sup>F48</sup>Repayment of Class 3A contributions **U.K.**

**56A.**—(1) Where a Class 3A contribution has been paid, the contribution shall be repaid if one or more of the following conditions are satisfied—

- (a) the person who paid the contribution (“the contributor”) dies within the period of 90 days beginning with the date of payment of the contribution, or
  - (b) the contributor makes an application to HMRC for repayment within the period of 90 days beginning with the date of payment of the contribution.
- (2) Where a Class 3A contribution is repaid, any amounts received under section 45(1)(b) or (2) of the Act in return for that contribution shall be deducted from the repayment.]

#### Textual Amendments

**F48** Reg. 56A inserted (12.10.2015 for E.W.S. and coming into force for N.I in accordance with reg. 1(3)) by The Social Security Class 3A Contributions (Amendment) Regulations 2014 (S.I. 2014/2746), reg. 1(2)(3), 4(2)

### Calculation of return of contributions **U.K.**

57.—(1) In calculating the amount of any return of contributions to be made under [F49 regulation 52, 52A[F50], 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 [F51 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 F52;
- (d) the amount of any minimum contributions paid by the Board under section 43 of the Pensions Act F53 (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 F54 (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) F55.

(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”) F56 (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)<sup>F57</sup> of the Pensions Act.

#### Textual Amendments

- F49** 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)**
- F50** 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**
- F51** 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)**
- F52** 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).
- F53** 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.
- F54** [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.
- F55** 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.
- F56** [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](#).
- F57** 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 **U.K.**

**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 **U.K.**

**59.**—(1) Section 19A(1) of the Act<sup>F58</sup> (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 <sup>F59</sup>;
  - (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 <sup>F60</sup>;
- “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**

- F58** 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.
- F59** [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.
- F60** 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.

**Changes to legislation:**

There are currently no known outstanding effects for the The Social Security (Contributions) Regulations 2001, PART 5.