

EXPLANATORY MEMORANDUM

Title of the instrument:

The Social Security (Contributions) (Amendment No. 3) Regulations 2004 – SI 2004 No 1362

Laying Authority and Purpose:

This explanatory memorandum is laid before Parliament by Command of Her Majesty.

Department responsible:

Inland Revenue on behalf of Her Majesty's Treasury.

Description:

The regulations amend the Social Security (Contributions) Regulations 2001 to put on a firm statutory footing the extension of the normal time limits for payment of Class 3 National Insurance contributions in respect of the years 1996/97 to 2001/02 and to ensure that, provided the contributions are paid within the extended time limit and the contributor had not been notified previously of his or her entitlement to pay Class 3 contributions, the contributions are to be charged at the original rate.

Matters of special interest to the Joint Committee on Statutory Instruments:

Breach of the 21 day rule

When the Inland Revenue announced its exercise to contact people about deficiencies in their contribution records for the tax years 1996/97 to 2001/02 in April 2003 the normal time limits for payments of Class 3 contributions were extended and the 'higher rate' provisions for late paid contributions were waived in respect of those years, using the Board of Inland Revenue's powers of care and management of National Insurance contributions.

A separate group of contributors (those who are already receiving state pensions) are now being notified of National Insurance deficiencies. As a result it has become necessary to amend the linked benefit regulations to ensure that contributions paid outside the normal time limits can count towards benefit entitlement. The Regulations in respect of the concessions made by the Revenue are being made at the same time. This will clarify the legal basis for benefits paid as a result of Class 3 contributions paid for the relevant years. The amendments made by the Regulations are wholly beneficial to contributors.

Legislative background:

The Regulations are made under powers within sections 13(1) and (7) and 175(3) and (4) of Social Security Contributions and Benefits Act 1992 and sections 13(1) and (7) and 175(3), (4) and (10) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992. The Regulations are subject to the negative resolution procedure.

Regulation 48(3) prescribes a six year time limit for the payment of Class 3 National Insurance contributions. Regulation 50 provides for the time limit to be waived where the individual satisfies prescribed conditions.

Section 13(4)-(6) provides that where Class 3 contributions are paid two or more years late, the rate of the contribution is the highest applicable during the intervening period.

Regulation 65 provides for charging of the contribution at a higher rate to be waived where the individual satisfies prescribed conditions.

Extent:

The Regulations extend to the United Kingdom.

European Convention on Human Rights:

The view of the Chancellor of the Exchequer is that the Regulations are compatible with Convention Rights.

Policy background:

In April 2003, the Paymaster General announced that the Inland Revenue would contact people who had not been told that their contribution records for the tax years 1996/97 to 2001/02 were 'deficient' (i.e. they had paid insufficient contributions to make the year a qualifying year for benefit purposes) ("the deficiency notice exercise"). The Paymaster General also announced at that time that anyone who wished to pay voluntary contributions for the years in question would not be worse off than they would have been had they been told about the deficiency in their contribution record and paid the contributions at the normal time.

The deficiency notice exercise has been in progress since November 2003. The Inland Revenue is contacting people who, according to their records, could benefit from paying Class 3 contributions and who reach state pension age on or after 24 October 2004. The Department for Work and Pensions will be contacting people who have reached, or will reach, state pension age before 24 October 2004.

The purpose of the Regulations is to put the concessionary arrangements introduced by the Inland Revenue onto a firm statutory footing and ensure that Class 3 contributions paid in respect of the tax years 1996/97 to 2001/02 are valid and count fully for benefit purposes.

Regulatory and cost impacts:

A full Regulatory Impact Assessment has not been produced for the Regulations as they have no impact on the cost for business, the public or the Exchequer.

14 May 2004

Inland Revenue on behalf of Her Majesty's Treasury