

**2007 No. 2520**

**SOCIAL SECURITY**

**The Social Security (Contributions) (Amendment No. 8)  
Regulations 2007**

<i>Made</i> - - - -	<i>30th August 2007</i>
<i>Laid before Parliament</i>	<i>31st August 2007</i>
<i>Coming into force</i> - -	<i>1st October 2007</i>

The Treasury make the following Regulations in exercise of the powers conferred by sections 1(6) and (7), 12(6), 13(1) and (7) and 175(3) and (4) of the Social Security Contributions and Benefits Act 1992(a) and sections 1(6) and (7), 12(6), 13(1) and (7) and 171(3), (4) and (10) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(b):

**Citation and commencement**

1.—(1) These Regulations may be cited as the Social Security (Contributions) (Amendment No.8) Regulations 2007 and shall come into force on 1st October 2007.

**Amendment of the Social Security (Contributions) Regulations 2001**

2. The Social Security (Contributions) Regulations 2001(c) shall be amended as follows.

3.—(1) Amend regulation 1(2) (interpretation) as follows.

(2) After the definition of “cash voucher” insert—

““the Commissioner” means, for the purposes of the definition of “official error”, the Chief Social Security Commissioner or any other Social Security Commissioner and includes a tribunal of three or more Commissioners constituted under section 16(7) of the Social Security Act 1998;”(d).

(3) After the definition of “official computer system” insert—

““official error” means, for the purposes of regulations 50B and 61A, an error —

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(a) 1992 c. 4. Section 1(7) was inserted by paragraph 1 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2: “the Transfer Act”). Section 12 was amended by paragraph 13 of Schedule 3 to the Transfer Act. Section 13 was amended by paragraph 14 of Schedule 3 to the Transfer Act. Relevant amendments to section 175 were made by paragraph 29 of Schedule 3 to the Transfer Act.

(b) 1992 c. 7. Section 1(7) was inserted by paragraph 2 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Order (Northern Ireland) 1999 (S.I. 1999/671: “the Transfer Order”). Section 12 was amended by paragraph 14 of Schedule 3 to the Transfer Order. Section 13 was amended by paragraph 15 of Schedule 3 to the Transfer Order. Relevant amendments to section 171 were made by paragraph 28 of Schedule 3 to the Transfer Order.

(c) S.I. 2001/1004, amended by S.I. 2004/1362; there are other amending instruments but none is relevant. Regulation 156(3) of S.I. 2001/1004 provides that a reference in those regulations 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.

(d) 1998 c. 14.

(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 a Commissioner or the court;"

(4) After the definition of "securities" and "securities option" insert—

"“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;"

4. In regulation 48(3)(b) for “regulations 50 and 50A” substitute “regulations 50, 50A and 50B”.

5. In regulation 50A(4) for “regulation 50” substitute “regulation 50 or 50B”.

6. After regulation 50A (Class 3 contributions: tax years 1996-97 to 2001-02) insert—

**“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—

(i) before 7th October 1996 under regulation 9 of the Social Security (Credits) Regulations 1975(a) (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).

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(a) S.I. 1975/556, relevant amending instruments are S.I. 1976/1736, 1977/788, 1978/409, 1982/96, 1983/197, 1987/414, 1987/687, 1988/516, 1988/1439, 1988/1545, 1989/1627, 1991/387, 1992/726, 1994/1837, 1995/829, 1996/2367, 1999/568, 1999/2566, 2000/3120 and 2003/521; there are other amending instruments, but none is relevant.

(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.”.

7. After regulation 61 (voluntary Class 2 contributions not paid within permitted period) insert—

**“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.”.

8. After regulation 65 (Class 2 and Class 3 contributions paid late through ignorance or error) insert—

**“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.”.

*Steve McCabe  
Claire Ward*

30th August 2007

Two of the Lords Commissioners of Her Majesty's Treasury

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004: “the principal Regulations”).

Regulation 3 inserts definitions for “the Commissioner” and “official error” into the principal Regulations for the purposes of new regulation 50B and 61A.

Regulations 4 and 5 amend respectively regulations 48(3)(b) and 50A(4) of the principal Regulations. The amendments are consequential on the insertion, by regulation 6, of regulation 50B.

Regulation 6 inserts new regulation 50B which provides an extended period to 5th April 2014 for the payment of Class 3 contributions in the case of a person who was entitled to pay Class 3 contributions in respect of the tax years 1993-94 to 2007-08 (“the relevant years”) and had been credited with earnings for any week in the relevant years which had subsequently been removed on or after 1st July 2007 because they had been credited by virtue of an official error.

Regulation 7 inserts new regulation 61A which provides an extended period to 5th April 2014 for the payment of voluntary Class 2 contributions in the case of a person who was entitled to pay Class 2 contributions under regulation 147 of the principal Regulations in respect of the relevant years and had been credited with earnings for any week in the relevant years which had subsequently been removed on or after 1st July 2007 because they had been credited by virtue of an official error.

Regulation 8 inserts new regulation 65ZA which provides that a Class 2 contribution payable by virtue of regulation 61A or a Class 3 contribution payable by virtue of regulation 50B shall be computed by reference to the weekly rate which would have applied if that contribution had been paid during the contribution year to which it relates. Similar treatment is extended to Class 2 contributions where there is a liability (rather than entitlement) to pay them, provided earnings were removed in similar circumstances and the contribution is paid by 5th April 2014.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

**£3.00**

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E1294 9/2007 171294T 19585