STATUTORY INSTRUMENTS

# 2010 No. 646

# SOCIAL SECURITY

## The Social Security (Contributions) (Amendment No. 3) Regulations 2010

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| *Made - - - -* | *8th March 2010* |
| *Laid before Parliament* | *9th March 2010* |
| *Coming into force - -* | *6th April 2010* |

The Treasury make the following Regulations in exercise of the powers conferred by sections 19(1), (2)(b), (5A) and 175(3) of the Social Security Contributions and Benefits Act 1992(**1**) and sections 19(1), (2)(b), (5A) and 171(3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**2**):

### Citation, commencement and effect

**1.**—(1) These Regulations may be cited as the Social Security (Contributions) (Amendment No. 3) Regulations 2010 and shall come into force on 6th April 2010.

(2) The amendments made by regulation 2 shall have effect only in relation to contributions paid in respect of the tax year 2009-10 and subsequent tax years.

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

**2.** Paragraph (6) of regulation 52A (return of contributions paid in excess of the maxima) of the Social Security (Contributions) Regulations 2001(**3**) is amended as follows—

(a) omit "and" at the end of the definition of "an APP employment" and after that definition insert—

""UAP" means the upper accrual point(**4**); and"; and

(b) for Rule 2 and Rule 3 substitute—

*"Rule 2*

(**1**) 1992 c.4. Relevant amendments are made by: paragraph 5 of Schedule 1 to the National Insurance Contributions Act 2002 (c.19) and paragraph 19(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2).
(**2**) 1992 c.7. Relevant amendments are made by: paragraph 24(2) to (4) of Schedule 1 to the National Insurance Contributions Act 2002 and paragraph 19(2) of Schedule 3 to S.I. 1999/671.
(**3**) S.I. 2001/1004; amended by S.I. 2004/770; there are other amending instruments but none are relevant.
(**4**) Section 122(1) of the Social Security Contributions and Benefits Act 1992 and section 121 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 give the meaning of upper accrual point.

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—

$$53\times\left[\left(\left(UAP-PT\right)\times9\cdot4\%\right)+\left(\left(UEL-UAP\right)\times11\%\right)\right]$$

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 9.4%.

*Step 3*

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

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

*Step 4*

Multiply the result found at Step 3 by 11%.

*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—

$$53\times\left(UEL-PT\right)\times11\%$$

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.

*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 11%.

*Step 3*

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

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

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 9.4%.

*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—

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

*Step 6*

Multiply the amount found at Step 5 by 11%.

*Step 7*

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

*Dave Watts*
*Frank Roy*
Two of the Lords Commissioners of Her Majesty’s Treasury

8 March 2010

## EXPLANATORY NOTE

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

These Regulations amend the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004) so that regulation 52A, which provides for the return of National Insurance contributions paid in excess of the annual maximum prescribed in regulation 21, takes account of the introduction of the "upper accrual point" ("UAP").

The UAP was introduced for England, Wales and Scotland by the Pensions Act 2007 and the National Insurance Contributions Act 2008 and for Northern Ireland by the Pensions Act (Northern Ireland) 2008 and the Pensions (No. 2) Act (Northern Ireland) 2008. The UAP is a new benefit related threshold which is used to calculate entitlement to state second pension for the tax year 2009-10 onwards. It also operates as a limit on the amount of earnings on which contracted-out rebates are payable. Prior to the introduction of the UAP employees who were contracted-out of the state second pension scheme were entitled to a rebate on their earnings up to the Upper Earnings Limit (UEL). From the 6th April 2009 contracted-out rebates are available on earnings up to the UAP. As a result of the introduction of this new threshold a technical change is needed to the excess refund provision to take account of the UAP in excess refund calculations.

Regulation 2 amends Rules 2 and 3 in paragraph (6) of regulation 52A; these Rules are used to calculate a refund if a contributor has at least one contracted-out employment or holds an appropriate personal pension. The amended Rules now take account of the UAP threshold in excess refund calculations for the tax years 2009-10 onwards ensuring that any contributions paid in excess of an individual's personal annual maximum can be refunded.

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