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STATUTORY INSTRUMENTS

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**2008 No. 636**

**SOCIAL SECURITY**

**The Social Security (Contributions)  
(Amendment No. 3) Regulations 2008**

*Made - - - - 7th March 2008*

*Laid before Parliament 7th March 2008*

*Coming into force in accordance with regulation 1*

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by section 175(3) of, and paragraphs 6 and 7 of Schedule 1 to, the Social Security Contributions and Benefits Act 1992<sup>(1)</sup> and section 171(3) of, and paragraphs 6 and 7 of Schedule 1 to, the Social Security Contributions and Benefits (Northern Ireland) Act 1992<sup>(2)</sup> and now exercisable by them<sup>(3)</sup>:

**Citation, interpretation and commencement**

1.—(1) These Regulations may be cited as the Social Security (Contributions) (Amendment No. 3) Regulations 2008.

(2) In these Regulations “the SSCR” means the Social Security (Contributions) Regulations 2001<sup>(4)</sup>.

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- (1) 1992 c.4. There are amendments to section 175 but none is relevant for present purposes. Relevant amendments to paragraph 6 were made by paragraph 77(8), (9) and (11) of Schedule 7 and Schedule 8 to the [Social Security Act 1998](#) (c. 14; “the 1998 Act”), paragraph 17(a) of Schedule 1, paragraph 35 of Schedule 3, paragraph 9 of Schedule 7, and paragraph 5 of Schedule 9 to the [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999](#) (c. 2; “the Transfer Act”), paragraph 78(6)(a) of Schedule 12 to the Welfare Reform and Pensions Act 1999 (c. 30), paragraphs 169 and 185 of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (“ITEPA 2003”) and section 147(2) of the Finance Act 2003 (c. 14). Paragraph 7 was amended by section 56(1) of, and paragraph 77(12) of Schedule 7 to, the 1998 Act, paragraph 18 of Schedule 1 and paragraph 36 of Schedule 3 to the Transfer Act, section 76(2) of the [Child Support, Pensions and Social Security Act 2000](#) (c. 19; “the 2000 Act”), paragraph 185 of Schedule 6 to ITEPA 2003, paragraph 13 of Schedule 12 to the Finance Act 2004 (c. 12), and glossed by paragraph 30 of Schedule 24 to the Finance Act 2007 (c. 11).
- (2) 1992 c. 7. Paragraph 6 was amended by paragraph 34 of Schedule 6 to the Social Security Contributions (Transfer of Functions, etc) (Northern Ireland) Order 1999 (S.I. 1999/671), paragraph 58 of Schedule 3 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506) (NI10) and paragraphs 190 and 204 of Schedule 6 to ITEPA 2003.
- (3) The functions of the Commissioners of Inland Revenue were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c.11). Section 50 of that Act provides that in so far as it is appropriate in consequence of section 5, a reference in an enactment, however expressed, to the Commissioners of Inland Revenue is to be treated as a reference to the Commissioners for Her Majesty's Revenue and Customs.
- (4) S.I. 2001/1004. Relevant amending instruments are S.I. 2002/307, 2004/770, 2005/778 and 3130, 2006/2924 and 2007/1056. Regulation 156(3) provides that in the application of these Regulations to Northern Ireland, a reference to an enactment applying only in Great Britain is to be construed as a reference to the corresponding enactment having effect there.

(3) These Regulations come into force—

- (a) for the purposes of the amendments to regulation 67(2) of, and paragraphs 22 and 31 of Schedule 4 to, the SSCR on 1st April 2008; and
- (b) for all other purposes on 6th April 2008.

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

2. The SSCR are amended as follows.

### **Amendment of regulation 67(2)**

3. In regulation 67(2) omit “In any case to which this regulation applies,”.

### **Amendment of paragraph 15 of Schedule 4**

4.—(1) In sub-paragraph (1) of paragraph 15 of Schedule 4(5) (specified amount of earnings-related contributions payable by the employer)—

- (a) for each iteration of “the Inland Revenue” substitute “HMRC(6)”;
- (b) after the words “upon consideration of the employer’s record of past payments” insert “whether of earnings-related contributions or of combined amounts,”;
- (c) after the words “specify the amount of earnings-related contributions” insert “or of a combined amount”.

(2) After sub-paragraph (1) insert—

“(1A) For the purposes of this paragraph “combined amount” is an amount which includes earnings-related contributions due under these regulations and one or more of the following—

- (a) tax due under the PAYE Regulations;
- (b) amounts due under the Income Tax (Construction Industry Scheme) Regulations 2005(7);
- (c) payments of repayments of student loans due under the Education (Student Loans) (Repayment) Regulations 2000(8).”.

(3) In sub-paragraph (2)—

- (a) after the words “the specified amount” omit the words “of earnings-related contributions”;
- (b) in paragraph (a) after the words “earnings-related contributions” insert “or as including an amount of earnings-related contributions”; and
- (c) in paragraph (b) for “the Inland Revenue” substitute “HMRC”.

(4) In sub-paragraph (3) for each iteration of “the Inland Revenue” substitute “HMRC”.

(5) In sub-paragraph (4) for “the Inland Revenue “ substitute “HMRC”.

(6) In sub-paragraph (5) for “the Inland Revenue” substitute “HMRC”.

(7) In sub-paragraph (6) for each iteration of “the Inland Revenue” substitute “HMRC”.

(8) In sub-paragraph (7)—

- (a) for each iteration of “the Inland Revenue” substitute “HMRC”;

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(5) Paragraph 15 was amended by [S.I. 2004/770](#).

(6) The definition of “HMRC” in paragraph 1(2) of Schedule 4, meaning Her Majesty’s Revenue and Customs, was inserted by [S.I. 2007/1056](#).

(7) [S.I. 2005/2045](#).

(8) [S.I. 2000/944](#). Regulation 39 was amended by [S.I. 2004/1175](#).

- (b) after the words “satisfy the Inland Revenue, that the payment”, omit the words “of earnings-related contributions”; and
- (c) after the words “specified in the notice is”, insert “or includes”.
- (9) In sub-paragraph (8)—
  - (a) for each iteration of “the Inland Revenue” substitute “HMRC”; and
  - (b) after the words “certified by the Inland Revenue under it” insert “whether separately or as part of a combined amount”.

#### **Amendment of paragraph 16 of Schedule 4**

**5.**—(1) In sub-paragraph (1) of paragraph 16 of Schedule 4(9) (recovery of earnings-related contributions or Class 1B contributions)—

- (a) for each iteration of “the Inland Revenue” substitute “HMRC”; and
  - (b) in paragraph (a) after the words “he is treated as liable to the Inland Revenue” insert “whether separately or as part of a combined amount”.
- (2) In sub-paragraph (2) for the words “amount of tax” substitute “other component of a combined amount”.
- (3) In sub-paragraph (3) —
- (a) in paragraph (d) for the first occurrence of the word “tax” substitute “other component of a combined amount”;
  - (b) at the end of paragraph (3) for the word “tax” substitute “other component of a combined amount”; and
  - (c) for “the Inland Revenue” substitute “HMRC”.
- (4) In sub-paragraph (4)—
- (a) for the word “tax” substitute “other component of the combined amount”; and
  - (b) for “the Inland Revenue” substitute “HMRC”.
- (5) In sub-paragraph (5)—
- (a) at the end of paragraph (b) omit the word “or”.
  - (b) after paragraph (c ) add—
    - “(d) amounts due under the Income Tax (Construction Industry Scheme) Regulations 2005; or
    - (e) payments of repayments of student loans due under the Education (Student Loans) (Repayment) Regulations 2000.”.
- (6) After sub-paragraph (5) add—
- “(6) For the purposes of this paragraph “combined amount” has the meaning given in paragraph 15(1A).”.

#### **Amendment of paragraph 17 of Schedule 4**

**6.**—(1) In sub-paragraph (2) of paragraph 17 of Schedule 4(10) (interest on overdue earnings-related contributions or Class 1B contributions) for “the Inland Revenue” substitute “HMRC”.

- (2) In sub-paragraph (5) for “the Inland Revenue” substitute “HMRC”.
- (3) After sub-paragraph (5) add—

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(9) Paragraph 16 was amended by [S.I. 2004/770](#)

(10) Paragraph 17 was amended by [S.I. 2004/770](#) and [207/1056](#).

“(6) HMRC may prepare a certificate certifying the total amount of interest payable in respect of the whole or any component of a combined amount without specifying what component of the combined amount the interest relates to.

Sub-paragraph (5) shall apply, with any necessary modifications, to the certificate.

(7) For the purposes of this paragraph “combined amount” has the meaning given in paragraph 15(1A).”.

#### **Amendment of paragraphs 22 and 31 of Schedule 4**

7. In each of—

- (a) paragraph 22(7) of Schedule 4(**11**); and
- (b) paragraph 31(9) of Schedule 4(**12**),

for “Section 98A of the Taxes Management Act 1970 (penalties for late, fraudulent or negligent returns)” substitute “Section 98A of the Taxes Management Act 1970(**13**) (special penalties in the case of certain returns) and Schedule 24 to the Finance Act 2007 (penalties for errors) as that Schedule applies to income tax returns”.

*Mike Hanson*

*Mike Eland*

Two of the Commissioners for Her Majesty's  
Revenue and Customs

7th March 2008

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(11) A relevant amendment to paragraph 22 was made by regulation 8 of [S.I. 2007/1056](#).

(12) Paragraph 31 was amended by regulation 33 of [S.I.2004/770](#) and regulation 8 of [S.I. 2007/1056](#).

(13) Section 98A was inserted by section 165(1) of the Finance Act 1989 ([c. 26](#)), and amended by paragraph 148 of Schedule 6 to ITEPA 2003 and paragraph 8 of Schedule 12 to the Finance Act 2004. Subsection (4) has been repealed by the relevant entry in Part 5 of Schedule 27 to the Finance Act 2007 ([c. 11](#)), and the scope of the section accordingly limited to late returns.

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## EXPLANATORY NOTE

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

These regulations amend the Social Security (Contributions) Regulations 2001 (“the SSCR”). The amendments form two groups: (i) amendments to the provisions concerning the recovery of earnings-related contributions, and (ii) amendments consequential upon the replacement of the penalties provisions of section 98A(4) of the Taxes Management Act 1970 (“TMA”) by Schedule 24 to the Finance Act 2007.

Regulation 1 provides for the recovery-related provisions to come into force on 6th April 2008 and the penalties consequential to come into force on 1st April 2008. It also defines the expression “the SSCR”.

Regulation 2 introduces the amendments to the SSCR.

Regulation 3 amends regulation 67(2) of the SSCR, which introduces Schedule 4 to those Regulations. The opportunity presented by these Regulations is taken to make a minor drafting amendment.

Regulation 4 amends paragraph 15 to Schedule 4. The paragraph is amended so that, where earnings-related contributions have been unpaid for 17 days, HMRC may specify the unpaid amount of earnings-related contributions, together with other amounts of income tax, student loan deductions and construction industry deductions that the employer is required pay over to HMRC, without differentiating between each individual item. The opportunity is taken to replace references to the Inland Revenue with references to “HMRC”, here and in paragraphs 16 and 17 of Schedule 4.

Regulation 5 amends paragraph 16, which deals with recovery of earnings-related contributions or Class 1B contributions. This is to enable HMRC to take proceedings to recover unpaid earnings-related contributions where the contributions comprise the whole or part of a combined amount that has been specified under paragraph 15 without the need to identify each individual item.

Regulation 6 amends paragraph 17, which deals with interest on overdue earnings-related contributions. The power that HMRC has to prepare a certificate evidencing the amount of unpaid interest is extended so that the outstanding interest on any element of a combined amount can be set out in one certificate without the need to identify each item.

Regulation 7 makes amendments to paragraphs 22 and 31 of Schedule 4 to the principal Regulations to reflect the replacement of section 98A(4) of TMA.

An impact assessment has not been prepared in respect of this instrument as no impact on the private or voluntary sectors is foreseen.