
 STATUTORY INSTRUMENTS

1985 No. 397

SOCIAL SECURITY

**The Social Security (Contributions) Amendment (No. 2)
Regulations 1985**

<i>Made</i> - - - - -	13th March 1985
<i>Laid before Parliament</i>	15th March 1985
<i>Coming into Operation</i>	6th April 1985

The Secretary of State for Social Services, in exercise of powers conferred upon him by sections 7A(6), 8(2D) and 168(1) of, and Schedule 20 to, the Social Security Act 1975(a) and section 4(1) of the Social Security Pensions Act 1975(b) and of all other powers enabling him in that behalf, hereby makes the following regulations:—

Citation, interpretation and commencement

1. These regulations, which may be cited as the Social Security (Contributions) Amendment (No. 2) Regulations 1985, amend the Social Security (Contributions) Regulations 1979(c) (hereinafter referred to as “the principal regulations”) and shall come into operation on 6th April 1985.

Amendment of regulation 1 of the principal regulations

2. In regulation 1(2) of the principal regulations (interpretation) after the definition of “contribution week” there shall be inserted the following definition—

““contribution year” has the meaning assigned to it in section 7A(1), or as the case may require, section 8(2B) of the Act;”.

Insertion of regulation 20A in the principal regulations

3. After regulation 20 of the principal regulations (exception of persons over pensionable age from Class 1 contributions) there shall be inserted the following regulation—

“Liability for Class 1 contributions of persons over pensionable age

20A. Where earnings are paid to or for the benefit of an earner after he

(a) 1975 c. 14; section 7A(6) was inserted by the Health and Social Security Act 1984 (c. 48), section 17, and section 8(2D) was inserted by section 18 of that Act.

(b) 1975 c. 60; section 4(1) was amended by the Health and Social Security Act 1984, Schedule 7, paragraph 3.

(c) S.I. 1979/591, to which there are amendments not relevant to these regulations.

attains pensionable age and those earnings would normally fall to be paid before the date on which he reaches pensionable age, the provisions of section 4(1) of the Social Security Pensions Act 1975 shall not operate to exempt him from liability for primary Class 1 contributions in respect of those earnings.”.

Insertion of regulations 43A, 43B, 43C and 43D in the principal regulations

4. After regulation 43 of the principal regulations (payment of contributions after death of contributor) there shall be inserted the following regulations—

“Class 2 and Class 3 contributions paid after 5th April 1985 in respect of a period before 6th April 1983

43A.— (1) This regulation applies to any—

- (a) Class 2 contribution payable in respect of a week falling in a year before 6th April 1983, and
- (b) Class 3 contribution payable in respect of a year before 6th April 1983.

(2) Where a contribution to which this regulation applies is paid the amount of such a contribution shall be computed by reference to the weekly rate of or, as the case may be, the amount of such a contribution applicable in the contribution year.

Class 2 contributions paid late in accordance with a payment undertaking

43B.— (1) Subject to the provisions of regulation 43A of these regulations, this regulation applies to any Class 2 contribution which—

- (a) the earner has failed to pay on or by the due date and thereafter is payable in accordance with the provisions of an undertaking to pay such a contribution entered into after that date, and
- (b) would when paid fall to be computed in accordance with the provisions of section 7A(3) of the Act.

(2) In the case of a contribution to which this regulation applies—

- (a) which is paid in accordance with the provisions of an undertaking entered into in the contribution year or the year immediately following that year the amount of such a contribution shall be computed by reference to the weekly rate applicable in the contribution year,
- (b) which is paid in accordance with the provisions of an undertaking entered into in any year other than a year specified in sub-paragraph (a) above the amount of such a contribution shall be computed by reference to the weekly rate applicable in the year in which the undertaking was entered into,
- (c) which is not paid in accordance with the provisions of the undertaking the amount of such a contribution shall be computed by reference to the weekly rate of such a contribution applicable—
 - (i) where the contribution is paid in pursuance of a further undertaking entered into in a later year, in the year in which the further undertaking is entered into, or

- (ii) where the contribution is paid otherwise than in accordance with a further undertaking, when payment of the contribution is actually made.

(3) In this regulation “undertaking” means an arrangement between the Secretary of State and an earner whereby the Secretary of State has agreed to accept payment of arrears of Class 2 contributions by instalments;

Class 2 and Class 3 contributions paid within a month from notification of amount of arrears

43C.— (1) Subject to the provisions of regulation 43A of these regulations, this regulation applies to any Class 2 or Class 3 contribution—

- (a) which would when paid fall to be computed in accordance with the provisions of section 7A(3) or, as the case may be, 8(2C) of the Act, and
- (b) the amount whereof has been notified to the contributor by the Secretary of State in the last month of a year.

(2) Where a contribution to which this regulation applies is paid—

- (a) within one calendar month from the date of such notification, and
- (b) in the year following that in which the said amount was so notified

the amount of such a contribution shall be computed by reference to the weekly rate or, as the case may be, amount of such a contribution calculated in accordance with the provisions of section 7A or, as the case may be, 8 of the Act as if the contribution had been paid in the year in which the said amount was notified.

Class 2 and Class 3 contributions paid late through ignorance or error

43D.— (1) Subject to the provisions of regulation 43A of these regulations, this regulation applies to any Class 2 or Class 3 contribution which would when paid fall to be computed at a rate or, as the case may be, an amount other than that applicable in the contribution year in accordance with the provisions of section 7A(3) or, as the case may be, section 8(2C) of the Act.

(2) Where—

- (a) it is shown to the satisfaction of the Secretary of State that, by reason of ignorance or error on the part of the earner, not being ignorance or error due to any failure on his part to exercise due care and diligence, he has failed to pay a Class 2 contribution to which this regulation applies for any period on or by the due date, and
- (b) payment of the said contribution is made in a year later than that in which the said period commenced

the amount of such a contribution shall be computed by reference to the weekly rate of such a contribution calculated in accordance with the provisions of section 7A of the Act as if the contribution had been paid in the year in which the said period commenced.

(3)(a) Where a Class 3 contribution would otherwise fall to be computed in accordance with section 8(2C) of the Act, but it is shown to the satisfaction of the Secretary of State that the contributor has not paid the said contribution before the end of the second year following the contribution year by reason of ignorance or error on the part of the earner, not being ignorance or error due to any failure on his part to exercise due care and diligence, the amount of such a contribution shall be computed by reference to the amount of such a contribution applicable in the contribution year;

(b) Where—

- (i) a Class 3 contribution would when paid fall to be computed in accordance with section 8(2C) of the Act, and
- (ii) such a contribution remains unpaid for a period commencing at any time after the end of the second year following the contribution year, and
- (iii) it is shown to the satisfaction of the Secretary of State that the contributor has not, during the said period only, paid such a contribution by reason of ignorance or error not being ignorance or error due to any failure on the contributor's part to exercise due care and diligence

the amount of such a contribution shall be computed by reference to the amount of such a contribution calculated in accordance with the provisions of section 8 of the Act as if the contribution had been paid in the year in which the said period commenced.”.

Signed by authority of the Secretary of State for Social Services.

Tony Newton,
Minister of State,
Department of Health and Social Security.

13th March 1985.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations are made under sections 7A and 8(2D) of the Social Security Act 1975 (“the Act”) and section 4(1) of the Social Security Pensions Act 1975 (“the Pensions Act”) and accordingly, by virtue of section 22(1)(f), 22(1)(h) and 22(1)(l) of the Health and Social Security Act 1984, they are exempt from the requirement of section 10 of the Social Security Act 1980 (c. 30) to refer proposals to the Social Security Advisory Committee, and are made without any such reference.

These regulations further amend the Social Security (Contributions) Regulations 1979 (“the principal regulations”). They make amendments consequent on the insertion of sections 7A and 8(2A) to (2D) into the Act by sections 17 and 18 of the Health and Social Security Act 1984 and on the amendment by paragraph 3 of Schedule 7 to that Act of section 4(1) of the Pensions Act.

Regulation 2 inserts a definition of the words “contribution year” into regulation 1 of the principal regulations.

Regulation 3 inserts a new regulation 20A into the principal regulations. The new regulation provides that the provisions of section 4(1) of the Pensions Act to except an employed earner from liability for primary Class 1 contributions shall not operate in relation to a payment of earnings made to an employed earner, where that payment was made to or for the benefit of the employed earner after he attains pensionable age, but would normally fall to be paid before he reaches such age.

Regulation 4 inserts regulations 43A, 43B, 43C and 43D into the principal regulations. Regulation 43A provides that the amount of a Class 2 contribution payable in respect of a week falling in a tax year before 6th April 1983 and the amount of a Class 3 contribution payable in respect of a year before such date, shall be computed by reference to the rate or amount applicable in the year in respect of which payment is made.

Regulation 43B makes provision for the weekly rate of a late paid Class 2 contribution which would when paid fall to be computed in accordance with the provisions of section 7A(3) of the Act and which is paid under an arrangement whereby the Secretary of State has agreed to accept payment of arrears of Class 2 contributions by instalments.

Regulation 43C makes further provision for the weekly rate of a Class 2 contribution, or amount of a Class 3 contribution, to be used in the computation of the amount payable where such a contribution would when paid fall to be computed in accordance with the provisions of section 7A(3) or, as the case may be, 8(2C) of the Act. Where the amount of such a contribution has been notified to the contributor by the Secretary of State in the last month of a tax year, and the contribution is paid in the tax year following the notification and within one calendar month from the date of that notification, the computation is made by reference to the weekly rate for Class 2 contributions or, the amount of Class 3 contributions, in accordance with the provisions of section 7A or, as the case may be, 8 of the Act as if payment had been made in the year of notification.

Regulation 43D provides for the weekly rate of a late paid Class 2

contribution or amount of a Class 3 contribution which would when paid fall to be computed in accordance with the provisions of section 7A(3) or, as the case may be, 8(2C) of the Act, where the Secretary of State is satisfied that payment has been delayed due to ignorance or error on the part of the contributor and that ignorance or error was not due to the contributor's failure to exercise due care and diligence.

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