
STATUTORY INSTRUMENTS

2000 No. 736

SOCIAL SECURITY

**The Social Security (Contributions)
(Amendment No. 3) Regulations 2000**

<i>Made</i>	- - - -	<i>13th March 2000</i>
<i>Laid before Parliament</i>		<i>15th March 2000</i>
<i>Coming into force</i>	- -	<i>6th April 2000</i>

The Treasury, in exercise of the powers conferred by sections 19A(2) and (3), 122(1) and 175(1) to (3) of the Social Security Contributions and Benefits Act 1992(1) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Social Security (Contributions) (Amendment No. 3) Regulations 2000 and shall come into force on 6th April 2000.

Amendment of the Social Security (Contributions) Regulations 1979

2.—(1) The Social Security (Contributions) Regulations 1979(2) are amended as follows.
(2) After regulation 37 (reallocation of contributions for benefit purposes)(3) insert—

“Circumstances in which two year limit for refunds of Class 1, 1A or 1B contributions not to apply

37A.—(1) Section 19A(1) of the Social Security Contributions and Benefits Act 1992 (repayment of Class 1, 1A or 1B contributions paid in error) does not apply where the three circumstances prescribed in paragraphs (2), (3) and (4) exist.

(2) The first circumstance is that, in respect of the earnings derived in year 1 from an employment of the earner, Class 1, 1A or 1B contributions have been paid.

(1) 1992 c. 4. Section 19A was inserted by section 54 of the Social Security Act 1998 (c. 14) and amended by section 2 of and paragraph 20 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2). Section 122(1) is cited because of the meaning ascribed to the word “prescribe”. Section 175 was amended by paragraph 29 of Schedule 3 to the 1999 Act.
(2) S.I. 1979/591.
(3) Regulation 37 was amended by S.I. 1992/669.

(3) The second circumstance is that in respect of that employment and before the end of year 2—

- (a) an application for the determination of a question as to the category of earners in which the earner is or was to be included (“the categorisation question”) has been made under section 17(1)(a) of the Social Security Administration Act 1992⁽⁴⁾ (“the Administration Act”) in accordance with regulation 13(1) of the Social Security (Adjudication) Regulations 1995⁽⁵⁾;
- (b) a question of law arising in connection with the categorisation question has been referred by the Secretary of State to a court under section 18 of the Administration Act;
- (c) a request in writing has been made that an officer of the Board of Inland Revenue—
 - (i) decide the categorisation question under section 8(1)(a) of the Social Security Contributions (Transfer of Functions, etc.) Act 1999, or
 - (ii) vary a decision made under that section, or
- (d) the amount of income tax, which is liable to be paid in respect of year 1 and in respect of which the person liable to pay a Class 1B contribution is accountable, has been the subject of a relevant tax appeal.

(4) The third circumstance is that the question, reference, request or appeal referred to in paragraph (3) has not been determined or finally disposed of, as the case may be, at the end of year 2.

(5) For the purposes of this regulation—

“relevant tax appeal” has the meaning given by paragraph 6(4A) of Schedule 1 to the Social Security Contributions and Benefits Act 1992⁽⁶⁾,

“year 1” and “year 2” have the meanings given by section 19A(1) of the Social Security Contributions and Benefits Act 1992, and

a question, reference, request or appeal shall only be taken to be determined or finally disposed of when the time for appealing against it has expired or no further appeal is possible.”.

Jim Dowd

David Jamiesson

Two of the Lords Commissioners of Her Majesty’s Treasury

13th March 2000

⁽⁴⁾ 1992 c. 5. Part II was repealed by Schedule 8 to the Social Security Act 1998.

⁽⁵⁾ S.I. 1995/1801. Regulation 13 was revoked by regulation 59 of, and Schedule 4 to the Social Security and Child Support (Decisions and Appeals) Regulations 1999 (S.I. 1999/991). Article 5 of S.I. 1999/2422 contains relevant savings.

⁽⁶⁾ Sub-paragraph (4A) was inserted by paragraph 77 of Schedule 7 to the Social Security Act 1998 (c. 14) and amended by paragraph 5 of Schedule 9 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe circumstances in which section 19A(1) of the Social Security Contributions and Benefits Act 1992, is not to apply. That provision prevents refunds being made in respect of Class 1, 1A and 1B contributions, which have been paid due to an error as to the employment status of the earner, more than two years after the payment of relevant earnings except in prescribed circumstances.

The Regulations insert a new regulation 37A into the Social Security (Contributions) Regulations 1979 (S.I.1979/591). Regulation 37A prescribes circumstances in which the two-year cut-off for refunds in section 19A(1) is not to apply. The circumstances prescribed are that earnings have been derived from an employment in year 1, been the subject of an application for a categorisation decision of the Secretary of State or of an officer of the Board of Inland Revenue, an application for variation of that decision, or of a reference to a court, and that decision, application or reference is outstanding at the end of year 2 (regulation 2).