

**2001 No. 769**

**SOCIAL SECURITY**

**The Social Security (Crediting and Treatment of  
Contributions, and National Insurance Numbers)  
Regulations 2001**

<i>Made</i> - - - -	<i>7th March 2001</i>
<i>Laid before Parliament</i>	<i>13th March 2001</i>
<i>Coming into force</i>	<i>6th April 2001</i>

The Secretary of State for Social Security, with the concurrence of the Inland Revenue in so far as required, in exercise of powers conferred by sections 13(3), 22(5), 122(1) and 175(1) to (4) of, and paragraphs 8(1)(d) and (1A) and 10 of Schedule 1 to, the Social Security Contributions and Benefits Act 1992(a) and sections 182C and 189(1) and (3) to (6) of the Social Security Administration Act 1992(b) and of all other powers enabling him in that behalf and for the purpose only of consolidating other regulations hereby revoked(c), hereby makes the following Regulations:

**Citation, commencement and interpretation**

**1.—**(1) These Regulations may be cited as the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations 2001 and shall come into force on 6th April 2001.

(2) In these Regulations, including this regulation—

“the Act” means the Social Security Contributions and Benefits Act 1992;

“the Contributions Regulations” means the Social Security (Contributions) Regulations 1979(d);

“contribution week” means a period of seven days beginning with midnight between Saturday and Sunday;

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- (a) 1992 c. 4. See paragraph 8(1A) of Schedule 1 in respect of Inland Revenue concurrence. Section 13(3) was amended by paragraph 14(3) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) (“the 1999 Act”). Section 22(5) was amended by paragraph 22 of Schedule 2 to the Jobseekers Act 1995 (c. 18). Section 122(1) is cited because of the meaning assigned to the word “prescribe”. Section 175 was amended by paragraph 29 of Schedule 3 to the 1999 Act. Paragraph 8(1A) was inserted by paragraph 39(3) of Schedule 3 to the 1999 Act and amended by paragraph 3 of Schedule 11 to the Welfare Reform and Pensions Act 1999 (c. 30).
- (b) 1992 c. 5. Section 182C was inserted by paragraph 9 of Schedule 1 to the Social Security Administration (Fraud) Act 1997 (c. 47) and amended by paragraph 31 of Schedule 1 to the 1999 Act. Section 189(1), (4) to (6) was amended by paragraph 109 of Schedule 7 and Schedule 8 to the Social Security Act 1998 (c. 14) and subsection (1) was further amended by paragraph 57(2) of Schedule 3 to the 1999 Act.
- (c) See paragraph 10 of Schedule 7 to the Social Security Administration Act 1992 which exempts regulations made for the purpose only of consolidating other regulations revoked by them from the requirement for prior submission to the Social Security Advisory Committee.
- (d) S.I. 1979/591. The relevant amending instruments are S.I. 1984/77, 1987/413 and 2111, 1989/572, 1992/97 and 669, 1993/260, 1995/829, 1996/2367, 1999/567, 2000/2207, 2343 and 2744 and 2001/45.

“contribution-based jobseeker’s allowance” and “income-based jobseeker’s allowance” have the same meaning as in the Jobseekers Act 1995<sup>(a)</sup>;

“contributory benefit” includes a contribution-based jobseeker’s allowance but not an income-based jobseeker’s allowance;

“due date” means, in relation to any contribution which a person is—

- (a) liable to pay, the date by which payment falls to be made in accordance with Part IV of the Contributions Regulations;
- (b) entitled, but not liable, to pay, the date 42 days after the end of the year in respect of which it is paid;

“earnings factor” has the meaning assigned to it in section 21(5)(c) of the Act;

“relevant benefit year” has the meaning assigned to it in—

- (a) section 2(4)(b) of the Jobseekers Act 1995, in relation to a contribution-based jobseeker’s allowance;
- (b) paragraph 2(6)(b) of Schedule 3 to the Act<sup>(b)</sup> (contribution conditions for entitlement to short-term incapacity benefit), in relation to short-term incapacity benefit;

“relevant time”, in relation to short-term incapacity benefit, has the meaning assigned to it in paragraph 2(6)(a) of Schedule 3 to the Act;

“year” means tax year.

### **Appropriation of Class 3 contributions**

2. Any person paying Class 3 contributions in one year may appropriate such contributions to the earnings factor of another year if such contributions are payable in respect of that other year or, in the absence of any such appropriation, the Inland Revenue may, with the consent of the contributor, make such appropriation.

### **Crediting of Class 3 contributions**

3. Where, for any year, a contributor’s earnings factor derived from—

- (a) earnings upon which primary Class 1 contributions have been paid or treated as paid;
- (b) credited earnings;
- (c) Class 2 or Class 3 contributions paid by or credited to him; or
- (d) any or all of such earnings and contributions,

falls short of a figure which is 52 times that year’s lower earnings limit for Class 1 contributions by an amount which is equal to, or less than, half that year’s lower earnings limit, that contributor shall be credited with a Class 3 contribution for that year.

### **Treatment for the purpose of any contributory benefit of late paid contributions**

4.—(1) Subject to the provisions of regulations 5 and 6 below and regulation 40 of the Contributions Regulations (voluntary Class 2 contributions not paid within permitted period), for the purpose of entitlement to any contributory benefit, paragraphs (2) to (9) below shall apply to contributions (“relevant contributions”)—

- (a) paid after the due date; or
- (b) treated as paid after the due date under regulation 7(2) below.

(2) Subject to the provisions of paragraph (4) below, any relevant contribution other than one referred to in paragraph (3) below—

- (a) if paid—
  - (i) after the end of the second year following the year in which liability for that contribution arises,

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(a) 1995 c. 18.

(b) Paragraph 2(6)(b) was amended by paragraph 38(2) of Schedule 1 to the Social Security (Incapacity for Work) Act 1994 (c. 18).

- (ii) following the due date for that contribution in the case of a contribution which a person is entitled, but not liable, to pay,  
shall be treated as not paid;
- (b) if paid before the end of the said second year, shall, subject to paragraphs (7) and (8) below, be treated as paid on the date on which payment of the contribution is made.
- (3) Subject to the provisions of paragraph (4) below, any relevant Class 2 contribution payable in respect of a contribution week after 5th April 1983 or any relevant Class 3 contribution payable in respect of a year after 5th April 1982—
- (a) if paid—
- (i) after the end of the sixth year following the year in which liability for that contribution arises,
- (ii) following the due date for that contribution in the case of a contribution which a person is entitled, but not liable, to pay,  
shall be treated as not paid;
- (b) if paid before the end of the said sixth year, shall, subject to paragraphs (7) and (8) below, be treated as paid on the date on which payment of the contribution is made.
- (4) A Class 3 contribution payable by a person to whom regulation 27(3)(b)(ii) or (iii) of the Contributions Regulations<sup>(a)</sup> (which specify the conditions to be complied with before a person may pay a Class 3 contribution) applies in respect of a year which includes a period of education, apprenticeship, training, imprisonment or detention in legal custody such as is specified in that regulation—
- (a) if paid after the end of the sixth year specified in that regulation, shall be treated as not paid;
- (b) if paid before the end of the said sixth year shall, subject to the provisions of paragraphs (7) and (8) below, be treated as paid on the date on which payment of the contribution is made.
- (5) Notwithstanding the provisions of paragraph (4) above, for the purpose of entitlement to any contributory benefit, where—
- (a) a Class 3 contribution other than one referred to in sub-paragraph (b) below which is payable in respect of a year specified in that sub-paragraph, is paid after—
- (i) the due date, and
- (ii) the end of the second year following the year preceding that in which occurred the relevant time or, as the case may be, the relevant event,  
that contribution shall be treated as not paid;
- (b) in respect of a year after 5th April 1982, a Class 3 contribution which is payable in respect of a year specified in paragraph (4) above, is paid after—
- (i) the due date, and
- (ii) the end of the sixth year following the year preceding that in which occurred the relevant time or, as the case may be, the relevant event,  
that contribution shall be treated as not paid.
- (6) For the purposes of paragraph (5) above, “relevant event” means the date on which the person concerned attained pensionable age<sup>(b)</sup> or, as the case may be, died under that age.
- (7) Notwithstanding the provisions of paragraphs (2), (3) and (4) above, in determining whether the relevant contribution conditions are satisfied in whole or in part for the purpose of entitlement to any contributory benefit, any relevant contribution which is paid within the time specified in paragraph (2)(b), (3)(b) or, as the case may be, (4)(b) above shall be treated—
- (a) for the purpose of entitlement in respect of any period before the date on which the payment of the contribution is made, as not paid; and

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<sup>(a)</sup> Sub-paragraph (b)(iii) was inserted by regulation 9(b) of S.I. 1984/77.

<sup>(b)</sup> The definition of “pensionable age” in section 122(1) of the Social Security Contributions and Benefits Act 1992 was substituted by paragraph 13(a) of Schedule 4 to the Pensions Act 1995 (c. 26).

- (b) subject to the provisions of paragraph (8) below, for the purpose of entitlement in respect of any other period, as paid on the date on which the payment of the contribution is made.
- (8) For the purpose of determining whether the second contribution condition for entitlement to a contribution-based jobseeker's allowance or short-term incapacity benefit is satisfied in whole or in part, any relevant contribution shall be treated—
  - (a) if paid before the beginning of the relevant benefit year, as paid on the due date;
  - (b) if paid after the end of the benefit year immediately preceding the relevant benefit year, as not paid in relation to the benefit claimed in respect of any day before the expiry of a period of 42 days (including Sundays) commencing with the date on which the payment of that contribution is made, and, subject to the provisions of paragraphs (2)(a) and (3)(a) above, as paid at the expiry of that period in relation to entitlement to such benefit in respect of any other period.
- (9) For the purposes of paragraph (8) above, “second contribution condition” in relation to—
  - (a) a contribution-based jobseeker's allowance is a reference to the condition specified in section 2(1)(b) of the Jobseekers Act 1995(a);
  - (b) short-term incapacity benefit is a reference to the condition specified in paragraph 2(3) of Schedule 3 to the Act.
- (10) This regulation shall not apply to Class 4 contributions.

**Treatment for the purpose of any contributory benefit of late paid primary Class 1 contributions where there was no consent, connivance or negligence by the primary contributor**

5.—(1) This regulation applies where a primary Class 1 contribution which is payable on a primary contributor's behalf by a secondary contributor—

- (a) is paid after the due date; or
- (b) in relation to any claim for—
  - (i) a contribution-based jobseeker's allowance, is not paid before the beginning of the relevant benefit year, or
  - (ii) short-term incapacity benefit, is not paid before the relevant time,

and the delay in making payment is shown to the satisfaction of the Inland Revenue not to have been with the consent or connivance of, or attributable to any negligence on the part of, the primary contributor.

- (2) Where paragraph (1) above applies, the primary Class 1 contribution shall be treated—
  - (a) for the purpose of the first contribution condition of entitlement to a contribution-based jobseeker's allowance or short-term incapacity benefit, as paid on the day on which payment is made of the earnings in respect of which the contribution is payable; and
  - (b) for any other purpose relating to entitlement to any contributory benefit, as paid on the due date.
- (3) For the purposes of this regulation—
  - (a) “first contribution condition” in relation to—
    - (i) a contribution-based jobseeker's allowance is a reference to the condition specified in section 2(1)(a) of the Jobseekers Act 1995(b),
    - (ii) short-term incapacity benefit is a reference to the condition specified in paragraph 2(2) of Schedule 3 to the Act(c);
  - (b) “primary contributor” means the person liable to pay a primary Class 1 contribution in accordance with section 6(4)(a) of the Act(d) (liability for Class 1 contributions);

(a) Section 2(1)(b) was modified by regulations 158 and 167 of S.I. 1996/207.

(b) Section 2(1)(a) was modified by regulations 158 and 167 of S.I. 1996/207.

(c) Paragraph 2(2) is amended by section 62(2) of the Welfare Reform and Pensions Act 1999.

(d) Section 6 was substituted by paragraph 2 of Schedule 9 to the Welfare Reform and Pensions Act 1999 and amended by section 77(3) of the Child Support, Pensions and Social Security Act 2000 (c. 19).

- (c) “secondary contributor” means the person who, in respect of earnings from employed earner’s employment, is liable to pay a secondary Class 1 contribution in accordance with section 6(4)(b) of the Act.

**Treatment for the purpose of any contributory benefit of contributions under the Act paid late through ignorance or error**

6.—(1) In the case of a contribution paid by or in respect of a person after the due date, where—

- (a) the contribution is paid after the time when it would, under regulation 4 or 5 above, have been treated as paid for the purpose of entitlement to contributory benefit; and
- (b) it is shown to the satisfaction of the Inland Revenue that the failure to pay the contribution before that time is attributable to ignorance or error on the part of that person or the person making the payment and that that ignorance or error was not due to any failure on the part of such person to exercise due care and diligence.

the Inland Revenue may direct that, for the purposes of those regulations, the contribution shall be treated as paid on such earlier day as the Inland Revenue may consider appropriate in the circumstances, and those regulations shall have effect subject to any such direction.

- (2) This regulation shall not apply to a Class 4 contribution.

**Treatment for the purpose of any contributory benefit of contributions paid under regulation 54 of the Contributions Regulations**

7.—(1) Subject to the provisions of paragraph (2) below, for the purpose of entitlement to any contributory benefit, where—

- (a) a person pays a Class 2 or Class 3 contribution in accordance with regulation 54 of the Contributions Regulations **(a)** (method of, and time for, payment of Class 2 and Class 3 contributions etc.); and
- (b) the due date for payment of that contribution is a date after the relevant day,

that contribution shall be treated as paid by the relevant day.

(2) Where, in respect of any part of a late notification period, a person pays a Class 2 contribution which he is liable to pay, that contribution shall be treated as paid after the due date, whether or not it was paid by the due date.

- (3) For the purposes of this regulation—

- (a) “late notification period” means the period beginning with the day a person liable to pay a Class 2 contribution was first required to notify the Inland Revenue in accordance with the provisions of regulation 53A of the Contributions Regulations **(b)** (notification of commencement or cessation of payment of Class 2 or Class 3 contributions) and ending on the last day of the contribution quarter immediately before the contribution quarter in which he gives that notification;
- (b) “relevant day” means the first day in respect of which a person would have been entitled to receive the contributory benefit in question if any contribution condition relevant to that benefit had already been satisfied;
- (c) “contribution quarter” means one of the four periods of not less than 13 contribution weeks commencing on the first day of the first, fourteenth, twenty-seventh or fortieth contribution week, in any year.

**Treatment for the purpose of any contributory benefit of contributions paid under an arrangement**

8. For the purposes of regulations 4 to 7 above and regulation 40 of the Contributions Regulations (voluntary Class 2 contributions not paid within permitted period)—

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**(a)** Regulation 54 was substituted by regulation 5 of S.I. 1993/260.

**(b)** Regulation 53A was inserted by regulation 4 of S.I. 1993/260 and amended by regulation 8 of S.I. 2000/2343 and regulation 2 of S.I. 2001/45.

- (a) where a contribution is paid under an arrangement to which regulations 46A and 48 or, as the case may be, regulation 54A of the Contributions Regulations (a) (other methods of collection and recovery of earnings-related contributions; special provisions relating to primary Class 1 contributions and arrangements approved by the Inland Revenue for method of, and time for, payment of Class 2 and Class 3 contributions respectively) apply, the date by which, but for the said regulations 4 to 7 and 40, the contribution would have fallen due to be paid shall, in relation to that contribution, be the due date;
- (b) any payment made of, or as on account of, a contribution in accordance with any such arrangement shall, on and after the due date, be treated as a contribution paid on the due date.

#### **Application for allocation of national insurance number**

9.—(1) Subject to the provisions of paragraph (2) below, every person, who is over the age of 16 and satisfies the conditions specified in regulation 87 or 119 of the Contributions Regulations (b) (conditions of domicile or residence and conditions as to residence or presence in Great Britain respectively), shall, unless he has already been allocated a national insurance number under the Act, the Social Security Act 1975(c) or the National Insurance Act 1965(d), apply either to the Secretary of State or to the Inland Revenue for the allocation of a national insurance number and shall make such application at such time and in such manner as the Secretary of State shall direct.

(2) As respects any person who is neither an employed earner nor a self-employed earner the provisions of paragraph (1) above shall not apply unless and until that person wishes to pay a Class 3 contribution.

(3) The Secretary of State may authorise arrangements for the allocation of a national insurance number to any person during the 12 months before that person reaches the age of 16, and in particular may direct that a person who will attain the age of 16 within 12 months after such direction shall apply for the allocation of a national insurance number before attaining the age of 16, and any such person shall accordingly comply with such direction.

#### **Deduction of contribution from pensions etc.—prescribed enactments and instruments under which payable**

10. For the purposes of paragraph 10 of Schedule 1 to the Act (power to deduct contributions from a pension or allowance payable by the Secretary of State by virtue of any prescribed enactment or instrument), the enactments and instruments are—

- (a) Order in Council 19th December 1881;
- (b) The Royal Warrant 27th October 1884;
- (c) The Naval and Military War Pensions Act 1915(e);
- (d) The War Pensions Act 1920(f);
- (e) The War Pensions Act 1921(g);
- (f) Order by His Majesty 14th January 1922;
- (g) The War Pensions (Coastguards) Scheme 1944(h);
- (h) The Royal Warrant 1964(i);
- (i) The Order by Her Majesty 1964(j);
- (j) The War Pensions (Naval Auxiliary Personnel) Scheme 1964(k);

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(a) Regulation 46A was inserted by regulation 8 of S.I. 2000/2207 and amended by regulation 4 of S.I. 2000/2744. Regulation 54A was substituted by regulation 5 of S.I. 1993/260 and amended by regulations 10 and 11 of S.I. 2000/2343.

(b) Regulation 119 was amended by regulation 3 of S.I. 1989/572, regulation 8 of S.I. 1992/97 and regulation 9 of S.I. 1999/567.

(c) 1975 c. 14.

(d) 1965 c. 51.

(e) 1915 c. 83.

(f) 1920 c. 23.

(g) 1921 c. 49.

(h) S.I. 1944/500.

(i) Cmnd 2563.

(j) Cmnd 2564.

(k) S.I. 1964/1985.

- (k) The Pensions (Polish Forces) Scheme 1964**(a)**;
- (l) The War Pensions (Mercantile Marine) Scheme 1964**(b)**;
- (m) The Order by Her Majesty (Ulster Defence Regiment) 1971**(c)**;
- (n) The Personal Injuries (Civilians) Scheme 1983**(d)**;
- (o) The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983**(e)**.

### **Consequential amendments to the Contributions Regulations**

**11.**—(1) The Contributions Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 1(2) (definitions), in the definition of “week”**(f)** omit the words “for the purposes of regulation 38(7) it has the meaning assigned to it in regulation 38(8), and”.

(3) In regulation 39 (treatment for the purpose of any contributory benefit of late paid or unpaid primary Class 1 contributions where there was no consent, connivance or negligence by the primary contributor)**(g)**—

- (a) in the heading, omit the words “late paid or”;
- (b) in paragraph (1), omit the words “is paid after the due date or” and “delay or”.

### **Revocations**

**12.** The regulations set out in column (1) of the Schedule to these Regulations are hereby revoked to the extent mentioned in column (3) of that Schedule.

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

6th March 2001

*Jeff Rooker*  
Minister of State,  
Department of Social Security

The Commissioners of Inland Revenue hereby concur.

7th March 2001

*Ann Chant*  
*Nick Montagu*  
Two of the Commissioners of Inland Revenue

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**(a)** S.I. 1964/2007.

**(b)** S.I. 1964/2058.

**(c)** Cmnd 4567.

**(d)** S.I. 1983/686.

**(e)** S.I. 1983/883.

**(f)** The definition of “week” was amended by regulation 2 of S.I. 1992/669.

**(g)** Regulation 39 was amended by regulation 10 of S.I. 1987/413, regulation 7 of S.I. 1987/2111, regulation 13(5) of S.I. 1995/829 and regulation 3(5) of S.I. 1996/2367.

## SCHEDULE

Regulation 12

## REGULATIONS REVOKED

Column (1) Citation	Column (2) Statutory Instrument	Column (3) Extent of Revocation
The Social Security (Contributions) Regulations 1979	S.I. 1979/591	Regulations 30, 36, 38, 38A, 41, 41A, 42, 44 and 55
The Social Security (Contributions) Amendment Regulations 1980	S.I. 1980/1975	Regulation 4
The Social Security (Contributions) Amendment Regulations 1984	S.I. 1984/77	Regulation 13
The Social Security (Contributions) Amendment (No. 2) Regulations 1987	S.I. 1987/413	Regulations 8 and 9
The Social Security (Contributions) Amendment (No. 5) Regulations 1992	S.I. 1992/669	Regulations 2 and 4
The Social Security (Contributions) Amendment (No. 6) Regulations 1993	S.I. 1993/2094	Regulations 3, 4 and 5
The Social Security (Contributions) Amendment (No. 2) Regulations 1994	S.I. 1994/1553	Regulation 3
The Social Security (Incapacity Benefit) (Consequential and Transitional Amendments and Savings) Regulations 1995	S.I. 1995/829	Regulation 13(4)
The Social Security (Credits and Contributions) (Jobseeker's Allowance Consequential and Miscellaneous Amendments) Regulations 1996	S.I. 1996/2367	Regulation 3(4)
The Social Security Contributions, Statutory Maternity Pay and Statutory Sick Pay (Miscellaneous Amendments) Regulations 1999	S.I. 1999/567	Regulation 7
The Social Security (Contributions and Credits) (Miscellaneous Amendments) Regulations 1999	S.I. 1999/568	Regulation 13
The Social Security (Contributions) (Amendment No. 8) Regulations 2000	S.I. 2000/2207	Regulation 6

## EXPLANATORY NOTE

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

These Regulations consolidate certain regulations in the Social Security (Contributions) Regulations 1979 (S.I. 1979/591) (“the Contributions Regulations”) relating to the appropriation and crediting of Class 3 contributions and the treatment of late paid social security contributions for the purposes of entitlement to contributory benefit and the application for the allocation of a national insurance number, which are hereby revoked. Accordingly, these Regulations do not require prior submission to the Social Security Advisory Committee and have not been so referred.

Regulation 1 contains provisions concerning the citation, commencement and interpretation of the Regulations.

Regulation 2 provides for the appropriation of Class 3 contributions to the earnings factor of another year.

Regulation 3 provides for the crediting of a Class 3 contribution where a person’s earnings factor falls short of a figure equal to 52 times the lower earnings limit for Class 1 contributions for the relevant year.

Regulations 4 to 8 provide for the treatment of late paid contributions for contributory benefit purposes. Regulation 4 does so in respect of a contribution (other than a Class 4 contribution) paid before the end of the second or sixth year (as the case may be) in which it is due; regulation 5 in respect of a primary Class 1 contribution where the primary contributor has not been negligent or consented to or connived in its late payment; regulation 6 in respect of a contribution paid after the due date as a result of ignorance or error on the part of the person paying it; regulation 7 in respect of a Class 2 or a Class 3 contribution paid in accordance with specified provisions of the Contributions Regulations and regulation 8 in respect of a contribution paid on, or after, the due date under an arrangement approved by the Inland Revenue under specified provisions of those Regulations.

Regulation 9 provides for an application to be made to the Secretary of State or the Inland Revenue for the allocation of a national insurance number.

Regulation 10 specifies the enactments and instruments in respect of which the Secretary of State has the power to deduct contributions from certain pensions or allowances.

Regulation 11 makes consequential amendments to the Contributions Regulations.

Regulation 12 provides for the revocation of regulations set out in the Schedule to these Regulations.

These Regulations impose no costs on business.





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**SOCIAL SECURITY**

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