

**EXPLANATORY MEMORANDUM TO THE
SOCIAL SECURITY (RETIREMENT PENSIONS) AMENDMENT
REGULATIONS 2004 No.2283**

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before the House of Commons by Command of Her Majesty. It contains information for the consideration of the Joint Committee on Statutory Instruments.

2. Description

2.1 The Regulations provide for late claims for retirement pension to be treated as made on 1st October 1998 or pensionable age, whichever is the later, where the claimant belatedly makes good a deficiency in his contribution record for the tax years 96/97 to 2001/02.

2.2 The Regulations also provide for a decision disallowing a late claim for retirement pension (because of a deficient contribution record) to be revised to allow for the pension to be paid from 1st October 1998 or pensionable age, whichever is the later, when the claimant makes good his deficient contribution record for the tax years 96/97 to 2001/02.

3. Matters of special interest to the Joint Committee on Statutory Instruments

The provision described in paragraph 2.1 above uses the power in section 5(1)(b) of the Social Security (Administration) Act 1992 to prescribe circumstances in which a claim may be treated as having been made at a date earlier than the date on which it was made. Under that provision a retirement pension claim may be treated as made at pensionable age which may be more than 12 months before the date on which the claim was made. Section 1(2) of the 1992 Act provides that a person shall not be entitled to a benefit such as retirement pension in respect of any period more than 12 months before the date on which the claim was made or treated as made. These Regulations overcome the apparent 12 month barrier because section 1(1) provides for a person to be treated as making a claim for benefit by virtue of regulations under section 5 and section 1(2) provides that the 12 month period may be before the date when the claim is treated as made.

4. Legislative Background

Current legislation does not cover all those who could benefit from making good the deficiency in their contribution record. These Regulations are needed to make provision in respect of late claims for retirement pension. They provide for the payment of retirement pension arrears back to pensionable age if a person makes a late claim as a result of the policy

described in paragraph 6 or if a person had already had a late claim disallowed because of insufficient contributions.

5. Extent

5.1 The Regulations apply to Great Britain.

5.2 The Department for Social Development in Northern Ireland, will be making Regulations for Northern Ireland that mirror these amendments.

6. Policy Background

6.1 Under the National Insurance Recording System (NIRS1) an annual scan was performed 15 months after the end of each tax year, to identify individuals who had not paid, or been credited with, sufficient National Insurance Contributions to enable that tax year to count towards their basic state retirement pension. These individuals received a letter inviting them to consider paying voluntary class 3 contributions. This letter was referred to as a Deficiency Notice (DN).

6.2 The annual DN exercise has never taken place on NIRS2 and the final run on NIRS1 was suspended due to conflicting priorities at the time. As a result the 1995/96 tax year was the last year for which customers received a DN.

6.3 In April 2003, the Paymaster General (PMG) announced that the Inland Revenue would contact people who had not been told that their contribution records for the tax years 1996/97 to 2001/02 were deficient because the annual DN exercise did not take place. The PMG also announced at the time that anyone who wished to pay voluntary contributions for the years in question would not be worse off than they would have been had they been told about the deficiency in their contribution record and paid the contributions at the normal time.

6.4 The Department for Work and Pensions will invite those affected to pay voluntary contributions for the deficient years. If they pay these contributions the following possibilities arise:

- existing retirement pension awards being revised and arrears of retirement pension backdated to October 1998 or pensionable age, whichever is the later;
- late claims being accepted and treated as made from October 1998 or pensionable age;
- claims, made after pensionable age, which were disallowed because of a deficient contribution record being revised and arrears paid back to pensionable age.

6.5 These Regulations cover the latter two groups. They were not subject to any outside consultation.

7. Regulatory Impact

A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8. Contact

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