

**EXPLANATORY MEMORANDUM TO**  
**THE SOCIAL SECURITY (CONTRIBUTIONS) (AMENDMENT NO. 8)**  
**REGULATIONS**

**2007 No. 2520**

1. This explanatory memorandum has been prepared by HM Revenue & Customs (“HMRC”) and is laid before Parliament by Command of Her Majesty.

**2. Description**

These Regulations extend the time in which certain Class 2 and Class 3 National Insurance contributions (“NICs”) can be paid. They also prevent the higher rate provisions applying to late payments under specified conditions.

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

The Department for Work and Pensions (“DWP”) and the Department for Social Development in Northern Ireland (“DSD”) are laying Regulations that will allow any late payments made under these Regulations to count for certain benefit purposes, including Retirement Pension.

**4. Legislative Background**

None of the amendments are consequent to specific undertakings given to Parliament. Nor are they consequent to EU obligations. They are consequential to the correction of contributors’ records as set out in a DWP Ministerial statement on 23rd July 2007. Paragraph 7 below sets out the background in detail.

**5. Territorial Extent and Application**

This instrument applies to all of the United Kingdom.

**6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

**7. Policy background**

7.1 Entitlement to certain benefits and state pension is based upon an individual’s National Insurance contribution record. The contribution record on which awards are made is administered by HMRC.

7.2 As well as payments of contributions, either paid directly by the self-employed or deducted from the salary of employees, in certain circumstances credits of earnings (“credits”) may be awarded. One of these circumstances is when the contributor has a period of incapacity for work. Credits for incapacity for work are awarded by the DWP. Over the course of a tax year the total of paid contributions and/or credits will determine

whether a year is 'qualifying' for benefit purposes. This in turn will determine whether there is entitlement to, and the amount of, certain benefits, including Retirement Pension.

7.3 The DWP's Pension Service Computer System ("PSCS") records the start and finish of periods of incapacity for work and then passes it to HMRC's National Insurance Recording System ("NIRS2"). However between 1993 and 2007 there have been errors in the passing of information between the two systems. Information on the two systems is not therefore fully aligned. As a result some contributors have been over-credited with earnings, and others under-credited. This in turn has led to over- and under-payment of certain benefits including Retirement Pension.

7.4 In the course of examining accounts with errors in the recording of incapacity credits, additional errors were found in certain accounts regarding the posting of credits for approved training. Approved training credits can be awarded when a person undergoes a course of training approved by the Secretary of State, or, in Northern Ireland, by DSD.

7.5 A cross department working group is overseeing the correction of accounts and considering the impact on contributors. DWP and DSD have drafted separate Regulations covering the treatment of current and future benefit claims where the contribution record is incorrect.

7.6 Part of the correction process will involve the removal of incorrectly awarded credits from contribution records. This may convert what were previously thought to be qualifying years into non-qualifying years for the purposes of entitlement to certain benefits including Retirement Pension.

7.7 These Regulations focus on providing an opportunity for those who have had incorrectly awarded credits removed from their contribution record to pay the missing contributions. When a credit is awarded it can prevent the usual reminders that contributors receive confirming either that they have a liability for contributions (in the case of the self-employed), or that they are entitled to pay voluntary contributions (for example because they have not paid sufficient contributions in a particular year).

7.8 These Regulations serve two functions. First, they extend the time in which certain Class 2 and Class 3 voluntary National Insurance contributions ("NICs") can be paid in circumstances where the contributor received credits in respect of any week within the relevant period and one or more of these credits was then removed on or after 1 July 2007. Second, the Regulations also provide that where a payment of any Class 2 or Class 3 NICs is paid in these circumstances the amount of any such contribution is to be calculated by reference to the amount due had the contribution been paid in the year to which it relates.

7.9 All contributors affected will be written to highlighting resulting gaps in their contribution records and the contribution required to make the year(s) qualifying.

7.10 A draft of these regulations has been seen by the Social Security Advisory Committee (SSAC) under the terms of the Memorandum of Understanding between the Committee and HMRC.

**8. Impact**

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

**9. Contact**

Paul Hannick of HM Revenue & Customs Tel: 020 7147 2846 or e-mail: paul.hannick@hmrc.gsi.gov.uk can answer any queries regarding the instrument.