

EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (CONTRIBUTIONS) (AMENDMENT No. 6)
REGULATIONS 2008

2008 No. 3099

1. This explanatory memorandum has been prepared by the HM Revenue and Customs and is laid before Parliament by Command of Her Majesty. This memorandum contains information for the Joint Committee on Statutory Instruments.
2. **Purpose of this instrument**
 - 2.1 Class 3 contributions for the 2006-07 tax year which are paid after 5 April 2009 and voluntary Class 2 contributions for the 2006-07 tax year which are paid after 5 April 2008 generally have to be paid at the highest rate in force between the 2006-07 tax year and the date of payment. This means that such late paid contributions are charged at a higher rate.
 - 2.2 This Statutory Instrument allows contributors to pay voluntary Class 2 or Class 3 contributions for the 2006/07 tax year at the rate originally applicable for that year (£2.10 per week for Class 2 and £7.55 per week for Class 3) provided they are paid no later than 5 April 2013.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None
4. **Legislative Context**
 - 4.1 The basis for applying a higher rate to the payment of Class 3 contributions is set out in section 13(6) of the Social Security Contributions and Benefits Act 1992 and 13(6) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (the Acts).
 - 4.2 Section 13(6) of the Acts refers to payment of Class 3 contributions after the end of the next tax year but one following the contribution year. Where this is the case, the rate of a Class 3 contribution is computed as the highest rate in force between the contribution year and the year in which payment is made.
 - 4.3 Section 13(7) of the Acts includes a power to make regulations providing that the rate is to be computed by reference to the amount of a Class 3 contribution for a tax year earlier than the payment year but not earlier than the contribution year.
 - 4.4 The basis for applying a higher rate to the payment of Class 2 contributions is set out in section 12(3) of the Acts. Section 12(3) refers to payment of Class 2 contributions after the end of the tax year immediately following the contribution year. Where this is the case, the

rate of a Class 2 contribution is computed as the highest rate in force between the contribution year and the year in which payment is made.

- 4.5 Section 12(6) of the Acts includes a power to make regulations providing that the rate is computed by reference to the amount of a Class 2 contribution for a tax year earlier than the payment year but not earlier than the contribution year.

5. Territorial Extent and Application

- 5.1 These Regulations apply throughout the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

- 7.1 Subject to specific conditions governing entitlement to pay, voluntary Class 2 and Class 3 contributions can be paid for a tax year to make it count for appropriate benefit purposes where the contributor has not paid or been credited with sufficient contributions to make the year a qualifying year. HMRC runs an annual exercise to issue letters referred to as deficiency notices (DNs) which notify appropriate contributors of shortfalls in their National Insurance records.
- 7.2 Home Responsibilities Protection (HRP) was introduced in 1978 to overcome the difficulties that those caring for children and disabled people had in obtaining the requisite number of qualifying years for a full State Pension. Those who qualified for HRP had the number of qualifying years needed for a full State Pension reduced.
- 7.3 The Pensions Act 2007 and Pensions Act (Northern Ireland) 2008 allows that periods of HRP recorded on a contributor's National Insurance record for periods prior to 6 April 2010 may be converted to credits. Major IT changes are necessary to implement the Pensions Act 2007 and the Pensions Act (Northern Ireland) 2008 which reforms the State Pension and HRP from 6 April 2010 for those reaching State Pension age on or after that date. The exercise to convert periods of HRP prior to 6 April 2010 to credits will not take place until autumn 2009. For those with HRP this may lead to uncertainty about whether to pay voluntary contributions for the 2006-07 tax year.
- 7.4 Steps have been taken not to issue DN's for the 2006-07 tax year for those who are due to reach State Pension age on or after 6 April 2010 and have entitlement to HRP. This is because any decision they make about paying voluntary contributions will need to be taken once HRP has been converted to credits and they receive DN's for the 2006-07 tax year taking this into account. This would be after the higher rate provisions start to apply under existing legislation.

- 7.5 This statutory instrument removes the higher rate provision that would apply to the payment of voluntary contributions for the 2006-07 tax year for those reaching State Pension age on or after 6 April 2010 who have entitlement to HRP.

8. Consultation Outcome

- 8.1 The formal consultation period following publication of the White Paper "*Security in retirement: towards a new pensions system*" ran from 25 May 2006 to 11 September 2006. As well as written responses, the Government engaged with stakeholders and members of the public in a range of other ways to widen the debate and increase people's understanding of the issues. The consultation was supported by on-line Pensions Forum debates with Ministers on the DWP website. To increase understanding, a number of fact sheets explaining key issues in more detail were also published. The DWP held a seminar for employers and a seminar on carers' issues with stakeholder organisations and the public. DWP Ministers also attended a number of regional road shows to meet stakeholders and members of the public. A full summary and analysis of the consultation responses was published in October 2006 in "*Security in retirement: towards a new pensions system. Summary of responses to the consultation.*"

9. Guidance

- 9.1 This is not a complex change and applicable to only a small group of customers. HMRC will update the appropriate web page <http://www.hmrc.gov.uk/nic/class3.htm> on the HMRC internet site to state that Higher Rate provision will not be applied to the 2006/07 tax year for those customers who reach state pension age on or after the 6 April 2010 and have a period of Home Responsibility Protection on their National Insurance account for any tax year.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector.
- 10.3 No Impact Assessment has been prepared because no impact on the private or voluntary sector is foreseen.

11. Regulating small business

- 11.1 The legislation does not apply to small business.

12. Monitoring & review

- 12.1 DWP will continue to monitor State Pension awards and accruals, the level and distribution of pensioners' total incomes, and levels of understanding of the state pension system through analysis of administrative data, surveys and other sources. It will continue to report

on progress against its Public Service Agreements in its annual and departmental reports. The Government proposes to commission reviews periodically drawing on a range of independent expert advice in the light of emerging evidence on demographic change on whether the timetable for increasing State Pension age - as set out in legislation - remains appropriate.

- 12.2 The main objective of the measure is to allow those with HRP to delay making a decision about whether to pay voluntary contributions until they have all the information needed to make an informed decision. The measure will allow them to do so, and pay at a later date, without being subject to payment at a higher rate which would otherwise apply.

13. Contact

- 13.1 Hasan Mustafa at HM Revenue & Customs Tel: 0207 147 2508 or e-mail: Hasan.Mustafa@hmrc.gsi.gov.uk can answer any queries regarding the instrument.