



# National Insurance Contributions Act 2014

## 2014 CHAPTER 7

An Act to make provision in relation to national insurance contributions; and for connected purposes. [13th March 2014]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### *Employment allowance*

#### **1 Employment allowance for national insurance contributions**

- (1) A person qualifies for an employment allowance for a tax year if, in the tax year—
  - (a) the person is the secondary contributor in relation to payments of earnings to, or for the benefit of, one or more employed earners, and
  - (b) in consequence, the person incurs liabilities to pay secondary Class 1 contributions,  
under SSCBA 1992 or SSCB(NI)A 1992 (or both).
- (2) The person's employment allowance for the tax year is—
  - (a) [<sup>F1</sup>£5,000,] or
  - (b) if less, an amount equal to the total amount of the liabilities mentioned in subsection (1)(b) which are not excluded liabilities.
- (3) Subsection (1) is subject to sections 2 and 3 (and Schedule 1).
- (4) Sections 2 and 3 (and Schedule 1) set out cases in which a person cannot qualify for an employment allowance for a tax year.
- (5) Section 2 also sets out the cases in which liabilities to pay secondary Class 1 contributions are “excluded liabilities”.

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*Changes to legislation: There are currently no known outstanding effects for the National Insurance Contributions Act 2014. (See end of Document for details)*

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- (6) Section 4 provides for a person who qualifies for an employment allowance for a tax year to receive it by way of deductions or a repayment under that section.
- (7) In this Act references to “the employment allowance provisions” are to this section, sections 2 to 4 and Schedule 1.
- (8) In the employment allowance provisions and section 5 terms used which are also used in Part 1 of SSCBA 1992 or SSCB(NI)A 1992 have the same meaning as they have in that Part.

#### Textual Amendments

- F1** Sum in s. 1(2)(a) substituted (6.4.2022) by [The Employment Allowance \(Increase of Maximum Amount\) Regulations 2022 \(S.I. 2022/364\)](#), regs. 1, 2

## 2 Exceptions

### *Public authorities*

- (1) A person cannot qualify for an employment allowance for a tax year if, at any time in the tax year, the person is a public authority which is not a charity.
- (2) In subsection (1)—
  - “charity” has the same meaning as in the Small Charitable Donations Act 2012 (see section 18(1) of that Act), and
  - “public authority” includes any person whose activities involve, wholly or mainly, the performance of functions (whether or not in the United Kingdom) which are of a public nature.

### *Personal, family or household affairs*

- (3) Liabilities to pay secondary Class 1 contributions incurred by a person (“P”) are “excluded liabilities” if they are incurred in respect of an employed earner who is employed (wholly or partly) for purposes connected with P’s personal, family or household affairs.
- [<sup>F2</sup>(3A) But the liabilities mentioned in subsection (3) are not “excluded liabilities” by virtue of that subsection if all the duties of the employed earner’s employment which relate to P’s personal, family or household affairs are performed for an individual who needs those duties to be performed because of the individual’s—
  - (a) old age,
  - (b) mental or physical disability,
  - (c) past or present dependence on alcohol or drugs,
  - (d) past or present illness, or
  - (e) past or present mental disorder.]

### *Workers supplied by service companies etc*

- (4) Liabilities to pay secondary Class 1 contributions are “excluded liabilities” if they are incurred by virtue of regulations made under section 4A of SSCBA 1992 or SSCB(NI)A 1992 (earnings of workers supplied by service companies etc).

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*[<sup>F3</sup>Excluded companies*

- (4A) A body corporate (“C”) cannot qualify for an employment allowance for a tax year if—
- (a) all the payments of earnings in relation to which C is the secondary contributor in that year are paid to, or for the benefit of, the same employed earner, and
  - (b) when each of those payments is made, that employed earner is a director of C.]

*[<sup>F4</sup>Excluded persons: secondary Class 1 liability limit of £100,000 or more*

- (4B) A person cannot qualify for an employment allowance for a tax year if the total of the following items is £100,000 or more—
- (a) the person’s qualifying liabilities for the previous tax year, and
  - (b) where the person is a company, the qualifying liabilities for that previous tax year of each company (if any) to which the person is connected at any time in that previous tax year, and
  - (c) where the person is a charity, the qualifying liabilities for that previous tax year of each charity (if any) to which the person is connected at any time in that previous tax year.
- (4C) A person who is a company or a charity cannot qualify for an employment allowance for a tax year if there is a time in the tax year when the relevant total is £100,000 or more; and for this purpose “the relevant total” at any particular time in the tax year is the total of the qualifying liabilities for the previous tax year of each other company or charity (as the case may be) to which the person is connected at the particular time.
- (4D) For the purposes of subsections (4B) and (4C)—
- (a) a company is “connected” with another company if they are connected with one another for the purposes of section 3(1);
  - (b) a charity is “connected” with another charity if they are connected with one another for the purposes of section 3(2).
- (4E) In subsections (4B) to (4D) and this subsection—
- (a) “charity” has the same meaning as in the Small Charitable Donations Act 2012 and includes a company which is treated as a charity by paragraph 8(5) of Schedule 1;
  - (b) “company” has the meaning given by section 1121(1) of the Corporation Tax Act 2010 (meaning of “company”) and includes a limited liability partnership;
  - (c) “qualifying liabilities” means any liabilities to pay secondary Class 1 contributions under SSCBA 1992 or SSCB(NI)A 1992 excluding any liabilities which are excluded liabilities by virtue of subsection (4).

*Excluded persons: receipt of de minimis state aid*

- (4F) A person cannot qualify for an employment allowance for a tax year if, were the person to receive the maximum employment allowance available for that tax year, it would in the person’s case be state aid that is not de minimis state aid.
- (4G) For the purpose of subsection (4F)—
- “de minimis state aid” means state aid which is exempted from notification under Article 108(3) of the Treaty on the Functioning of the European Union by—

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- (a) [Commission Regulation \(EU\) No 1407/2013](#) (de minimis aid except in the agriculture and fisheries sectors),
- (b) [Commission Regulation \(EU\) No 1408/2013](#) (de minimis aid in the agriculture sector),
- (c) [Commission Regulation \(EU\) No 717/2014](#) (de minimis aid in the fisheries sector), or
- (d) [Commission Regulation \(EU\) No 360/2012](#) (de minimis aid to undertakings providing a service of general economic interest);

“the maximum employment allowance”, in relation to a tax year, means the amount in section 1(2)(a) converted into euros using the exchange rate quoted by the European Central Bank for the second to last day of March in the previous tax year or, if no rate is quoted for that date, the rate quoted for the closest day to that date for which a rate is quoted.]

#### *Transfers of businesses*

- (5) Subsection (6) applies if a business, or a part of a business, is transferred to a person (“P”) in a tax year.
- (6) Liabilities to pay secondary Class 1 contributions incurred by P in the tax year are “excluded liabilities” if they are incurred in respect of an employed earner who is employed (wholly or partly) for purposes connected with the transferred business or part.
- (7) For the purposes of subsection (5) a business, or a part of a business, is transferred to P in a tax year if, in the tax year—
  - (a) another person (“Q”) is carrying on the business or part, and
  - (b) in consequence of arrangements involving P and Q, P begins to carry on the business or part on or following Q ceasing to do so.
- (8) In subsection (7)(b) “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).
- (9) In subsections (5) to (7) “business” includes—
  - (a) anything which is a trade, profession or vocation for the purposes of the Income Tax Acts or the Corporation Tax Acts;
  - (b) a property business (as defined in section 263(6) of the Income Tax (Trading and Other Income) Act 2005);
  - (c) any charitable or not-for-profit undertaking or any similar undertaking;
  - (d) functions of a public nature.

#### *Anti-avoidance*

- (10) A person cannot qualify for an employment allowance for a tax year if, apart from this subsection, the person would qualify in consequence of avoidance arrangements.
- (11) In a case not covered by subsection (10), liabilities to pay secondary Class 1 contributions incurred by a person (“P”) in a tax year are “excluded liabilities” if they are incurred by P, or are incurred by P in that tax year (as opposed to another tax year), in consequence of avoidance arrangements.
- (12) In subsections (10) and (11) “avoidance arrangements” means arrangements the main purpose, or one of the main purposes, of which is to secure that a person benefits, or benefits further, from the application of the employment allowance provisions.

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- (13) In subsection (12) “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

#### Textual Amendments

- F2** S. 2(3A) inserted (6.4.2015) by [The Employment Allowance \(Care and Support Workers\) Regulations 2015 \(S.I. 2015/578\)](#), regs. 1, 2
- F3** S. 2(4A) inserted (6.4.2016) by [The Employment Allowance \(Excluded Companies\) Regulations 2016 \(S.I. 2016/344\)](#), regs. 1, 2
- F4** S. 2(4B)-(4G) inserted (6.4.2020) by [The Employment Allowance \(Excluded Persons\) Regulations 2020 \(S.I. 2020/218\)](#), regs. 1, 3

### 3 Connected persons

- (1) This section applies if—
- at the beginning of a tax year, two or more companies which are not charities are connected with one another, and
  - apart from this section, two or more of those companies would qualify for an employment allowance for the tax year.
- (2) This section also applies if—
- at the beginning of a tax year, two or more charities are connected with one another, and
  - apart from this section, two or more of those charities would qualify for an employment allowance for the tax year.
- (3) Only one of the companies or charities mentioned in subsection (1)(b) or (2)(b) (as the case may be) can qualify for an employment allowance for the tax year.
- (4) It is up to the companies or charities so mentioned to decide which of them that will be.
- (5) Part 1 of Schedule 1 sets out the rules for determining if two or more companies are “connected” with one another for the purposes of subsection (1).
- (6) Part 2 of Schedule 1 sets out the rules for determining if two or more charities are “connected” with one another for the purposes of subsection (2).
- (7) In this section and Schedule 1—
- “charity” has the same meaning as in the Small Charitable Donations Act 2012 (see section 18(1) of that Act), subject to paragraph 8(5) of Schedule 1, and
- “company” has the meaning given by section 1121(1) of the Corporation Tax Act 2010 (meaning of “company”) and includes a limited liability partnership.

### 4 How does a person who qualifies for an employment allowance receive it?

- (1) Her Majesty's Revenue and Customs (“HMRC”) must (from time to time) make such arrangements as HMRC consider appropriate for persons who qualify for an employment allowance for a tax year to receive it by making deductions from qualifying payments which they are required to make under regulations made under

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paragraph 6 of Schedule 1 to SSCBA 1992 or SSCB(NI)A 1992 (regulations combining collection of contributions with tax).

- (2) In this section “qualifying payment”, in relation to a person who qualifies for an employment allowance for a tax year, means a payment in respect of any of the person's liabilities mentioned in section 1(1)(b) which are not excluded liabilities (see section 2).
- (3) If under HMRC's arrangements a person is permitted to make a deduction from a qualifying payment, the person must make the deduction and must make it before any other deductions which the person is permitted to make from the payment under any other legislation.
- (4) HMRC's arrangements may (in particular)—
  - (a) require deductions to be made at the earliest opportunity in a tax year;
  - (b) provide that deductions may not be made in specified cases;
  - (c) place limits on the amounts of deductions;
  - (d) provide that a person is not permitted to make deductions unless the person has first given notice to HMRC in such form and manner, and containing such information, as HMRC may require.
- (5) Subsections (6) to (8) apply in relation to a person who qualifies for an employment allowance for a tax year if the person has not deducted under this section the full amount of the employment allowance by the end of the month of April in which the tax year ends.
- (6) The person may apply to HMRC for a repayment, up to the outstanding amount of the employment allowance, of qualifying payments made by the person; and HMRC must make the repayment.
- (7) The person's application must be made in such form and manner, and contain such information, as HMRC may require.
- (8) The person's application must be made before the end of the 4th tax year after the tax year mentioned in subsection (5).
- (9) In the application of section 102 of the Finance Act 2009 (repayment interest on sums to be paid by HMRC) in relation to a repayment under this section, the repayment interest start date is the date on which HMRC receive the person's application.
- (10) A repayment under this section, and any interest in respect of it under section 102 of the Finance Act 2009, are to be paid out of the National Insurance Fund or the Northern Ireland National Insurance Fund.
- (11) A person who qualifies for an employment allowance for a tax year may not receive it otherwise than by way of deductions or a repayment under this section.

## **5 Power to amend the employment allowance provisions**

- (1) The Treasury may by regulations amend the employment allowance provisions—
  - (a) so as to increase or decrease a person's employment allowance for a tax year, or
  - (b) so as to add to, reduce or modify the cases in which a person cannot qualify for an employment allowance for a tax year or in which liabilities to pay secondary Class 1 contributions are “excluded liabilities”.

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- (2) Section 175(3) to (5) of SSCBA 1992 (various supplementary powers) applies to the power to make regulations conferred by this section.
- (3) The power conferred by section 175(4) of SSCBA 1992, as applied by subsection (2), includes (in particular) power to make the provision mentioned in section 175(4) by way of amendments to the employment allowance provisions.
- (4) Regulations under this section must be made by statutory instrument.
- (5) A statutory instrument containing (with or without other provision)—
  - (a) regulations falling within subsection (1)(a) which decrease a person's employment allowance for a tax year, or
  - (b) regulations falling within subsection (1)(b),may not be made unless a draft has been laid before, and approved by a resolution of, each House of Parliament.
- (6) A statutory instrument—
  - (a) which contains regulations falling within subsection (1)(a) which increase a person's employment allowance for a tax year, and
  - (b) which does not have to be approved in draft under subsection (5),must be laid before Parliament after being made.
- (7) Regulations contained in a statutory instrument which is required to be laid before Parliament under subsection (6) cease to have effect at the end of the period of 40 days after the day on which the instrument is made unless, before the end of that period, the instrument is approved by a resolution of each House of Parliament.
- (8) If regulations cease to have effect as a result of subsection (7), that does not—
  - (a) affect anything previously done by virtue of the regulations, or
  - (b) prevent the making of new regulations to the same or a similar effect.
- (9) In calculating the period of 40 days for the purposes of subsection (7), no account is to be taken of any time during which Parliament is dissolved or prorogued or during which either House is adjourned for more than 4 days.

**Modifications etc. (not altering text)**

C1 S. 5(5)-(9) excluded (25.3.2020) by [Coronavirus Act 2020 \(c. 7\)](#), **ss. 74(2), 87(1)** (with s. 74(3))

## 6 Decisions and appeals about entitlements to make deductions etc

- (1) In Part 2 of the Social Security Contributions (Transfer of Functions, etc) Act 1999 (decisions and appeals), in section 8(1) (decisions of officers of Revenue and Customs), after paragraph (e) insert—
  - “(ea) to decide whether a person is or was entitled to make a deduction under section 4 of the National Insurance Contributions Act 2014 (deductions etc of employment allowance) and, if so, the amount the person is or was entitled to deduct,
  - (eb) to decide whether a person is or was entitled to a repayment under that section and, if so, the amount of the repayment,”.

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- (2) In Part 3 of the Social Security Contributions (Transfer of Functions, etc) (Northern Ireland) Order 1999 (S.I. 1999/671) (decisions and appeals), in Article 7(1) (decisions of officers of Revenue and Customs), after paragraph (e) insert—
- “(ea) to decide whether a person is or was entitled to make a deduction under section 4 of the National Insurance Contributions Act 2014 (deductions etc of employment allowance) and, if so, the amount the person is or was entitled to deduct,
  - (eb) to decide whether a person is or was entitled to a repayment under that section and, if so, the amount of the repayment,”.

## 7 Retention of records etc

- (1) In Schedule 1 to SSCBA 1992 (supplementary provisions relating to national insurance contributions), in paragraph 8(1) (general regulation-making powers), after paragraph (a) insert—
- “(aa) for requiring persons to maintain, in such form and manner as may be prescribed, records of such matters as may be prescribed for purposes connected with the employment allowance provisions (within the meaning of the National Insurance Contributions Act 2014), and to retain the records for so long as may be prescribed;”.
- (2) In Schedule 1 to SSCB(NI)A 1992 (supplementary provisions relating to national insurance contributions), in paragraph 8(1) (general regulation-making powers), after paragraph (a) insert—
- “(aa) for requiring persons to maintain, in such form and manner as may be prescribed, records of such matters as may be prescribed for purposes connected with the employment allowance provisions (within the meaning of the National Insurance Contributions Act 2014), and to retain the records for so long as may be prescribed;”.
- (3) In paragraph 26 of Schedule 4 to the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004) (retention of records), after sub-paragraph (4) insert—
- “(4A) Sub-paragraph (4B) applies in relation to an employer who makes deductions, or applies for a repayment, under section 4 of the National Insurance Contributions Act 2014 on account of an employment allowance for which the employer qualifies for a tax year (or who intends to do so).
  - (4B) So far as they are not otherwise covered by sub-paragraph (4), “contribution records” includes any documents or records relating to—
    - (a) the employer's qualification for the employment allowance, or
    - (b) the calculation of any amount that has been, or could be, deducted or repaid under section 4 of the National Insurance Contributions Act 2014 on account of the employment allowance.”
- (4) The amendment made by subsection (3) is to be treated as having been made by the Treasury using the powers conferred by paragraph 8(1)(aa) of Schedule 1 to SSCBA 1992 (as inserted by subsection (1)) and paragraph 8(1)(aa) of Schedule 1 to SSCB(NI)A 1992 (as inserted by subsection (2)).
- (5) In section 110ZA of the Social Security Administration Act 1992 (powers to call for documents etc), in subsection (2)(a), after “Benefits Act” insert “ or the National Insurance Contributions Act 2014 ”.



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- (6) In section 104ZA of the Social Security Administration (Northern Ireland) Act 1992 (powers to call for documents etc), in subsection (2)(a), after “Benefits Act” insert “ or the National Insurance Contributions Act 2014 ”.

## 8 Commencement of the employment allowance provisions etc

Sections 1 to 7 and Schedule 1 come into force on 6 April 2014.

### *Introduction of age-related secondary percentage*

## 9 Reduction of secondary Class 1 contributions for certain age groups

- (1) SSCBA 1992 is amended as follows.
- (2) In section 9 (calculation of secondary Class 1 contributions)—
- (a) in subsection (1) for “the secondary percentage” substitute “ the relevant percentage ”, and
  - (b) after subsection (1) insert—
    - “(1A) For the purposes of subsection (1) “the relevant percentage” is—
      - (a) if section 9A below applies to the earnings, the age-related secondary percentage;
      - (b) otherwise, the secondary percentage.”
- (3) After section 9 insert—

### **“9A The age-related secondary percentage**

- (1) Where a secondary Class 1 contribution is payable as mentioned in section 6(1)(b) above, this section applies to the earnings paid in the tax week, in respect of the employment in question, if the earner falls within an age group specified in column 1 of the table in subsection (3).
- (2) For the purposes of section 9(1A)(a) above, the age-related secondary percentage is the percentage for the earner's age group specified in column 2 of the table.
- (3) Here is the table—

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<i>Age group</i>	<i>Age-related secondary percentage</i>
Under 21	0%

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- (4) The Treasury may by regulations amend the table—
  - (a) so as to add an age group in column 1 and to specify the percentage in column 2 for that age group;
  - (b) so as to reduce (or further reduce) the percentage specified in column 2 for an age group already specified in column 1 (whether for the whole of the age group or only part of it).
- (5) A percentage specified under subsection (4)(a) must be lower than the secondary percentage.

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- (6) For the purposes of this Act a person is still to be regarded as being liable to pay a secondary Class 1 contribution even though the amount of the contribution is £0 because the age-related secondary percentage is 0%.
- (7) The Treasury may by regulations provide that, in relation to an age group specified in the table, there is to be for every tax year an upper secondary threshold for secondary Class 1 contributions.

That threshold is to be the amount specified for that year by regulations made by the Treasury.

- (8) Subsections (4) and (5) of section 5 above (which confer power to prescribe an equivalent of a secondary threshold in relation to earners paid otherwise than weekly), and subsection (6) of that section as it applies for the purposes of those subsections, apply for the purposes of an upper secondary threshold in relation to an age group as they apply for the purposes of a secondary threshold.

- (9) Where—

- (a) a secondary Class 1 contribution is payable as mentioned in section 6(1)(b) above,
- (b) the earner falls within an age group in relation to which provision has been made under subsection (7), and
- (c) the earnings paid in the tax week, in respect of the employment in question, exceed the current upper secondary threshold (or the prescribed equivalent) in relation to the age group,

this section is not to apply to the earnings so far as they exceed that threshold (or the prescribed equivalent); and for the purposes of section 9(1) above the relevant percentage in respect of the earnings so far as they exceed that threshold (or the prescribed equivalent) is, accordingly, to be the secondary percentage.

- (10) In subsections (7) to (9) references to an age group include a part of an age group.”

- (4) In section 122(1) (interpretation of Parts 1 to 6), at the appropriate place insert—

““age-related secondary percentage” is to be construed in accordance with section 9A(2) above;”.

- (5) In section 176(1)(a) (parliamentary control: instruments subject to affirmative procedure) after “section 4C;” insert— “ section 9A(7); ”.

- (6) SSCB(NI)A 1992 is amended as follows.

- (7) In section 9 (calculation of secondary Class 1 contributions)—

- (a) in subsection (1) for “the secondary percentage” substitute “ the relevant percentage ”, and
- (b) after subsection (1) insert—

“(1A) For the purposes of subsection (1) “the relevant percentage” is—

- (a) if section 9A below applies to the earnings, the age-related secondary percentage;
- (b) otherwise, the secondary percentage.”

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(8) After section 9 insert—

**“9A The age-related secondary percentage**

- (1) Where a secondary Class 1 contribution is payable as mentioned in section 6(1)(b) above, this section applies to the earnings paid in the tax week, in respect of the employment in question, if the earner falls within an age group specified in column 1 of the table in subsection (3).
- (2) For the purposes of section 9(1A)(a) above, the age-related secondary percentage is the percentage for the earner's age group specified in column 2 of the table.
- (3) Here is the table—

---

<i>Age group</i>	<i>Age-related secondary percentage</i>
Under 21	0%

---

- (4) The Treasury may by regulations amend the table—
  - (a) so as to add an age group in column 1 and to specify the percentage in column 2 for that age group;
  - (b) so as to reduce (or further reduce) the percentage specified in column 2 for an age group already specified in column 1 (whether for the whole of the age group or only part of it).
- (5) A percentage specified under subsection (4)(a) must be lower than the secondary percentage.
- (6) For the purposes of this Act a person is still to be regarded as being liable to pay a secondary Class 1 contribution even though the amount of the contribution is £0 because the age-related secondary percentage is 0%.
- (7) The Treasury may by regulations provide that, in relation to an age group specified in the table, there is to be for every tax year an upper secondary threshold for secondary Class 1 contributions.

That threshold is to be the amount specified for that year by regulations made by the Treasury.
- (8) Subsections (4) and (5) of section 5 above (which confer power to prescribe an equivalent of a secondary threshold in relation to earners paid otherwise than weekly), and subsection (6) of that section as it applies for the purposes of those subsections, apply for the purposes of an upper secondary threshold in relation to an age group as they apply for the purposes of a secondary threshold.
- (9) Where—
  - (a) a secondary Class 1 contribution is payable as mentioned in section 6(1)(b) above,
  - (b) the earner falls within an age group in relation to which provision has been made under subsection (7), and

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- (c) the earnings paid in the tax week, in respect of the employment in question, exceed the current upper secondary threshold (or the prescribed equivalent) in relation to the age group,  
this section is not to apply to the earnings so far as they exceed that threshold (or the prescribed equivalent); and for the purposes of section 9(1) above the relevant percentage in respect of the earnings so far as they exceed that threshold (or the prescribed equivalent) is, accordingly, to be the secondary percentage.
- (10) In subsections (7) to (9) references to an age group include a part of an age group.”
- (9) In section 121(1) (interpretation of Parts 1 to 6), at the appropriate place insert—  
““age-related secondary percentage” is to be construed in accordance with section 9A(2) above;”.
- (10) In section 172(11A) (parliamentary control: instruments subject to affirmative procedure) after “4C,” insert “ 9A(7), ”.
- (11) The following come into force at the end of the period of 2 months beginning with the day on which this Act is passed—  
(a) any power conferred on the Treasury by virtue of this section to make regulations, and  
(b) the amendments made by subsections (5) and (10).
- (12) So far as not already brought into force by subsection (11), the amendments made by this section come into force on 6 April 2015.

#### **Commencement Information**

- II** S. 9 wholly in force at 6.4.2015; s. 9 in force at Royal Assent but the amendments made by this section come into force as follows, see s. 9(11)(12): the amendments in s. 9(5)(10) in force at 13.5.2014; the amendments in s. 9(3)(8) in force for specified purposes at 13.5.2014 and otherwise in force at 6.4.2015; the amendments in s. 9(2)(4)(7)(9) in force at 6.4.2015

#### *Application of general anti-abuse rule to national insurance contributions*

### **10 GAAR to apply to national insurance contributions**

- (1) In Part 5 of the Finance Act 2013 (general anti-abuse rule)—  
(a) references to tax, other than in references to particular taxes, include national insurance contributions, and  
(b) references to a charge to tax include a liability to pay national insurance contributions.
- (2) Section 206(3) of that Act (list of taxes to which the general anti-abuse rule applies) has effect as if it included a reference to national insurance contributions.
- (3) Section 207 of that Act (meaning of “tax arrangements” and “abusive”) has effect as if, in subsection (4)(a), after “income,” there were inserted “earnings (within the meaning of Part 1 of the Social Security Contributions and Benefits Act 1992 or Part 1 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992),”.

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- (4) Adjustments to be made in respect of national insurance contributions under section 209 of the Finance Act 2013 (counteracting the tax advantages) may be made by a notice given under paragraph 12 of Schedule 43 to that Act (notice of final decision) [<sup>F5</sup>, paragraph 8 or 9 of Schedule 43A to that Act (pooling of tax arrangements: notice of final decision) or paragraph 8 of Schedule 43B to that Act (generic referral of arrangements: notice of final decision)].
- (5) For the purposes of section 210 of that Act (consequential relieving adjustments)—
- (a) if a claim under that section relates to Class 4 national insurance contributions, Schedule 1A to the Taxes Management Act 1970 (as that Schedule applies in relation to such contributions) applies to it, and
  - (b) if a claim under that section relates to any other class of national insurance contributions, it must be made in such form and manner, and contain such information, as HMRC may require.
- (6) Adjustments to be made in respect of national insurance contributions under that section may be made by a notice given under subsection (7) of that section.
- [<sup>F6</sup>(6A) Where, by virtue of this section, a case falls within paragraph 4A of Schedule 43 to the Finance Act 2013 (referrals of single schemes: relevant corrective action) or paragraph 4 of Schedule 43A to that Act (pooled schemes: relevant corrective action)—
- (a) the person (“P”) mentioned in sub-paragraph (1) of that paragraph takes the “relevant corrective action” for the purposes of that paragraph if (and only if)—
    - (i) in a case in which the tax advantage in question can be counteracted by making a payment to HMRC, P makes that payment and notifies HMRC that P has done so, or
    - (ii) in any case, P takes all necessary action to enter into an agreement in writing with HMRC for the purpose of relinquishing the tax advantage, and
  - (b) accordingly, sub-paragraphs (2) to (8) of that paragraph do not apply.]
- (7) This section has effect in relation to tax arrangements (within the meaning of Part 5 of the Finance Act 2013 as modified by this section) entered into on or after the day on which this Act is passed.
- (8) Subsections (9) and (10) apply where the tax arrangements—
- (a) would not have been tax arrangements but for the modifications made by this section, and
  - (b) form part of other arrangements entered into before the day on which this Act is passed.
- (9) The other arrangements are to be ignored for the purposes of section 207(3) of the Finance Act 2013, subject to subsection (10).
- (10) Account is to be taken of the other arrangements for the purposes of that section if, as a result, the tax arrangements would not be abusive.
- (11) In this section—
- “abusive”, “arrangements” [<sup>F7</sup>, “HMRC” and “tax advantage”] have the same meaning as in Part 5 of the Finance Act 2013 [<sup>F8</sup>(as modified by this section)];

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“national insurance contributions” means contributions under either Part 1 of SSCBA 1992 or Part 1 of SSCB(NI)A 1992.

[<sup>F9</sup>(12) See section 10A for further modifications of Part 5 of the Finance Act 2013.]

#### Textual Amendments

- F5** Words in s. 10(4) inserted (with effect in accordance with s. 157(30) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 157\(13\)](#)
- F6** S. 10(6A) inserted (with effect in accordance with s. 157(30) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 157\(14\)](#)
- F7** Words in s. 10(11) substituted (with effect in accordance with s. 157(30) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 157\(15\)\(a\)](#)
- F8** Words in s. 10(11) inserted (with effect in accordance with s. 157(30) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 157\(15\)\(b\)](#)
- F9** S. 10(12) inserted (with effect in accordance with s. 157(30) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 157\(16\)](#)

#### [<sup>F10</sup>10A Application of GAAR in relation to penalties

- (1) For the purposes of this section a penalty under section 212A of the Finance Act 2013 is a “relevant NICs-related penalty” so far as the penalty relates to a tax advantage in respect of relevant contributions.
- (2) A relevant NICs-related penalty may be recovered as if it were an amount of relevant contributions which is due and payable.
- (3) Section 117A of the Social Security Administration Act 1992 or (as the case may be) section 111A of the Social Security Administration (Northern Ireland) Act 1992 (issues arising in proceedings: contributions etc) has effect in relation to proceedings before a court for recovery of a relevant NICs-related penalty as if the assessment of the penalty were a NICs decision as to whether the person is liable for the penalty.
- (4) Accordingly, paragraph 5(4)(b) of Schedule 43C to the Finance Act 2013 (assessment of penalty to be enforced as if it were an assessment to tax) does not apply in relation to a relevant NICs-related penalty.
- (5) In the application of Schedule 43C to the Finance Act 2013 in relation to a relevant NICs-related penalty, paragraph 9(5) has effect as if the reference to an appeal against an assessment to the tax concerned were to an appeal against a NICs decision.
- (6) In paragraph 8 of that Schedule (aggregate penalties), references to a “relevant penalty provision” include—
  - (a) any provision mentioned in sub-paragraph (5) of that paragraph, as applied in relation to any class of national insurance contributions by regulations (whenever made);
  - (b) section 98A of the Taxes Management Act 1970, as applied in relation to any class of national insurance contributions by regulations (whenever made);
  - (c) any provision in regulations made by the Treasury under which a penalty can be imposed in respect of any class of national insurance contributions.
- (7) The Treasury may by regulations—
  - (a) disapply, or modify the effect of, subsection (6)(a) or (b);

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*Changes to legislation: There are currently no known outstanding effects for the National Insurance Contributions Act 2014. (See end of Document for details)*

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- (b) modify paragraph 8 of Schedule 43C to the Finance Act 2013 as it has effect in relation to a relevant penalty provision by virtue of subsection (6)(b) or (c).
- (8) Section 175(3) to (5) of SSCBA 1992 (various supplementary powers) applies to a power to make regulations conferred by subsection (7).
- (9) Regulations under subsection (7) must be made by statutory instrument.
- (10) A statutory instrument containing regulations under subsection (7) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (11) In this section “NICs decision” means a decision under section 8 of the Social Security Contributions (Transfer of Functions, etc) Act 1999 or Article 7 of the Social Security Contributions (Transfer of Functions, etc) (Northern Ireland) Order 1999 (SI 1999/671).
- (12) In this section “relevant contributions” means the following contributions under Part 1 of SSCBA 1992 or Part 1 of SSCB(NI)A 1992—
  - (a) Class 1 contributions;
  - (b) Class 1A contributions;
  - (c) Class 1B contributions;
  - (d) Class 2 contributions which must be paid but in relation to which section 11A of the Act in question (application of certain provisions of the Income Tax Acts in relation to Class 2 contributions under section 11(2) of that Act) does not apply.]

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**Textual Amendments**

**F10** S. 10A inserted (with effect in accordance with s. 157(30) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 157\(17\)](#)

## 11 Power to modify application of GAAR to national insurance contributions

- (1) Where a modification is made to Part 5 of the Finance Act 2013 (general anti-abuse rule) that does not apply in relation to national insurance contributions (“the tax only modification”), the Treasury may by regulations—
  - (a) make provision for the purpose of applying the tax only modification in relation to national insurance contributions (with or without modifications),
  - (b) make provision in relation to national insurance contributions corresponding to the tax only modification, or
  - (c) otherwise modify the general anti-abuse rule, as it has effect in relation to national insurance contributions, in consequence of, or for the purpose of making provision supplementary or incidental to, the tax only modification.
- (2) Regulations under this section—
  - (a) may amend, repeal or revoke any provision of an Act or instrument made under an Act (whenever passed or made),
  - (b) may make consequential, incidental, supplementary, transitional, transitory or saving provision, and
  - (c) may make different provision for different cases, classes of national insurance contributions or purposes.

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*Changes to legislation: There are currently no known outstanding effects for the National Insurance Contributions Act 2014. (See end of Document for details)*

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- (3) Regulations under this section must be made by statutory instrument.
- (4) A statutory instrument containing (with or without other provision) regulations under this section that amend or repeal a provision of an Act may not be made unless a draft has been laid before, and approved by a resolution of, each House of Parliament.
- (5) A statutory instrument containing regulations under this section that does not have to be approved in draft under subsection (4) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section—
  - “general anti-abuse rule” has the same meaning as in Part 5 of the Finance Act 2013;
  - “national insurance contributions” means contributions under either Part 1 of SSCBA 1992 or Part 1 of SSCB(NI)A 1992.

*Oil and gas workers on the continental shelf*

**12 Oil and gas workers on the continental shelf: secondary contributors etc**

- (1) Section 120 of SSCBA 1992 (employment at sea: continental shelf operations) is amended as follows.
- (2) In subsection (1), after “persons” insert “ (“continental shelf workers”) ”.
- (3) In subsection (3)—
  - (a) for “the regulations” substitute “ regulations under subsection (1) ”, and
  - (b) for “such person” substitute “ continental shelf worker ”.
- (4) After that subsection insert—
  - “(4) The Treasury may also, by regulations, make provision for, and in connection with, the issue by Her Majesty's Revenue and Customs of certificates to prescribed persons who are, by virtue of regulations under subsection (1), to be treated as the secondary contributor in relation to the payment of earnings to or for the benefit of one or more continental shelf workers—
    - (a) confirming that the prescribed person's liabilities to pay contributions in respect of the continental shelf workers specified or described in the certificate are being met by another person, and
    - (b) discharging the prescribed person, while the certificate is in force, from liability to make any payments in respect of the contributions, in the event that the other person fails to pay them in full.
- (5) Regulations under subsection (4) may, in particular, make provision about—
  - (a) applying for a certificate;
  - (b) the circumstances in which a certificate may, or must, be issued or cancelled;
  - (c) the form and content of a certificate;
  - (d) the effect of a certificate (including provision modifying the effect mentioned in subsection (4)(b) or specifying further effects);
  - (e) the effect of cancelling a certificate.”



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*Changes to legislation: There are currently no known outstanding effects for the National Insurance Contributions Act 2014. (See end of Document for details)*

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### *Partnerships*

#### **13 Class 4 contributions: partnerships**

(1) SSCBA 1992 is amended as follows.

(2) After section 18 insert—

##### **“18A Class 4 contributions: partnerships**

(1) The Treasury may by regulations—

(a) modify the way in which liabilities for Class 4 contributions of a partner in a firm are determined, or

(b) otherwise modify the law relating to Class 4 contributions,

as they consider appropriate to take account of the passing or making of a provision of the Income Tax Acts relating to firms or partners in firms.

(2) “Firm” has the same meaning as in the Income Tax (Trading and Other Income) Act 2005 (and includes a limited liability partnership in relation to which section 863(1) of that Act applies); and “partner” is to be read accordingly and includes a former partner.

(3) Regulations under this section may have retrospective effect; but they may not have effect before the beginning of the tax year in which they are made.”

(3) In section 176(1)(a) (parliamentary control: instruments subject to affirmative procedure), after “section 18;” insert— “ section 18A; ”.

(4) SSCB(NI)A 1992 is amended as follows.

(5) After section 18 insert—

##### **“18A Class 4 contributions: partnerships**

(1) The Treasury may by regulations—

(a) modify the way in which liabilities for Class 4 contributions of a partner in a firm are determined, or

(b) otherwise modify the law relating to Class 4 contributions,

as they consider appropriate to take account of the passing or making of a provision of the Income Tax Acts relating to firms or partners in firms.

(2) “Firm” has the same meaning as in the Income Tax (Trading and Other Income) Act 2005 (and includes a limited liability partnership in relation to which section 863(1) of that Act applies); and “partner” is to be read accordingly and includes a former partner.

(3) Regulations under this section may have retrospective effect; but they may not have effect before the beginning of the tax year in which they are made.”

(6) In section 172(11A) (parliamentary control: instruments subject to affirmative procedure), after “18,” insert “ 18A, ”.

(7) The amendments made by this section come into force at the end of the period of 2 months beginning with the day on which this Act is passed.

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*Changes to legislation: There are currently no known outstanding effects for the National Insurance Contributions Act 2014. (See end of Document for details)*

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### Commencement Information

- I2** S. 13 wholly in force at 13.5.2014; s. 13 in force at Royal Assent but the amendments made by this section come into force at 13.5.2014, see s. 13(7)

## 14 Limited liability partnerships

- (1) SSCBA 1992 is amended as follows.
- (2) After section 4A insert—

### “4AA Limited liability partnerships

- (1) The Treasury may, for the purposes of this Act, by regulations—
    - (a) provide that, in prescribed circumstances—
      - (i) a person (“E”) is to be treated as employed in employed earner's employment by a limited liability partnership (including where E is a member of the partnership), and
      - (ii) the limited liability partnership is to be treated as the secondary contributor in relation to any payment of earnings to or for the benefit of E as the employed earner;
    - (b) prescribe how earnings in respect of E's employed earner employment with the limited liability partnership are to be determined (including what constitutes such earnings);
    - (c) provide that such earnings are to be treated as being paid to or for the benefit of E at prescribed times.
  - (2) Regulations under subsection (1) may modify the definition of “employee” or “employer” in section 163, 171, 171ZJ or 171ZS below as the Treasury consider appropriate to take account of any provision falling within subsection (1)(a) to (c).
  - (3) If—
    - (a) a provision of the Income Tax Acts relating to limited liability partnerships or members of limited liability partnerships is passed or made, and
    - (b) in consequence, the Treasury consider it appropriate for provision to be made for the purpose of assimilating to any extent the law relating to income tax and the law relating to contributions under this Part, the Treasury may by regulations make that provision.
  - (4) The provision that may be made under subsection (3) includes provision modifying any provision made by or under this Act.
  - (5) Regulations under this section are to be made with the concurrence of the Secretary of State.
  - (6) Section 4(4) of the Limited Liability Partnerships Act 2000 does not limit the provision that may be made by regulations under this section.”
- (3) In section 4B (power to make retrospective provision in consequence of retrospective tax legislation), in subsection (3), after paragraph (c) insert—

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*Changes to legislation: There are currently no known outstanding effects for the National Insurance Contributions Act 2014. (See end of Document for details)*

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“(d) section 4AA (power to make provision in relation to limited liability partnerships)”.

(4) In section 10 (Class 1A contributions: benefits in kind etc), at the end, insert—

“(11) The Treasury may by regulations modify the law relating to Class 1A contributions in the case of an employed earner's employment which is treated as existing by virtue of regulations under section 4AA.”

(5) SSCB(NI)A 1992 is amended as follows.

(6) After section 4A insert—

#### **“4AA Limited liability partnerships**

(1) The Treasury may, for the purposes of this Act, by regulations—

(a) provide that, in prescribed circumstances—

(i) a person (“E”) is to be treated as employed in employed earner's employment by a limited liability partnership (including where E is a member of the partnership), and

(ii) the limited liability partnership is to be treated as the secondary contributor in relation to any payment of earnings to or for the benefit of E as the employed earner;

(b) prescribe how earnings in respect of E's employed earner employment with the limited liability partnership are to be determined (including what constitutes such earnings);

(c) provide that such earnings are to be treated as being paid to or for the benefit of E at prescribed times.

(2) Regulations under subsection (1) may modify the definition of “employee” or “employer” in section 159, 167, 167ZJ or 167ZS below as the Treasury consider appropriate to take account of any provision falling within subsection (1)(a) to (c).

(3) If—

(a) a provision of the Income Tax Acts relating to limited liability partnerships or members of limited liability partnerships is passed or made, and

(b) in consequence, the Treasury consider it appropriate for provision to be made for the purpose of assimilating to any extent the law relating to income tax and the law relating to contributions under this Part,

the Treasury may by regulations make that provision.

(4) The provision that may be made under subsection (3) includes provision modifying any provision made by or under this Act.

(5) Regulations under this section are to be made with the concurrence of the Department.

(6) Section 4(4) of the Limited Liability Partnerships Act 2000 does not limit the provision that may be made by regulations under this section.”

(7) In section 4B (power to make retrospective provision in consequence of retrospective tax legislation), in subsection (3), after paragraph (c) insert—

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“(d) section 4AA (power to make provision in relation to limited liability partnerships)”.

(8) In section 10 (Class 1A contributions: benefits in kind etc), at the end, insert—

“(11) The Treasury may by regulations modify the law relating to Class 1A contributions in the case of an employed earner's employment which is treated as existing by virtue of regulations under section 4AA.”

*Other provision*

**15 Office holders who receive “earnings” to be employed earners**

- (1) In section 2(1)(a) of SSCBA 1992 (definition of “employed earner”), omit “general”.
- (2) In section 2(1)(a) of SSCB(NI)A 1992 (definition of “employed earner”), omit “general”.
- (3) Schedule 2 makes provision that is consequential upon office holders in receipt of “earnings” (as opposed to “general earnings”) being employed earners.
- (4) The amendments made by this section and Schedule 2 come into force at the end of the period of 2 months beginning with the day on which this Act is passed.

**Commencement Information**

- I3** [S. 15](#) wholly in force at 13.5.2014; [s. 15](#) in force at Royal Assent but the amendments made by this section come into force at 13.5.2014, see [s. 15\(4\)](#)

**16 Armed Forces early departure payments retrospectively disregarded**

Paragraph 10A of Part 6 of Schedule 3 to the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004) (payments under the Armed Forces Early Departure Payments Scheme Order 2005 (S.I. 2005/437) to be disregarded) also has effect for the tax years 2005-06 to 2012-13 inclusive.

**17 Repeal of certain redundant reliefs relating to Class 4 contributions**

- (1) In Schedule 2 to SSCBA 1992 (levy of Class 4 contributions with income tax)—
  - (a) omit paragraph 3(3), and
  - (b) omit paragraph 9 (and the heading immediately before it).
- (2) In Schedule 2 to SSCB(NI)A 1992 (levy of Class 4 contributions with income tax)—
  - (a) omit paragraph 3(3), and
  - (b) omit paragraph 9 (and the heading immediately before it).
- (3) The amendments made by subsections (1)(a) and (2)(a) have effect for the tax year after the one during which this Act is passed and for subsequent tax years.

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*Changes to legislation:* There are currently no known outstanding effects for the National Insurance Contributions Act 2014. (See end of Document for details)

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## **18 Certain orders and regulations in respect of Northern Ireland**

- (1) Section 172 of SSCB(NI)A 1992 (Assembly etc control of regulations and orders) is amended as follows.
- (2) In subsection (11), for “(9)” substitute “ (10) ”.
- (3) In subsection (11B)—
  - (a) after “contains” insert “—  
(a)”,
  - (b) after “129” insert “ or 142(7) ”, and
  - (c) after “Act” insert “,  
(b) regulations under powers conferred by any provision mentioned in that subsection which are to be made for the purpose of consolidating regulations to be revoked in the instrument, or  
(c) regulations which, in so far as they are made under powers conferred by any provision mentioned in that subsection, only replace provisions of previous regulations with new provisions to the same effect.”
- (4) Section 165 of the Social Security Administration (Northern Ireland) Act 1992 (regulations and orders — general) is amended as follows.
- (5) In subsection (1), after “to be made by” insert “ the Secretary of State, ”.
- (6) In subsection (3), after “the Department” insert “ , the Secretary of State ”.
- (7) The amendments made by this section come into force at the end of the period of 2 months beginning with the day on which this Act is passed.

### **Commencement Information**

- I4** [S. 18](#) wholly in force at 13.5.2014; [s. 18](#) in force at Royal Assent but the amendments made by this section come into force at 13.5.2014, see [s. 18\(7\)](#)

### *General*

## **19 HMRC administrative expenses: financial provision**

- (1) In section 165 of the Social Security Administration Act 1992 (adjustments between the National Insurance Fund and Consolidated Fund), in subsection (5)(a), after “adoption pay” insert “ or the National Insurance Contributions Act 2014 ”.
- (2) In section 145 of the Social Security Administration (Northern Ireland) Act 1992 (adjustments between the National Insurance Fund and Consolidated Fund), in subsection (5)(a), after “adoption pay” insert “ or the National Insurance Contributions Act 2014 ”.

## **20 Abbreviations of Acts**

In this Act—

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

“SSCB(NI)A 1992” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

## **21 Short title and extent**

- (1) This Act may be cited as the National Insurance Contributions Act 2014.
- (2) Subject to subsection (3), this Act extends to England and Wales, Scotland and Northern Ireland.
- (3) An amendment or repeal made by this Act has the same extent as the provision amended or repealed.

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## SCHEDULES

### SCHEDULE 1

Section 3

EMPLOYMENT ALLOWANCE: RULES FOR DETERMINING IF PERSONS ARE “CONNECTED”

#### PART 1

#### COMPANIES

**Modifications etc. (not altering text)**

- C2** Sch. 1 Pt. 1 applied (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 101\(17\)](#)
- C3** Sch. 1 Pt. 1 applied (N.I.) (26.5.2020) by [The Statutory Sick Pay \(Coronavirus\) \(Funding of Employers' Liabilities\) \(Northern Ireland\) Regulations 2020 \(S.I. 2020/513\), regs. 1, 4\(4\)\(a\)](#)
- C4** Sch. 1 Pt. 1 applied (E.W.S.) (26.5.2020) by [The Statutory Sick Pay \(Coronavirus\) \(Funding of Employers' Liabilities\) Regulations 2020 \(S.I. 2020/512\), regs. 1, 4\(4\)\(a\)](#)

#### *Application*

- 1 This Part applies for the purposes of section 3(1).

#### *The basic rule*

- 2 (1) Two companies are “connected” with one another if—
- (a) one of the two has control of the other, or
  - (b) both are under the control of the same person or persons.
- (2) In sub-paragraph (1) “control” has the same meaning as in Part 10 of CTA 2010 (see sections 450 and 451 of that Act) (and a limited liability partnership is to be treated as a company for the purposes of that Part as applied by this sub-paragraph).
- (3) For this purpose, where under section 450 of that Act “C” is a limited liability partnership, subsection (3) of that section has effect as if before paragraph (a) there were inserted—
- “(za) rights to a share of more than half the assets, or of more than half the income, of C.”.
- (4) Sub-paragraphs (1) to (3) are subject to paragraphs 3 to 6.
- (5) Paragraph 7 provides for further connections.
- (6) In this Part “CTA 2010” means the Corporation Tax Act 2010.

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*Companies whose relationship is not one of substantial commercial interdependence*

- 3 (1) This paragraph applies for the purpose of determining under paragraph 2(1) if two companies are connected with one another if the relationship between the companies is not one of substantial commercial interdependence.
- (2) In the application of section 451 of CTA 2010 for the purposes of the determination, any person to whom rights and duties fall to be attributed under subsections (4) and (5) of that section is to be treated, for the purposes of those subsections, as having no associates.
- (3) In determining for the purposes of sub-paragraph (1) if two companies have a relationship of “substantial commercial interdependence”, the following factors are to be taken into account—
- (a) the degree to which the companies are financially interdependent (see sub-paragraph (4)),
  - (b) the degree to which the companies are economically interdependent (see sub-paragraph (5)), and
  - (c) the degree to which the companies are organisationally interdependent (see sub-paragraph (6)).
- (4) Two companies are “financially interdependent” if (in particular)—
- (a) one gives financial support (directly or indirectly) to the other, or
  - (b) each has (directly or indirectly) a financial interest in the other's activities.
- (5) Two companies are “economically interdependent” if (in particular)—
- (a) they seek to realise the same economic objective,
  - (b) the activities of one benefit the other, or
  - (c) their activities involve common customers.
- (6) Two companies are “organisationally interdependent” if (in particular) they have—
- (a) common management,
  - (b) common employees,
  - (c) common premises, or
  - (d) common equipment.

*Fixed-rate preference shares*

- 4 (1) In determining for the purposes of paragraph 2(1) if a company is under the control of another, fixed-rate preference shares held by a company are ignored if the company holding them—
- (a) is not a close company,
  - (b) takes no part in the management or conduct of the company which issued the shares, or in the management or conduct of its business, and
  - (c) subscribed for the shares in the ordinary course of a business which includes the provision of finance.
- (2) In sub-paragraph (1) “fixed-rate preference shares” means shares which—
- (a) were issued wholly for new consideration,
  - (b) do not carry any right either to conversion into shares or securities of any other description or to the acquisition of any additional shares or securities, and



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- (c) do not carry any right to dividends other than dividends which—
  - (i) are of a fixed amount or at a fixed rate per cent of the nominal value of the shares, and
  - (ii) together with any sum paid on redemption, represent no more than a reasonable commercial return on the consideration for which the shares were issued.
- (3) In sub-paragraph (2)(a) “new consideration” has the meaning given by section 1115 of CTA 2010.
- (4) In sub-paragraph (1)(a) “close company” is to be read in accordance with Chapter 2 of Part 10 of CTA 2010 (see, in particular, section 439 of that Act).

*Connection through a loan creditor*

- 5
- (1) A company (“A”) is not under the control of another company (“B”) for the purposes of paragraph 2(1) if—
    - (a) B is a loan creditor of A,
    - (b) there is no other connection between A and B, and
    - (c) either—
      - (i) B is not a close company, or
      - (ii) B's relationship to A as a loan creditor arose in the ordinary course of a business which B carries on.
  - (2) Sub-paragraph (3) applies if—
    - (a) two companies (“A” and “B”) are under the control of the same person who is a loan creditor of each of them,
    - (b) there is no other connection between A and B, and
    - (c) either—
      - (i) the loan creditor is a company which is not a close company, or
      - (ii) the loan creditor's relationship to each of A and B as a loan creditor arose in the ordinary course of a business which the loan creditor carries on.
  - (3) In determining under paragraph 2(1) if A and B are connected with one another, rights which the loan creditor has as a loan creditor of A, or as a loan creditor of B, are ignored.
  - (4) In sub-paragraph (2)(a) “control” has the same meaning as in paragraph 2(1).
  - (5) In this paragraph—
    - (a) “close company” is to be read in accordance with Chapter 2 of Part 10 of CTA 2010 (see, in particular, section 439 of that Act),
    - (b) “connection” includes a connection in the past as well as a connection in the present and references to a connection between two companies include any dealings between them, and
    - (c) references to a loan creditor of a company are to be read in accordance with section 453 of CTA 2010.

*Connection through a trustee*

- 6
- (1) Sub-paragraph (2) applies if—

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- (a) two companies (“A” and “B”) are under the control of the same person by virtue of rights or powers (or both) held in trust by that person, and
  - (b) there is no other connection between A and B.
- (2) In determining under paragraph 2(1) if A and B are connected with one another, the rights and powers mentioned in sub-paragraph (1)(a) are ignored.
- (3) In sub-paragraph (1)—
- (a) “control” has the same meaning as in paragraph 2(1), and
  - (b) “connection” includes a connection in the past as well as a connection in the present and the reference to a connection between A and B includes any dealings between them.

#### *Further connections*

- 7 (1) This paragraph applies if—
- (a) a company (“A”) is connected with another company (“B”), and
  - (b) B is connected with another company (“C”).
- (2) A and C are also connected with one another (if that would not otherwise be the case).
- (3) In sub-paragraph (1)(a) the reference to a company being connected with another company is to that company being so connected by virtue of paragraphs 2 to 6 or this paragraph, and in sub-paragraph (1)(b) the reference to a company being connected with another company is to that company being so connected by virtue of paragraphs 2 to 6.

## PART 2

### CHARITIES

#### **Modifications etc. (not altering text)**

- C5** Sch. 1 Pt. 2 applied (E.W.S.) (26.5.2020) by [The Statutory Sick Pay \(Coronavirus\) \(Funding of Employers' Liabilities\) Regulations 2020 \(S.I. 2020/512\)](#), regs. 1, **4(4)(b)**
- C6** Sch. 1 Pt. 2 applied (N.I.) (26.5.2020) by [The Statutory Sick Pay \(Coronavirus\) \(Funding of Employers' Liabilities\) \(Northern Ireland\) Regulations 2020 \(S.I. 2020/513\)](#), regs. 1, **4(4)(b)**

- 8 (1) Two charities are connected with one another for the purposes of section 3(2) if—
- (a) they are connected with one another in accordance with section 993 of the Income Tax Act 2007 (meaning of “connected” persons), and
  - (b) their purposes and activities are the same or substantially similar.
- (2) In the application of section 993 of the Income Tax Act 2007 for the purposes of sub-paragraph (1)(a)—
- (a) a charity which is a trust is to be treated as if it were a company (and accordingly a person), including in this sub-paragraph;
  - (b) a charity which is a trust has “control” of another person if the trustees (in their capacity as trustees of the charity) have, or any of them has, control of the person;

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*Changes to legislation:* There are currently no known outstanding effects for the National Insurance Contributions Act 2014. (See end of Document for details)

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- (c) a person (other than a charity regulator) has “control” of a charity which is a trust if—
  - (i) the person is a trustee of the charity and some or all of the powers of the trustees of the charity could be exercised by the person acting alone or by the person acting together with any other persons who are trustees of the charity and who are connected with the person,
  - (ii) the person, alone or together with other persons, has power to appoint or remove a trustee of the charity, or
  - (iii) the person, alone or together with other persons, has any power of approval or direction in relation to the carrying out by the trustees of any of their functions.
- (3) A charity which is a trust is also connected with another charity which is a trust for the purposes of section 3(2) if at least half of the trustees of one of the charities are—
  - (a) trustees of the other charity,
  - (b) persons who are connected with persons who are trustees of the other charity, or
  - (c) a combination of both,and the charities' purposes and activities are the same or substantially similar.
- (4) In determining if a person is connected with another person for the purposes of sub-paragraph (2)(c)(i) or (3)(b), apply section 993 of the Income Tax Act 2007 with the omission of subsection (3) of that section (and without the modifications in sub-paragraph (2)).
- (5) If a charity (“A”) controls a company (“B”) which, apart from this sub-paragraph, would not be a charity—
  - (a) B is to be treated as if it were a charity for the purposes of section 3 and this Part (including this sub-paragraph), and
  - (b) A and B are connected with one another for the purposes of section 3(2).
- (6) In sub-paragraph (5) “control” is to be read in accordance with—
  - (a) paragraph 2(2) and (3) (but ignoring paragraphs 3 to 6), and
  - (b) sub-paragraph (2)(b) of this paragraph.
- 9 (1) This paragraph applies if—
  - (a) a charity (“A”) is connected with another charity (“B”) for the purposes of section 3(2), and
  - (b) B is connected with another charity (“C”) for the purposes of section 3(2).
- (2) A and C are also connected with one another for the purposes of section 3(2) (if that would not otherwise be the case).
- (3) In sub-paragraph (1)(a) the reference to a charity being connected with another charity for the purposes of section 3(2) is to that charity being so connected by virtue of paragraph 8 or this paragraph, and in sub-paragraph (1)(b) the reference to a charity being connected with another charity for the purposes of section 3(2) is to that charity being so connected by virtue of paragraph 8.

*Changes to legislation: There are currently no known outstanding effects for the National Insurance Contributions Act 2014. (See end of Document for details)*

## SCHEDULE 2

Section 15

### OFFICE HOLDERS IN RECEIPT OF “EARNINGS” TO BE EMPLOYED EARNERS: CONSEQUENTIAL PROVISION

#### SSCBA 1992

1 SSCBA 1992 is amended as follows.

#### Commencement Information

**I5** Sch. 2 para. 1 wholly in force at 13.5.2014; Sch. 2 para. 1 in force at Royal Assent but the amendments made by this provision come into force at 13.5.2014, see s. 15(4)

2 In section 7(1)(b) (definition of “secondary contributor” in relation to office holders), omit “general” in both places it appears.

#### Commencement Information

**I6** Sch. 2 para. 2 wholly in force at 13.5.2014; Sch. 2 para. 2 in force at Royal Assent but the amendments made by this provision come into force at 13.5.2014, see s. 15(4)

3 In section 163(1) (interpretation of Part 11 of that Act: statutory sick pay), in paragraph (a) of the definition of “employee”, for “general earnings (as defined by section 7 of the Income Tax (Earnings and Pensions) Act 2003)” substitute “earnings (within the meaning of Parts 1 to 5 above)”.

#### Commencement Information

**I7** Sch. 2 para. 3 wholly in force at 13.5.2014; Sch. 2 para. 3 in force at Royal Assent but the amendments made by this provision come into force at 13.5.2014, see s. 15(4)

4 In section 171(1) (interpretation of Part 12 of that Act: statutory maternity pay), in paragraph (a) of the definition of “employee”, for “general earnings (as defined by section 7 of the Income Tax (Earnings and Pensions) Act 2003)” substitute “earnings (within the meaning of Parts 1 to 5 above)”.

#### Commencement Information

**I8** Sch. 2 para. 4 wholly in force at 13.5.2014; Sch. 2 para. 4 in force at Royal Assent but the amendments made by this provision come into force at 13.5.2014, see s. 15(4)

5 In section 171ZJ(2)(a) (definition of “employee” for Part 12ZA of that Act: ordinary and additional statutory paternity pay), for “general earnings (as defined by section 7 of the Income Tax (Earnings and Pensions) Act 2003)” substitute “earnings (within the meaning of Parts 1 to 5 above)”.

#### Commencement Information

**I9** Sch. 2 para. 5 wholly in force at 13.5.2014; Sch. 2 para. 5 in force at Royal Assent but the amendments made by this provision come into force at 13.5.2014, see s. 15(4)

- 6 In section 171ZS(2)(a) (definition of “employee” for Part 12ZB of that Act: statutory adoption pay), for “general earnings (as defined by section 7 of the Income Tax (Earnings and Pensions) Act 2003)” substitute “earnings (within the meaning of Parts 1 to 5 above)”.

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**Commencement Information**

- I10** [Sch. 2 para. 6](#) wholly in force at 13.5.2014; [Sch. 2 para. 6](#) in force at Royal Assent but the amendments made by this provision come into force at 13.5.2014, see [s. 15\(4\)](#)

*SSCB(NI)A 1992*

- 7 SSCB(NI)A 1992 is amended as follows.

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**Commencement Information**

- I11** [Sch. 2 para. 7](#) wholly in force at 13.5.2014; [Sch. 2 para. 7](#) in force at Royal Assent but the amendments made by this provision come into force at 13.5.2014, see [s. 15\(4\)](#)

- 8 In section 7(1)(b) (definition of “secondary contributor” in relation to office holders), omit “general” in both places it appears.

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**Commencement Information**

- I12** [Sch. 2 para. 8](#) wholly in force at 13.5.2014; [Sch. 2 para. 8](#) in force at Royal Assent but the amendments made by this provision come into force at 13.5.2014, see [s. 15\(4\)](#)

- 9 In section 159(1) (interpretation of Part 11 of that Act: statutory sick pay), in paragraph (a) of the definition of “employee”, for “general earnings (as defined by section 7 of the Income Tax (Earnings and Pensions) Act 2003)” substitute “earnings (within the meaning of Parts 1 to 5 above)”.

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**Commencement Information**

- I13** [Sch. 2 para. 9](#) wholly in force at 13.5.2014; [Sch. 2 para. 9](#) in force at Royal Assent but the amendments made by this provision come into force at 13.5.2014, see [s. 15\(4\)](#)

- 10 In section 167(1) (interpretation of Part 12 of that Act: statutory maternity pay), in paragraph (a) of the definition of “employee”, for “general earnings (as defined by section 7 of the Income Tax (Earnings and Pensions) Act 2003)” substitute “earnings (within the meaning of Parts 1 to 5 above)”.

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**Commencement Information**

- I14** [Sch. 2 para. 10](#) wholly in force at 13.5.2014; [Sch. 2 para. 10](#) in force at Royal Assent but the amendments made by this provision come into force at 13.5.2014, see [s. 15\(4\)](#)

- 11 In section 167ZJ(2)(a) (definition of “employee” for Part 12ZA of that Act: ordinary and additional statutory paternity pay), for “emoluments chargeable to income tax under Schedule E” substitute “earnings (within the meaning of Parts 1 to 5 above)”.

*Changes to legislation: There are currently no known outstanding effects for the National Insurance Contributions Act 2014. (See end of Document for details)*

**Commencement Information**

**I15** [Sch. 2 para. 11](#) wholly in force at 13.5.2014; [Sch. 2 para. 11](#) in force at Royal Assent but the amendments made by this provision come into force at 13.5.2014, see [s. 15\(4\)](#)

- 12 In section 167ZS(2)(a) (definition of “employee” for Part 12ZB of that Act: statutory adoption pay), for “emoluments chargeable to income tax under Schedule E” substitute “ earnings (within the meaning of Parts 1 to 5 above) ”.

**Commencement Information**

**I16** [Sch. 2 para. 12](#) wholly in force at 13.5.2014; [Sch. 2 para. 12](#) in force at Royal Assent but the amendments made by this provision come into force at 13.5.2014, see [s. 15\(4\)](#)

*Pension Schemes Act 1993 (c. 48)*

- 13 In section 181(1) of the Pension Schemes Act 1993 (general interpretation), in the definition of “employee”, for “general earnings (as defined by section 7 of the Income Tax (Earnings and Pensions) Act 2003)” substitute “ earnings ”.

**Commencement Information**

**I17** [Sch. 2 para. 13](#) wholly in force at 13.5.2014; [Sch. 2 para. 13](#) in force at Royal Assent but the amendments made by this provision come into force at 13.5.2014, see [s. 15\(4\)](#)

*Pension Schemes (Northern Ireland) Act 1993 (c. 49)*

- 14 In section 176(1) of the Pension Schemes (Northern Ireland) Act 1993 (general interpretation), in the definition of “employee”, for “general earnings (as defined by section 7 of the Income Tax (Earnings and Pensions) Act 2003)” substitute “ earnings ”.

**Commencement Information**

**I18** [Sch. 2 para. 14](#) wholly in force at 13.5.2014; [Sch. 2 para. 14](#) in force at Royal Assent but the amendments made by this provision come into force at 13.5.2014, see [s. 15\(4\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the National Insurance Contributions Act 2014.