

EXPLANATORY MEMORANDUM

THE SOCIAL SECURITY (MISCELLANEOUS AMENDMENTS No. 2) REGULATIONS (NORTHERN IRELAND) 2015

S.R. 2015 No. 163

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department for Social Development to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under powers conferred by Articles 39(1) and 47(1) of the Child Support (Northern Ireland) Order 1991, sections 122(1)(a) and (d), 132(3) and (4)(b), 132A(2) and (3) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992, Articles 6(5), 14(1) and (4) and 36(1) and (2) of the Jobseekers (Northern Ireland) Order 1995, Articles 11(6) and 74(1) and (5) of the Social Security (Northern Ireland) Order 1998 and sections 17(1) and (3) and 25(2) of the Welfare Reform Act (Northern Ireland) 2007 and is subject to the negative resolution procedure.

2. Purpose

- 2.1 The Social Security (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 2015 amend a range of income-related benefits regulations as a consequence of certain provisions of Schedule 1 to the National Insurance Contributions Act 2015 (c.5) (“the 2015 Act”).
- 2.2 The Regulations amend the Income Support (General) Regulations (Northern Ireland) 1987, the Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992, the Jobseeker’s Allowance Regulations (Northern Ireland) 1996, the Child Support (Maintenance Calculations and Special Cases) Regulations (Northern Ireland) 2001, the Housing Benefit Regulations (Northern Ireland) 2006, the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006 and the Employment and Support Allowance Regulations (Northern Ireland) 2008.
- 2.3 The amendments are minor and technical and align the language and legislative references in the regulations cited in paragraph 2.2 above in consequence of certain provisions of Schedule 1 to the 2015 Act which substitutes section 11 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and provides that from 6th April 2015 self-employed earners with profits in a tax year of £5,965 (the Small Profits Threshold) or over will pay Class 2 National Insurance Contributions (NICs) via the Self-Assessment system. Also, with the abolition of the Small Earnings Exception certificate (SEE) references to the SEE threshold are amended to the

Small Profits Threshold, the limit below which those that have profits will not be automatically liable for Class 2 NICs.

- 2.4 Contribution conditions for benefit purposes are not changing, however, to ensure that benefit claimants are safeguarded, the legislation is being modified so that no one is penalised simply because of the change to paying Class 2 NICs through Self-Assessment. Also, the self-employed can file their tax return and pay their Class 2 NICs earlier than 31st January if they wish. This is necessary because as 31 January deadline to submit self-assessment returns falls after the start of the benefit year (the first Sunday in each year), this may mean some claimants may not have paid their Class 2 NICs until 31 January.
- 2.5 Regulation 1 provides for citation and commencement.
- 2.6 Regulations 2 to 8 amend, respectively:—

Regulation 39 of the Income Support (General) Regulations (Northern Ireland) 1987;

Paragraph 2A of Schedule 1 to the Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992;

Regulation 102 of the Jobseeker's Allowance Regulations (Northern Ireland) 1996;

Paragraph 7 of the Child Support (Maintenance Calculations and Special Cases) Regulations (Northern Ireland) 2001;

Regulations 31 and 36 of the Housing Benefit Regulations (Northern Ireland) 2006;

Regulations 32 and 38 of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006; and

Regulation 99 the Employment and Support Allowance Regulations (Northern Ireland) 2008

3. Background

- 3.1 There are two separate collection methods for NICs paid by the self-employed. Class 2 NICs are collected by 6 monthly bill or direct debit whereas Class 4 NICs are collected alongside income tax through Self-Assessment. This causes confusion and extra work for both the self-employed and Her Majesty's Revenue and Customs (HMRC).
- 3.2 The Chancellor announced at Budget 2014 that the mechanism for collecting Class 2 NICs would be changing from 2015-16 onwards. The aim of this change was to enable the self-employed to pay their Class 2 NICs through Self-Assessment alongside income tax and Class 4 NICs.
- 3.3 The aim of this change is to simplify the collection of Class 2 NICs to make it more simple and straight-forward for the self-employed to pay Class 2 NICs,

reducing the administrative burdens on them and the Government. The change will take effect from the 2015-16 tax year onwards..

- 3.4 The structure of Class 2 will change from the existing liability that arises in respect of each week, or partial week, of self-employment to an annual liability which is triggered by reference to a self-employed earner's Class 4 profits (rather than earnings) and which is then calculated by reference to the number of weeks, or part weeks, of self-employment in the tax year.
- 3.5 Minor consequential changes are required to a range of income-related benefit regulations arising from the proposed reforms. These changes will update references in accordance with the 2015 Act and ensure that the mechanisms for payment of Class 2 contributions remain in place for those not paying via Self-Assessment.

4. Consultation

- 4.1 The Social Security Advisory Committee was consulted in respect of these regulations and advised that they should not be formally referred.

5. Equality Impact

- 5.1 In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on the proposals and concluded that the proposals do not have significant implications for equality of opportunity.

6. Regulatory Impact

- 6.1 This change does not impact the amount of Class 2 NICs a self-employed person may have to pay and does not change contribution conditions for benefit purposes.
- 6.2 The change means that the self-employed and small businesses will now be able to pay their Class 2 NICs alongside income tax and Class 4 NICs, through one process.
- 6.3 This change sees the abolition of the Small Earnings Exception certificate (SEE). The SEE threshold is replaced by the Small Profits Threshold (SPT) and those that have profits below the SPT will not be automatically liable for Class 2 NICs and therefore, no exception to liability will be needed. They will, however, have the option to pay Class 2 NICs on a voluntary basis in order to protect their contributory benefit entitlement.
- 6.4 As a result of this change self-employed people will have to cancel their direct debit agreements with their bank, if they pay by direct debit currently, and include their Class 2 NICs in their Self-Assessment return. They will have the option to make regular payments towards their tax and NI under Self-Assessment using HMRC's Budget Payment Plan facility.

6.5 These Regulations do not require a Regulatory Impact Assessment as they do not impose a cost on business, charities or voluntary bodies.

7. Financial Implications

7.1 The Regulations are not expected to give rise to any significant cost.

8. Section 24 of the Northern Ireland Act 1998

8.1 The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied the Rule—

(a) is not incompatible with any of the Convention rights,

(b) is not incompatible with Community law,

(c) does not discriminate against a person or class of person on the ground of religious belief or political opinion, and

(d) does not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

9.1 None..

10. Parity or Replicatory Measure

10.1 The corresponding Great Britain Regulations are the Social Security (Miscellaneous Amendments No. 2) Regulations 2015 (S.I. 2015/ 478) and come into force on 6 April 2015. Parity of timing and substance is an integral part of the maintenance of single systems of social security, pensions and child support provided for in section 87 of the Northern Ireland Act 1998.