

NATIONAL INSURANCE CONTRIBUTIONS AND STATUTORY PAYMENTS ACT 2004

EXPLANATORY NOTES

OVERVIEW OF THE ACT

5. Section 420 of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA 2003), (as substituted by Schedule 22 to the Finance Act 2003) which defines the term “securities” for the purposes of Chapters 1 to 5 of Part 7 of that Act is reproduced at Annex A; an explanation of the various classes of National Insurance contributions is at Annex B; a description of statutory payments, including SSP and SMP, is at Annex C; and a glossary of abbreviations is at Annex D.

Liability for National Insurance contributions

6. The measures at sections 1 to 4, together with any supporting secondary legislation, are designed to simplify employers’ administration of National Insurance contributions by:
 - extending employers’ ability to recover primary (employees’) Class 1 contributions paid on securities-based earnings of their employees and ex-employees by allowing the employer, with the agreement of the employee, to withhold an amount of the securities equal to the contribution liability (the terms “securities” and “securities based earnings” are explained at para 11) – [sections 1 and 2](#); and
 - extending the facility whereby employers can ask employees to fund the employer’s share of National Insurance contribution liability on the exercise of a share option to include awards of restricted or convertible securities – [sections 3 and 4](#).

Administration of National Insurance contributions and Statutory Sick Pay and Statutory Maternity Pay

7. Prior to 1999 the collection and administration of National Insurance contributions and the administration of SSP and SMP were the responsibility of the then Department of Social Security (now the Department for Work and Pensions) and its predecessors. From 1 April 1999 these functions were transferred to the Inland Revenue by the Social Security Contributions (Transfer of Functions etc.) Act 1999 (ToFA 1999).
8. The ToFA 1999 did not, however, align fully the processes and powers for administering contributions and SSP and SMP with those which apply to tax. The measures in sections 5 to 10 are designed to enable the Inland Revenue to deal with the administration of tax, national insurance contributions and SSP and SMP in a coherent manner and, where possible, in a single transaction by:
 - aligning the periods of notice required for distraint action to recover contribution debt in England and Wales with those which apply in the recovery of tax – [section 5](#);
 - aligning the periods of notice required in Scotland for application for a summary warrant to recover contribution debt with those which apply in the recovery of tax – [section 5](#);

These notes refer to the National Insurance Contributions and Statutory Payments Act 2004 (c.3) which received Royal Assent on 13 May 2004

- aligning distraint procedures to recover contribution debt in Northern Ireland with those which apply in England and Wales – [section 6](#);
- allowing for future application of tax law to the recovery of contributions by means of secondary legislation – [sections 5\(4\) and 6\(3\)](#);
- aligning the powers of Inland Revenue officers to inspect records and gather information for tax and contributions purposes – [sections 7 and 8](#); and
- aligning the compliance regime for SSP and SMP with that which applies to the other statutory payments – ie. statutory adoption pay and statutory paternity pay – by replacing criminal penalties for non-compliance with civil penalties – [sections 9 and 10](#).

Application of the Act to Northern Ireland

9. Under the provisions of Schedule 2 to the Northern Ireland Act 1998 matters relating to National Insurance contributions are “excepted” from the competence of the Northern Ireland Assembly. The Act therefore amends any relevant Northern Ireland legislation.
10. The Northern Ireland Act 1998 transferred responsibility for statutory payments to the Northern Ireland Assembly. The Act, with the agreement of the Secretary of State for Northern Ireland and the Northern Ireland Department for Social Development [(the Northern Ireland Assembly being suspended at the time the Act was introduced) – DN check with Andrew] also amends the relevant Northern Ireland legislation relating to SSP and SMP.