



# National Insurance Contributions Act 2014

## 2014 CHAPTER 7

### *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),”.
- (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).
- (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.

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*Status: This is the original version (as it was originally enacted).*

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- (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” and “HMRC” have 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.

## **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.
- (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.