



# National Insurance Contributions Act 2014

## 2014 CHAPTER 7

### *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”.
- (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.

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

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### 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).

### [<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*

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- (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—
- (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);

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“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.
- (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

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| <p><b>F3</b> S. 2(4A) inserted (6.4.2016) by <a href="#">The Employment Allowance (Excluded Companies) Regulations 2016 (S.I. 2016/344)</a>, regs. 1, 2</p> <p><b>F4</b> S. 2(4B)-(4G) inserted (6.4.2020) by <a href="#">The Employment Allowance (Excluded Persons) Regulations 2020 (S.I. 2020/218)</a>, regs. 1, 3</p> |
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### 3 Connected persons

- (1) This section applies if—
  - (a) at the beginning of a tax year, two or more companies which are not charities are connected with one another, and
  - (b) 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—
  - (a) at the beginning of a tax year, two or more charities are connected with one another, and
  - (b) 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 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

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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”.
- (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)—

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- (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,”.
- (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,”.

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## 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 ”.
- (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.



**Changes to legislation:**

There are currently no known outstanding effects for the National Insurance Contributions Act 2014, Cross Heading: Employment allowance.