

EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (CONTRIBUTIONS) (AMENDMENT No. 4)
REGULATIONS 2008

2008 No. 1431

1. This explanatory memorandum has been prepared by HM Treasury and is laid before Parliament by Command of Her Majesty. This memorandum contains information for the Joint Committee on Statutory Instruments.
2. **Description**
 - 2.1 These Regulations amend the Social Security (Contributions) Regulations 2001 to provide in Great Britain a disregard, in the computation of an earner's liability for Class 1 National Insurance contributions in respect of any Up-Front Childcare Fund payment. These regulations will come into force on 1st July 2008.
 - 2.2 The Secretary of State will make payments directly to a lone parent's childcare provider. The lone parent must have been receiving benefit for 6 months, be participating in the New Deal for Lone Parents and moving into work of at least 16 hours per week. Payments up to a maximum amount will only be made for childcare provided by registered or approved childcare providers for registration fees, deposits and advance payments.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 Section 3 of the Social Security Contributions and Benefits Act 1992 (providing the power to make regulations for disregarding particular payments in the calculation of earnings) does not apply to Northern Ireland – see s177(5) and (6) of the Act. Section 3 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 provides a similar power as regards national insurance in Northern Ireland. That power has not been invoked in relation to the Up-Front Childcare Fund as that is running as a pilot scheme only in part of Great Britain; and accordingly these amending Regulations do not rely on that power. However, regulation 156(1) of the Social Security (Contributions) Regulations 2001 provides that except where otherwise provided, provisions of those Regulations apply to Northern Ireland. Regulation 156(1) will apply to the amendment made by these amending Regulations. Consequently, to reflect the fact that Section 3 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 has not been invoked, the disregard for Up-Front Childcare Fund payments specifically states that it does not apply to Northern Ireland.

4. Legislative Background

4.1 Section 3(2) of the Social Security Contributions and Benefits Act 1992 (“the Act”) provides that the amount of a person’s earnings is to be calculated or estimated in such manner or on such basis as may be prescribed by regulations. Section 3(3) of the Act provides that regulations made for the purposes of Section 3(2) prescribe that payments of a particular class or description are to be disregarded in the calculation of earnings. Section 175(4) of the Social Security Contributions and Benefits Act 1992 provides that powers conferred in the Act include powers to make incidental or supplementary provision that is expedient; since, by section 177(5) and (6) of the Act section 3 applies only to Great Britain, HM Treasury relies on that power here in order to make reference to the disregard not applying in Northern Ireland. Section 175(5) of the Social Security Contributions and Benefits Act 1992 provide that regulations under (inter alia) section 3 may provide for the exercise of a discretion. HM Treasury is reliant on this power here because the payments to be disregarded rely on arrangements put in place at the discretion of the Secretary of State (pursuant to section 2 of the Employment and Training Act 1973).

4.2 These regulations use the powers at Section 3(2) and 3(3) of the Act to provide a disregard from Class 1 National Insurance contributions liability in respect of any Up-Front Childcare Fund payment made under section 2 of the Employment and Training Act 1973.

5. Extent

5.1 These regulations amend the Social Security (Contributions) Regulations 2001 and only apply to Great Britain.

6. European Convention on Human Rights

6.1 As this instrument is subject to the negative resolution procedure and does not amend primary legislation no statement is required.

7. Policy background

7.1 Lone parents moving into work often face up-front childcare costs, such as registration fees, advance payments and a deposit, before receiving any earnings. The level of these up-front costs required by childcare providers can act as a barrier to work.

7.2 From July 2008, the Department for Work and Pensions will launch the Up-Front Childcare Fund for lone parents as a pilot, initially running in the six Jobcentre Plus Districts in London, to provide up-front financial support for childcare for those lone parents who meet the eligibility criteria.

7.3 Providing a disregard for Class 1 National Insurance liability in respect of Up-Front Childcare Fund payments will ensure that the financial

support fully meets the up-front cost of childcare and will remove additional complexity for lone parents as they move into work.

8. Impact

A full and final impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

9. Contact

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