

2015 No. 478

SOCIAL SECURITY

**The Social Security (Miscellaneous Amendments No. 2)
Regulations 2015**

Made - - - - *3rd March 2015*

Laid before Parliament *4th March 2015*

Coming into force in accordance with regulation 1

These Regulations are made by the Treasury and the Commissioners for Her Majesty's Revenue and Customs with the concurrence of the Secretary of State in relation to regulations 14, 17, 21 and 25 and the Department for Social Development(a) in relation to regulations 14, 17, 21 and 26.

The powers exercised by the Treasury are those conferred by sections 1(6) and (7), 2(2)(b) and (2A), 3(2) and (3), 12(6), 13(1) and (7), 19(3) and (5A), 119 and 175(3) and (4) of, and paragraphs 7B, 7BB, and 8(1)(q) and (1A) of Schedule 1 to, the Social Security Contributions and Benefits Act 1992(b), sections 1(6) and (7), 2(2)(b) and (2A), 3(2) and (3), 12(6), 13(1) and (7), 19(3) and (5A), 119 and 171(3) and (4) of, and paragraphs 7B, 7BB and 8(1)(q) and (1A) of Schedule 1 to, the Social Security Contributions and Benefits (Northern Ireland) Act 1992(c),

-
- (a) The functions of the Department of Health and Social Services for Northern Ireland under the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) were transferred to the Department for Social Development by Article 8(b) of, and Part 2 of Schedule 6 to the Departments (Transfer and Assignment of Functions) Order (Northern Ireland) 1999 (S.R. (NI) 1999 No. 481).
- (b) 1992 c. 4. Section 1(6) was amended by paragraph 56 of Schedule 7 to the Social Security Act 1998 (c. 14) ("the SSA 1998"); section 1(7) was inserted by paragraph 1 of Schedule 3 to the Social Security Contributions (Transfer of Functions etc) Act 1999 (c. 2) ("the Transfer Act"); section 2(2A) was inserted by paragraph 2 of Schedule 3 to the Transfer Act and substituted by paragraph 2 of Schedule 11 to the Welfare Reform and Pensions Act 1999 (c. 30); section 3 was amended, and the power to make regulations under it transferred to the Treasury with the concurrence of the Secretary of State, by paragraph 3 of Schedule 3 to the Transfer Act; section 12(6) was amended by paragraph 13 of Schedule 3 to the Transfer Act; section 13 was amended by paragraph 14 of Schedule 3 to the Transfer Act. The amount in section 13(1) was last substituted by S.I. 2014/475; section 19(3) was amended by paragraphs 1 and 5 of Schedule 1 to the National Insurance Contributions Act 2002 (c. 19) ("the NICs Act 2002"); section 19(5A) was inserted by paragraph 19 of Schedule 3 to the Transfer Act; section 119 was amended by paragraph 25 of Schedule 3 and paragraph 7 of Schedule 7 to the Transfer Act and paragraph 69 of Schedule 7 to the SSA 1998; section 175(4) was amended by paragraph 29 of Schedule 3 to the Transfer Act; paragraph 7B of Schedule 1 was inserted by section 57 of the SSA and amended by paragraph 38 of Schedule 3, paragraph 7 of Schedule 9 and Part 1 of Schedule 10 to the Transfer Act, section 76 of the Child Support, Pensions and Social Security Act 2000 (c. 19) and paragraph 185 of Schedule 6 to the Income Tax (Pensions and Earnings) Act 2003 (c. 1) ("ITEPA"); paragraph 7BB of Schedule 1 was inserted by paragraphs 1 and 9 of Schedule 1 to the National Insurance Contributions Act 2015 (c. 5) ("the NICs Act 2015"); paragraph 8 of Schedule 1 provides for regulations to be made by the appropriate authority; paragraph 8(1A) of Schedule 1 (which was inserted by paragraph 39 of Schedule 3 to the Transfer Act) provides that the "appropriate authority" means the Treasury.
- (c) 1992 c. 7. Section 1(6)(a) and (c) were amended by paragraph 38(3) of Schedule 6 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (NI 10)) ("the 1998 Order"); section 1(7) was amended by paragraph 2 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) ("the Transfer Order"); section 2(2A) was inserted by paragraph 3 of Schedule 3 to the Transfer Order and substituted by paragraph 10 of Schedule 11 to the Welfare Reform and Pensions Act 1999; section 12(6) was amended by paragraph 14 of Schedule 3 to the Transfer Order; section 13(1) was amended by paragraph 15(2) of Schedule 3 to the Transfer Order and by S.I. 2014/475; section 13(7) was amended by paragraph 15(4) of Schedule 3 to the Transfer Order; section 19(3) was amended by paragraph 24 of Schedule 1 to the NICs Act 2002; section 19(5A) was inserted by S.I. 1999/671 and S.R. 1999/149; section 119 was amended by S.I. 1999/671, S.R. 1999/149, S.I. 1998/1506 (N.I. 10), S.R. 1999/310, S.R. 1999/371 and S.R.

and section 3 of the National Insurance Contributions Act 2015(a) and now exercisable by them.

The powers exercised by the Commissioners for Her Majesty's Revenue and Customs are those conferred by sections 17 and 175(4) of and paragraph 6 of Schedule 1 to, the Social Security Contributions and Benefits Act 1992(b) and sections 17 and 171(4) of, and paragraph 6 of Schedule 1 to, the Social Security Contributions and Benefits (Northern Ireland) Act 1992(c) and now exercisable by them(d).

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments No. 2) Regulations 2015.

(2) Regulation 21(2) (amendment to paragraph 10A of Part 6 of Schedule 3 to the Social Security (Contributions) Regulations 2001(e)), comes into force on 1st April 2015.

(3) Regulation 22(5) (substitution of paragraph 23 of Schedule 4) has effect in relation to returns made by employers for the tax year 2014-15 and subsequent tax years.

(4) Subject to paragraph (2) of this regulation, these regulations come into force on 6th April 2015.

PART 1

Amendment of the Social Security (Contributions) Regulations 2001

2. The Social Security (Contributions) Regulations 2001 are amended as follows.

3.—(1) Amend regulation 1(2) (definitions) as follows.

(2) For the definition of “due date” substitute—

““due date” in Part 6 means, in relation to—

- (a) any Class 1 contribution, the date by which payment falls to be made;
- (b) any Class 2 contribution which a person is liable or entitled to pay, the 31st January following the end of the tax year in respect of which it is paid or payable; and

1999/428; paragraph 7B of Schedule 1 was inserted by article 54 of the 1998 Order and amended by paragraph 37 of Schedule 3, paragraph 5 of Schedule 8 and Schedule 9 to the Transfer Order, section 80 of the Child Support, Pensions and Social Security Act 2000 and paragraph 204 of Schedule 6 to ITEPA; paragraph 7BB of Schedule 1 was inserted by paragraph 18(3) of Schedule 1 to the NICs Act 2015; paragraph 8(1A) of Schedule 1 was inserted by paragraph 38(3) of Schedule 3 to the Transfer Order, the paragraph provides for regulations to be made by the appropriate authority, sub-paragraph (1A) provides that the “appropriate authority” means the Treasury.

- (a) 2015 c.5.
- (b) Section 17 was amended by paragraph 17 of Schedule 3 to the Transfer Act and paragraph 4 of Schedule 1 to the NICs Act 2002; paragraph 6(1) was substituted by paragraph 77(8) of Schedule 7 to the SSA and subsequently amended by paragraph 35(2) of Schedule 3 to the Transfer Act and paragraph 185 of Schedule 6 to ITEPA.
- (c) Section 17 was amended by S.I. 1999/671 and S.R. 1999/149 and paragraph 23 of Schedule 1 and Schedule 2 to the NICs Act 2002; paragraph 6(1) was substituted by paragraph 58(8) of Schedule 6 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) and subsequently amended by paragraph 34(2) of Schedule 3 to the Transfer Order and paragraph 204 of Schedule 6 to ITEPA.
- (d) Section 17 provides for regulations to be made by the Inland Revenue (defined by section 122 as meaning the Commissioners of Inland Revenue). The functions of the Commissioners of Inland Revenue were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act provides that a reference to the Commissioners of Inland Revenue (however expressed) shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.
- (e) S.I. 2001/1004, amended by S.I. 2002/2924, 2002/2929, 2003/193, 2004/770, 2004/2096, 2007/1056, 2007/1838, 2007/2520, 2008/607, 2008/636, 2008/2683, 2008/3099, 2009/600, 2011/797, 2012/821, 2013/622, 2013/718, 2014/606, 2014/608 and 2014/2397. There are other amending instruments but none are relevant.

- (c) any Class 3 contribution, the date 42 days after the end of the year in respect of which it is paid.”.
- (3) After the definition of “earnings-related contributions” insert—
“employment and support allowance” has the same meaning as in the Welfare Reform Act 2007(a);”.
- 4.**—(1) Amend regulation 43 (exception from liability for Class 2 contributions)(b) as follows.
(2) In the heading omit “liability for”.
(3) In paragraph (1), after sub-paragraph (a) insert—
“(ab) in respect of the whole of which the earner is in receipt of employment and support allowance;”.
- (4) In paragraphs (1) and (3) for “liability to pay” substitute “paying”.
- 5.**—(1) Amend regulation 61B (voluntary Class 2 contributions: tax years 2006-07 to 2015-16: unavailability of pension statements 2013-14 to 2016-17)(c) as follows.
(2) In paragraph (2) omit “under regulation 46 or 147(1)(a)”.
- (3) In paragraph (7)—
(a) for “regulations” substitute “regulation”; and
(b) omit “and 61A”.
- 6.** In regulation 63A(4) (collection of unpaid Class 2 contributions through PAYE code)(d), after the words “in the period beginning with the”, omit “contribution”.
- 7.** In regulation 67(1) (collection and recovery of earnings-related contributions, and Class 1B contributions)(e)—
(a) for “the general earnings from an office or employment” substitute “PAYE income”; and
(b) after paragraph (1) insert—
“(1A) PAYE income has the meaning given in section 683 of ITEPA 2003.”(f).
- 8.** In regulation 72 (Class 1A contribution due on succession to business)(g)—
(a) in paragraph 1(a) omit “general”; and
(b) in paragraph (4)—
(i) omit the definition of “general earnings”; and
(ii) omit “general” in the definition of “relevant tax month”.
- 9.** In regulation 73 (Class 1A contribution due on cessation of business)(h)—
(a) in paragraph (1)(a) omit “general”; and
(b) in paragraph 4—
(i) omit the definition of “general earnings”; and
(ii) omit “general” in the definition of “relevant final tax month”.

(a) 2007 c.5.
(b) Regulation 43 was amended by S.I. 2002/2924.
(c) Regulation 61B was inserted by S.I. 2013/622 and amended by S.I. 2013/718.
(d) Regulation 63A was inserted by S.I. 2013/622.
(e) Regulation 67 was amended by S.I. 2004/770, 2008/636 and 2012/821.
(f) Section 122 of the Social Security Contributions and Benefits Act 1992, as amended by paragraphs 169 and 178 of Schedule 6 to ITEPA 2003 and section 121 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992, as amended by paragraphs 190 and 199 of Schedule 6 to ITEPA 2003; defines “ITEPA 2003” as meaning the Income Tax (Earnings and Pensions) Act 2003.
(g) Regulation 72 was amended by S.I. 2004/770.
(h) Regulation 73 was amended by S.I. 2004/770.

10. In regulation 87A(2) (notification of commencement or cessation of payment of Class 2 or Class 3 contributions on or after 6th April 2009)(a) after “6th April 2009” insert “but before 6th April 2015” and amend the heading of the regulation accordingly.

11. After regulation 87A insert —

“Notification of commencement or cessation of self-employment or Class 3 contributions on or after 6th April 2015

87AA.—(1) A person (P) to whom paragraph (2) applies shall immediately notify the relevant date to HMRC in writing or by such means of electronic communication as may be approved.

(2) This paragraph applies where P on or after 6th April 2015—

- (a) commences or ceases to be a self-employed earner; or
- (b) is entitled to pay a Class 3 contribution and either wishes to do so or cease doing so.

(3) In paragraph (1) “the relevant date” means—

- (a) in relation to a person to whom paragraph (2)(a) applies, the date on which P commences or ceases to be a self-employed earner;
- (b) in relation to a person to whom paragraph (2)(b) applies, the date on which P wishes to commence or cease paying Class 3 contributions.

(4) P is to be treated as having immediately notified HMRC in accordance with paragraph (1) if P has notified HMRC within such further time, if any, as HMRC may allow.”.

12.—(1) Amend regulation 89 (method of, and time for, payment of Class 2 and Class 3 contributions etc)(b) as follows.

(2) In paragraph (1)—

- (a) after the first mention of “accordance with” insert “the Taxes Management Act 1970 (as modified by section 11A of the Act) or in accordance with,”;
- (b) after “regulation 90” insert “or in accordance with regulation 90ZA or 148C”(c); and
- (c) after “paragraph” omit “(2),”.

(3) Omit paragraphs (1A) and (2).

(4) In paragraph (2A)(a)(d)—

- (a) after “regulation 87” for “or” substitute “,”; and
- (b) after “87A” insert “or 87AA”.

(5) In paragraph (3) for “or 87A” substitute “, 87A or 87AA”.

(6) In paragraph (4)—

- (a) in sub-paragraph (a) omit “or (6)”;
- (b) in sub-paragraph (b) omit—
 - (i) “person’s liability for Class 2 contributions or”; and
 - (ii) “the number of contribution weeks in respect of which the liability arises together with the weekly rate, and of the date specified as the date of notification, or, where he is entitled to pay contributions, of”; and
- (c) at the end of the paragraph omit the words from “shall, if he is liable to pay” to “if he is entitled to pay a contribution, he”.

(a) Regulation 87A was inserted by S.I. 2009/600.

(b) Regulation 89 was amended by S.I. 2011/797.

(c) Regulations 90ZA and 148C are inserted by these Regulations.

(d) Paragraph (2A) was inserted by S.I. 2011/797.

- (7) In paragraph (5)—
- (a) in sub-paragraph (a)—
 - (i) for “or 87A” insert “, 87A or 87AA”;
 - (ii) omit paragraph (i);
 - (iii) in paragraph (ii) for “biannual contribution period” substitute “tax year”; and
 - (b) in sub-paragraph (b)(iii)—
 - (i) for “or 87A” substitute “, 87A or 87AA”;
 - (ii) omit “ceased to be liable to pay Class 2 contributions or”; and
 - (iii) omit “as the case may be”.
- (8) Omit paragraph (6).
- (9) In paragraph (7)—
- (a) omit sub-paragraphs (a), (b) and (c); and
 - (b) for sub-paragraph (e) substitute—

“(e) “notification date” means 31st October following the end of the tax year.”.

13. After regulation 89 insert—

“Class 2 contributions for tax years up to 2014-15

89A.—(1) This regulation applies where a person (P) is liable to pay a Class 2 contribution in respect of any contribution week in a tax year up to and including the 2014-15 tax year.

(2) An officer of HMRC may issue P with written notice of the amount of Class 2 contributions for which P is liable in respect of any tax year up to and including the 2014-15 tax year.

(3) P shall pay the amount of contributions for which he is liable no later than the date specified in the notice. This paragraph is subject to paragraphs (4) and (5).

(4) Where P—

- (a) is liable to pay a Class 2 contribution in respect of any contribution week falling within the period defined in paragraph (5) (“the specified contribution period”); and
- (b) has notified HMRC of such liability in accordance with the provisions of regulation 87 or 87A,

HMRC shall issue P with written notice of the amount of Class 2 contributions for which P is liable to pay in respect of the specified contribution period no later than 1st June 2015 and P shall pay the amount set out in that notice to HMRC no later than 31st July 2015.

(5) For the purposes of paragraph (4), the specified contribution period is the period of not less than 26 contribution weeks falling within the 2014-15 tax year commencing with the first day of the twenty seventh contribution week in that year.”.

14. After regulation 90 insert—

“Class 2 contributions - maternity allowance

90ZA.—(1) This regulation applies in connection with maternity allowance under section 35 or 35B(a) of the Act.

(a) Section 35B was inserted by S.I. 2014/606.

(2) A person who is, or will be, either liable or entitled to pay a Class 2 contribution in respect of a week in a tax year may pay a Class 2 contribution in respect of that week at any time in the period—

- (a) beginning with that week; and
- (b) ending with 31st January next following the end of the relevant tax year.

(3) Where a person pays a Class 2 contribution in accordance with paragraph (2)—

- (a) the contribution is to be treated, before the end of the tax year, as a Class 2 contribution under section 11(6) of the Act, and
- (b) the contribution is to be treated after the end of the tax year—
 - (i) if the person is liable under section 11(2) of the Act to pay a Class 2 contribution in respect of that week, as a Class 2 contribution under section 11(2) of the Act; or
 - (ii) otherwise, as a Class 2 contribution under section 11(6) of the Act.”.

15. In regulation 95 (deferment of Class 4 liability where such liability is in doubt)(a), after “year of assessment” insert “before the tax year 2015-16”.

16. In regulation 125(g) (modification in relation to share fishermen of Part 1 of the Act and so much of Part 6 of the Act as relates to contributions)(b) for “liability for Class 2 contributions arose” substitute “the earner became entitled to pay Class 2 contributions”.

17. After regulation 148A(c) insert—

“**148B.**—(1) This regulation applies, in relation to a tax year, in respect of a person who is in that tax year—

- (a) in employment as a self-employed earner; and
- (b) a person to whom the Act applies by virtue of Regulation (EC) No 1408/71(d) or Regulation (EC) No 883/2004(e).

(2) Section 11 of the Act has effect in relation to the employment as if for subsection (3) there were substituted—

“(3) “Relevant profits” means profits from the employment in respect of which Class 4 contributions would be payable under section 15 for the relevant tax year if—

- (a) for the purposes of income tax, the earner were resident in the United Kingdom in that year;
- (b) the employment were carried on by the earner in Great Britain;
- (c) the amount of the profits were to exceed the amount specified in subsection (3)(a) of that section in excess of which the main Class 4 percentage is payable; and
- (d) any applicable arrangements having effect under section 2 of the Taxation (International and Other Provisions) Act 2010(f) (double taxation arrangements) were to be disregarded.””.

18. After regulation 148B (as inserted by regulation 17) insert—

“**148C.**—(1) This regulation applies in relation to a person (P)—

(a) Regulation 95 was amended by S.I. 2003/193.
(b) Regulation 125 was amended by paragraph 33 of Schedule 1 to the National Insurance Contributions Act 2015.
(c) Regulation 148A was inserted by S.I. 2007/1838.
(d) OJ No L 149, 5.7.1971, p.2-50.
(e) OJ No L 166, 30.4.04, p1; relevant amending instruments are Regulation No (EC) 988/2009 (OJ No L 284, 30.10.09, p43) and Commission Regulation No (EU) 465/2012 (OJ No L 149, 22.4.12, p4).
(f) 2010 c.8.

- (a) who is liable under section 11(2) of the Act, or entitled under section 11(6) of the Act, to pay one or more Class 2 contributions in respect of a contribution week in a relevant tax year;
- (b) who does not carry on a trade, profession or vocation the profits of which (if any) would be chargeable to income tax under Chapter 2 of Part 2 of the Income Tax (Trading and Other Income) Act 2005 for the relevant tax year; and
- (c) in respect of whom regulation 148B applies in relation to the relevant tax year.

(2) Section 11(5) of the Act (Class 2 contributions payable in the same manner as Class 4 contributions) does not apply in relation to the Class 2 contributions (if it would otherwise do so).

(3) Section 12 of the Act (late paid Class 2 contributions) is to apply to the Class 2 contributions that P is liable to pay under section 11(2) of the Act as it applies to contributions paid under section 11(6) of the Act.

(4) If P is liable to pay the Class 2 contributions, P must, no later than 31st January next following the end of the relevant tax year—

- (a) pay the Class 2 contributions for which P is liable in respect of any contribution weeks in that tax year; and
- (b) make a return in such form as may be approved by HMRC.

(5) If P is entitled to pay a Class 2 contribution under section 11(6) of the Act, P may—

- (a) make a return in such form as may be approved by HMRC; and
- (b) pay the contribution.

(6) P must keep such records as may be necessary for the purposes of calculating P's—

- (a) relevant profits from the employment for the purposes of section 11(2) of the Act; and
- (b) liability or, as the case may be, entitlement to pay a Class 2 contribution,

for the relevant tax year and preserve such records until the sixth anniversary of the 31st January next following the end of the relevant tax year.”.

19. In regulation 151 (option to pay Class 2 contribution)—

- (a) omit paragraph (a); and
- (b) in paragraph (b) for “such a” substitute “ a Class 2”.

20. In regulation 152(b) (special provision as to residence, rate, annual maximum and method of payment) for “11(1)” substitute “11(2)”.

21.—(1) Amend Schedule 3 (payments to be disregarded in the calculation of earnings for the purposes of earnings-related contributions) as follows.

(2) In Part 6 (pensions and pension contributions) at the end of paragraph 10A(a), insert “or by the Armed Forces Early Departure Payments Scheme Regulations 2014 (S.I. 2014/2328)”.

(3) In Part 9 (incentives by way of securities) after paragraph 17 insert—

“Payments made to internationally mobile employees

18.—(1) So much of any payment as equals the amount in sub-paragraph (3).

(2) For the purposes of calculating the amount in sub-paragraph (3) treat amounts which count as employment income under Chapters 2 to 5 of Part 7 of ITEPA 2003 as having been paid in equal instalments on each day of the “relevant period” as determined in accordance with section 41G of ITEPA 2003(b).

(a) Paragraph 10A was inserted by S.I. 2013/622.
 (b) Chapter 5B (sections 41F to 41L) was substituted for Chapter 5A (sections 41A to 41E) by paragraphs 1, 2 and 5 of Schedule 9 to the Finance Act 2014 (2014 c. 26).

(3) The amount in this sub-paragraph is calculated by adding together every instalment which would satisfy the condition in sub-paragraph (4), (5) or (6) on the day on which the instalment is treated as having been paid.

(4) The condition in this sub-paragraph is that the instalment does not give rise to a liability to pay earnings-related contributions because the employed earner does not fulfil the prescribed conditions as to residence or presence in Great Britain or Northern Ireland (as the case requires) set out in paragraph (1) of regulation 145 or because the proviso in paragraph (2) of that regulation applies.

(5) The condition in this sub-paragraph is that the instalment does not give rise to a liability to pay earnings-related contributions because the employed earner is determined in accordance with Title II of Regulation No (EC) 883/2004(a) and Title II of Regulation No (EC) 987/2009 (b) to be subject only to the legislation of another EEA State or Switzerland.

(6) The condition in this sub-paragraph is that the instalment does not give rise to a liability to pay earnings-related contributions because the employed earner is determined to be subject only to the legislation of a country outside the United Kingdom pursuant to an Order in Council having effect under section 179 of the Administration Act(c).”.

22.—(1) Amend Schedule 4 (provisions derived from the Income Tax Acts and the Income Tax (Pay As You Earn) Regulations 2003) as follows.

(2) In Part 1 (general)(d)—

(a) in paragraph 1(2)—

(i) in the definition of “employee” omit “general”; and

(ii) omit the definition of “general earnings”;

(b) in paragraph 1(5) before “earnings” omit “general”; and

(c) omit “general” in each place where it occurs in paragraphs 3 and 4A.

(3) In Part 2 (deduction of earnings-related contributions)(e)—

(a) in paragraph 6(1) omit—

(i) “general”; and

(ii) “, or on making any payment of statutory maternity pay”; and

(b) in paragraph 7 omit “general” in each place where it occurs.

(4) In Part 3 (payment and recovery of earnings-related contributions, Class 1A contributions and Class 1B contributions, etc.)(f)—

(a) omit “general” in each place where it occurs in paragraphs 10, 11 and 12(2);

(b) in paragraph 21A omit “general” in each place where it occurs and accordingly in the heading omit “general”;

(a) Regulation 883/2004 is extended to the EEA by Annex VI of the Agreement on the European Economic Area (OJ No L 001, 3.1.94, p3), as amended by Decision 76/2011 of the EEA Joint Committee (OJ No L 262, 6.10.11, p33). Regulation 883/2004 is extended to Switzerland by Annex II of the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the Free Movement of Persons (OJ No L 114, 30.4.02, p6) (the “Swiss Agreement”), as amended by Decision 1/2012 of the Joint Committee established under the Swiss Agreement (OJ No L 103, 13.4.12, p51).

(b) Regulation OJ No L 284, 30.10.09, p1, amended by Commission Regulation No (EU) 465/2012 (OJ No L 149, 22.4.12, p4); there are other amending instruments but none is relevant. Regulation 987/2009 is extended to the EEA by Annex VI of the Agreement on the European Economic Area (OJ No L 001, 3.1.94, p3), as amended by Decision 76/2011 of the EEA Joint Committee (OJ No L 262, 6.10.11, p33). Regulation 987/2009 is extended to Switzerland by Annex II of the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the Free Movement of Persons (OJ No L 114, 30.4.02, p6) (the “Swiss Agreement”), as amended by Decision 1/2012 of the Joint Committee established under the Swiss Agreement (OJ No L 103, 13.4.12, p51).

(c) “the Administration Act” is defined in section 174 of the Social Security Contributions and Benefits Act 1992 and section 170 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

(d) Part 1 was amended by S.I. 2002/2929, 2004/770 and 2012/821.

(e) Part 2 was amended by S.I. 2002/2929, 2004/770 and 2007/1056.

(f) Part 3 was amended by S.I. 2002/2929, 2004/770, 2004/2096, 2007/1056, 2012/821, 2013/622 and 2014/2397.

- (c) omit “general” in each place where it occurs in paragraphs 21AA, 21AB, 21AC, 21AD, 21B, 21CA, 21D, 21E, 21EA, 21F and 21G; and
 - (d) omit “general” in each place where it occurs in paragraphs 24(2), 27 and 28.
- (5) For paragraph 23 (additional return by employer at end of year where liability transferred to employed earner) substitute—

“Notification by employer at end of year that an agreement described in paragraph 3A(2) or an election under paragraph 3B(1) of Schedule 1 to the Act has been operated in relation to a Secondary Class 1 contribution

23.—(1) An employer must notify HMRC on or before 6th July if a relevant agreement or relevant election has been operated in relation to a Secondary Class 1 contribution payable in respect of the relevant employment income of a person (“the earner”) in the year immediately preceding the year in which that day falls.

(2) A relevant agreement has been operated in relation to the contribution described in sub-paragraph (1) if the employer has recovered the whole or any part of it pursuant to an agreement described in paragraph 3A(2) of Schedule 1 to the Act.

(3) A relevant election has been operated in relation to the contribution described in sub-paragraph (1) if the liability for the whole or any part of it has been transferred to the earner pursuant to an election under paragraph 3B of that Schedule.”.

- (6) In Part 4 (assessment and direct collection)(a) omit “general” in each place where it occurs in paragraphs 31 and 31A(1).

23. In paragraph 11 of Schedule 4A (real time returns)(b) omit “general”.

Revocation of regulations and consequential amendments

24.—(1) Omit—

- (a) the definitions of “official error” and “service provider” in regulation 1(2) (interpretation)(c);
- (b) regulations 44 to 47;
- (c) regulation 50B (class 3 contributions: tax years 1993-94 to 2007-08)(d);
- (d) regulation 61A (voluntary Class 2 contributions: tax years 1993-94 to 2007-08)(e);
- (e) regulation 65ZA (amounts of Class 2 and 3 contributions in certain cases where earnings removed)(f);
- (f) regulation 65C (late payment of voluntary Class 2 and 3 contributions for tax year 2005-06)(g);
- (g) regulation 65D (late payment of voluntary Class 2 and 3 contributions for tax year 2006-07)(h);
- (h) paragraphs (3) to (8) of regulation 87 (notification of commencement or cessation of payment of Class 2 or Class 3 contributions on or before 5th April 2009); and
- (i) regulations 87B to 87G (penalty for failure to notify and related provisions)(i).

(a) Part 4 was amended by S.I. 2013/622 and 2014/608.
 (b) Schedule 4A was inserted by S.I. 2012/821.
 (c) The definitions of “official error” and “service provider” were inserted by S.I. 2007/2520. The definition of “official error” was amended by S.I. 2008/2683.
 (d) Regulation 50B was inserted by S.I. 2007/2520.
 (e) Regulation 61A was inserted by S.I. 2007/2520.
 (f) Regulation 65ZA was inserted by S.I. 2007/2520.
 (g) Regulation 65C was inserted by S.I. 2008/607.
 (h) Regulation 65D was inserted by S.I. 2008/3099.
 (i) Regulations 87B to 87G were inserted by S.I. 2009/600.

(2) In regulation 48(3)(b) (Class 3 contributions) omit “, 50B”(a).

(3) In regulation 61B (voluntary Class 2 contributions: tax years 2006-07 to 2015-16: unavailability of pension payments 2013-14 to 2016-17)(b) for “regulations 61 and 61A” substitute “regulation 61”.

PART 2

Miscellaneous Amendments

Amendment of the Social Security (Categorisation of Earners) Regulations 1978

25.—(1) The Social Security (Categorisation of Earners) Regulations 1978(c) are amended as follows.

(2) In regulation 2 (treatment of earners in one category of earners as falling within another category and disregard of employments) omit “general” in each place where it occurs.

(3) In paragraph 5 of Column A of Schedule 1 (employments which are treated as employed earner’s employments) omit “general”.

Amendment of the Social Security (Categorisation of Earners) (Northern Ireland) Regulations 1978

26.—(1) The Social Security (Categorisation of Earners) (Northern Ireland) Regulations 1978(d) are amended as follows.

(2) In regulation 2 (treatment of earners in one category of earners as falling within another category and disregard of employments) omit “general” in each place where it occurs.

(3) In paragraph 5 of Column A of Schedule 1 (employments which are treated as employed earner’s employments) omit “general”.

Amendment of the Income Support (General) Regulations 1987

27. Regulation 39(2)(a) (deduction of tax and contributions for self-employed earners) of the Income Support (General) Regulations 1987(e) is amended as follows—

(a) for “11(1)” substitute “11(2)”;

(b) for “11(3)” substitute “11(8)”;

(c) for “small earnings exception” substitute “small profits threshold”.

Amendment of the Child Support (Maintenance Assessments and Special Cases) Regulations 1992

28. In paragraphs 2A(4)(a) and 3(6)(a) of Schedule 1 (Calculation of N and M) to the Child Support (Maintenance Assessments and Special Cases) Regulations 1992(f) for “section 11(1) or, as the case may be, (3)” substitute “section 11(2) or, as the case may be, (8)”.

(a) Regulation 48(3)(b) was amended by S.I. 2007/2520 and S.I. 2013/622.

(b) Regulation 61B was inserted by S.I. 2013/622 and amended by S.I. 2013/718.

(c) S.I. 1978/1689, amended by S.I. 2004/770; there are other amending instruments but none are relevant.

(d) S.R. 1978 No. 401, amended by S.I. 2004/770; there are other amending instruments but none are relevant.

(e) S.I. 1987/1967; relevant amending instrument is S.I. 1993/2119.

(f) S.I. 1992/1815; revoked with savings by S.I. 2001/155 and S.I. 2012/2785. Paragraph 2A of Schedule 1 was inserted by S.I. 1999/977. Paragraph 3(6)(a) of Schedule 1 was amended by S.I. 1995/1045.

Amendment of the Jobseeker's Allowance Regulations 1996

29. Regulation 102(3)(a) (deduction of tax and contributions for self-employed earners) of the Jobseeker's Allowance Regulations 1996(a) is amended as follows—

- (a) for “11(1)” substitute “11(2)”;
- (b) for “11(3)” substitute “11(8)”;
- (c) for “small earnings exception” substitute “small profits threshold”.

Amendment of the Social Security Benefit (Computation of Earnings) Regulations 1996

30. Regulation 14(2)(a) (deduction of tax and contributions for self-employed earners) of the Social Security Benefit (Computation of Earnings) Regulations 1996(b) is amended as follows—

- (a) for “11(1)” substitute “11(2)”;
- (b) for “11(3)” substitute “11(8)”;
- (c) for “small earnings exception” substitute “small profits threshold”.

Amendment of the Social Security Benefit (Computation of Earnings) Regulations (Northern Ireland) 1996

31. Regulation 14(2)(a) (deduction of tax and contributions for self-employed earners) of the Social Security Benefit (Computation of Earnings) Regulations (Northern Ireland) 1996(c) is amended as follows—

- (a) for “11(1)” substitute “11(2)”;
- (b) for “11(3)” substitute “11(8)”.

Amendment of the Child Support (Maintenance Calculations and Special Cases) Regulations 2000

32. Paragraph 7(5)(a) (net weekly income of non-resident parent as a self-employed earner) of the Schedule to the Child Support (Maintenance Calculations and Special Cases) Regulations 2000(d) is amended as follows—

- (a) for “11(1)” in each instance where it appears substitute “11(2)”;
- (b) for “(3)” in each instance where it appears substitute “(8)”.

Amendment of the Housing Benefit Regulations 2006

33.—(1) The Housing Benefit Regulations 2006(e) are amended as follows.

(2) In regulation 34(c) (disregard of changes in tax, contributions etc)(f) for “small earnings exception” substitute “small profits threshold”.

(3) In regulation 39(2)(a) (deduction of tax and contributions of self-employed earners)(g)—

- (a) for “11(1)” substitute “11(2)”;
- (b) for “11(3)” substitute “11(8)”;
- (c) for “small earnings exception” substitute “small profits threshold”.

(a) S.I. 1996/207; regulation 102 was substituted by S.I. 2013/2536.
(b) S.I. 1996/2745; relevant amending instrument is S.I. 1999/3178.
(c) S.R. 1996 No. 520; relevant amending instrument is S.R. 1999 No. 472 (C.36).
(d) S.I. 2001/155; revoked with savings by S.I. 2012/2785.
(e) S.I. 2006/213.
(f) Relevant amending instrument is S.I. 2014/213.
(g) Relevant amending instrument is S.I. 2014/213.

Amendment of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006

34.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(a) are amended as follows.

(2) In regulation 34(c) (disregard of changes in tax, contributions etc)(b) for “small earnings exception” substitute “small profits threshold”.

(3) In regulation 40(2)(a) (deduction of tax and contributions of self-employed earners)(c)—

- (a) for “11(1)” substitute “11(2)”;
- (b) for “11(3)” substitute “11(8)”;
- (c) for “small earnings exception” substitute “small profits threshold”.

Amendment of the Employment and Support Allowance Regulations 2008

35. Regulation 99(3)(a) (deduction of tax and contributions for self-employed earners) of the Employment and Support Allowance Regulations 2008(d) is amended as follows—

- (a) for “11(1)” substitute “11(2)”;
- (b) for “11(3)” substitute “11(8)”;
- (c) for “small earnings exception” substitute “small profits threshold”.

Amendment of the Universal Credit Regulations 2013

36. In regulation 57(2)(a)(i) (self-employed earnings) of the Universal Credit Regulations 2013(e) for “payable under section 11(1) or (3)” substitute “under section 11(2), (6) or (8)”.

Amendment of the Jobseeker’s Allowance Regulations 2013

37. Regulation 62(3)(a) (deduction of tax and contributions for self-employed earners) of the Jobseeker’s Allowance Regulations 2013(f) is amended as follows—

- (a) for “11(1)” substitute “11(2)”;
- (b) for “11(3)” substitute “11(8)”;
- (c) for “small earnings exception” substitute “small profits threshold”.

Amendment of the Employment and Support Allowance Regulations 2013

38. Regulation 84(3)(a) (deduction of tax and contributions for self-employed earners) of the Employment and Support Allowance Regulations 2013(g) is amended as follows—

- (a) for “section 11(1) or, as the case may be, (3)” substitute “section 11(2) or, as the case may be, (8)”;
- (b) for “small earnings exception” substitute “small profits threshold”.

Revocations

39. The regulations specified in column (1) of the Schedule are revoked or amended to the extent mentioned in column (3) of the Schedule.

-
- (a) S.I. 2006/214.
 - (b) Relevant amending instrument is S.I. 2014/213.
 - (c) Relevant amending instrument is S.I. 2014/213.
 - (d) S.I. 2008/794.
 - (e) S.I. 2013/376. There are amendments but none are relevant.
 - (f) S.I. 2013/378.
 - (g) S.I. 2013/379.

*Mark Lancaster
Gavin Barwell*

3rd March 2015

Two of the Lords Commissioners of Her Majesty's Treasury

*Jim Harra
Ruth Owen*

2nd March 2015

Two of the Commissioners for Her Majesty's Revenue and Customs

The Secretary of State concurs as indicated in the preamble.
Signed by authority of the Secretary of State for Work and Pensions.

Steve Webb
Minister of State

2nd March 2015

Department for Work and Pensions

The Department for Social Development concurs as indicated in the preamble.
Sealed with the Official Seal of the Department for Social Development on 27th February 2015



Anne McCleary
A senior officer of the Department of Social Development

SCHEDULE

Regulation 39

<i>Column (1)</i> <i>Regulations Amended</i>	<i>Column (2)</i> <i>References</i>	<i>Column (3)</i> <i>Extent of amendment</i>
The Social Security (Contributions, Categorisation of Earners and Intermediaries) (Amendment) Regulations 2004	2004/770	Omit regulation 17(c)(i) and 18(c)(i)
The Social Security (Amendment) (No. 8) Regulations 2007	2007/2520	The whole of the regulations
The Social Security (Amendment) (No. 2) Regulations 2008	2008/607	Omit regulation 3
The Social Security (Amendment) (No. 6) Regulations 2008	2008/3099	The whole of the regulations
The Social Security (Amendment) (No. 3) Regulations 2009	2009/600	Omit regulation 5
Social Security (Contributions) (Amendment No. 3) Regulations 2012	2012/821	Omit regulation 20(a)

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make a number of miscellaneous amendments to various Statutory Instruments concerning social security.

The majority of the amendments contained in Part 1 make consequential amendments to the Social Security (Contributions) Regulations 2001 (“the 2001 Regulations”) following the coming into force of the National Insurance Contributions Act 2015 (“the 2015 Act”). This Act provides that from 6th April 2015 self-employed earners with profits in a tax year of £5,965 or over will pay Class 2 contributions via the self-assessment system.

Regulation 2 introduces the amendments to the 2001 Regulations.

Regulation 3 inserts a new definition of “due date” for Class 2 contributions in order to align the date with the due date for Income Tax and Class 4 contributions under the self-assessment system. The opportunity is also taken to make a house keeping amendment to include a reference to “employment and support allowance” in the definitions.

Regulations 4 to 6 make minor consequential amendments bringing the language into line with the provisions of the 2015 Act.

Regulations 7 to 9 make amendments to regulations 67, 72 and 73. These amendments (which are not consequential on the 2015 Act) provide that for the purposes of national insurance contributions an employed earner has to be in receipt of “earnings” as defined in accordance with sections 3, 4 and 112 of the Social Security Contributions and Benefits Act 1992 (c. 4) (“the 1992 Act”) and the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) and not general earnings as defined by both Acts as references to section 7 of the Income Tax Pensions and Earnings Act 2003 (c. 1) (“ITEPA”).

Regulation 10 makes a consequential change to regulation 87A.

Regulation 11 inserts new regulation 87AA. This regulation which is consequential on the coming into force of the 2015 Act, contains a new requirement for a person to notify HMRC if they start or stop self-employment for tax years for which Class 2 contributions will be collected through self-assessment.

Regulation 12 makes consequential amendments to regulation 89.

Regulation 13 inserts new regulation 89A. This regulation enables HMRC to collect Class 2 payments for the tax years up to 2014-15. In particular it enables HMRC to issue a written notice of amounts outstanding for the last half of the 2014-15 tax year and provides that the outstanding amount must be paid by 31st July 2015.

Regulation 14 inserts new regulation 90ZA. This regulation enables qualifying women (including their spouse or civil partner) to pay Class 2 contributions before the end of the tax year even though liability to pay or not will not have been established at that stage. This will ensure that the changes do not adversely impact this group.

Regulations 15 and 16 make consequential amendments to regulations 95 and 125.

Regulation 17 inserts new regulation 148B which makes a modification to section 11 of the 1992 Act in order to ensure that profits earned overseas can be treated as if they were “relevant profits”. The modification will operate in respect of a group of self-employed earners who are liable to pay Class 2 contributions by virtue of EU Regulations but whose profits do not fall within the definition of “relevant profits” in section 11. The definition of “relevant profits” is modified so as to ensure that the defined group will be treated as if they were earning profits in the UK. Those whose profits reach the small profits threshold will be liable to pay Class 2 contributions and those whose profits fall under the threshold will be entitled to pay Class 2 contributions. Regulation 18 makes provision for this group to make returns, pay the contributions and keep and preserve appropriate records.

Regulations 19 and 20 make consequential amendments to regulation 151 and 152.

Regulation 21 amends Schedule 3 of the 2001 Regulations. Paragraph (2) amends Part 6. paragraph 10A of the Schedule is amended to provide that payments under the Armed Forces Early Departure Payment Scheme 2014 are to be disregarded when calculating a person's earnings for the purposes of establishing liability for earnings-related national insurance contributions. This amendment comes into force on 1st April 2015.

Paragraph (3) of regulation 21 amends Part 9 of Schedule 3 by inserting new paragraph 18. This paragraph makes provision with regard to employment-related securities ("ERS income") of internationally mobile employees. Chapters 2 to 5 of Part 7 of ITEPA 2003 make provision for the calculation of amounts that count as employment income in relation to ERS income for the purposes of establishing a charge to tax under Part 2 of ITEPA 2003. Chapter 5B of Part 2 of ITEPA 2003 makes provision for special rules to apply to the ERS income of internationally mobile employees. The ERS income is apportioned between income that is taxable as it arises, income that is taxable if and when it is remitted and income that is not taxable. The apportionment is normally done on a time basis, depending on the employee's residence status and the location of their duties over the period for which the ERS income is treated as having been earned.

Section 4(4)(a) of the 1992 Act and Regulation 22(7) of the 2001 Regulations provide that the full amount of the ERS income constitutes earnings for the purpose of establishing liability for earnings-related national insurance contributions. Schedule 3 to the 2001 Regulations provides for certain payments to be disregarded in the calculation of earnings for the purpose of establishing liability for earnings-related national insurance contributions. The new paragraph 18 provides a disregard for the proportion of the ERS income which is attributable to periods in which the individual would not otherwise be liable for earnings-related national insurance contributions (owing to residence conditions, EU social security rules or an international social security convention). The ERS income is treated as having been earned over the same period as applies for the purposes of Chapter 5B of Part 2 of ITEPA 2003.

Regulation 22 amends Schedule 4 of the 2001 Regulations. Paragraphs (2), (3), (4) and (6) amend the Schedule so as to remove references to general earnings in line with the amendments made by regulations 7 to 9. Paragraph (5) substitutes paragraph 23. This paragraph requires an employer to notify HMRC that the employer has either recovered the whole or any part of a Secondary Class 1 contribution from an employee pursuant to an agreement described in paragraph 3A(2) of Schedule 1 to the 1992 Act or that liability for payment of the contribution has been transferred to the employee pursuant to an election under paragraph 3B of that Schedule.

Regulation 23 makes an amendment to Schedule 4A to remove the reference to general earnings.

Regulation 24 makes a number of amendments and revocations to the 2001 Regulations consequential on the coming into force of the 2015 Act.

Regulations 25 and 26 amend the Social Security (Categorisation of Earners) Regulations 1978 (S.I. 1978/1689) and the Social Security (Categorisation of Earners) (Northern Ireland) Regulations 1978 (S.R. 1978 No. 401) so as to replace the reference to general earnings with a reference to "earnings".

Regulations 27 to 38 make consequential amendments to the Income Support (General) Regulations 1987 (1987/1967), the Child Support (Maintenance Assessments and Special Cases) Regulations 1992 (S.I. 1992/1815), the Jobseeker's Allowance Regulations 1996 (S.I. 1996/207), the Social Security Benefit (Computation of Earnings) Regulations 1996 (S.I. 1996/2745), the Child Support (Maintenance Calculations and Special Cases) Regulations 2000 (S.I. 2001/155), the Housing Benefit Regulations 2006 (S.I. 2006/213), the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/214), the Employment and Support Allowance Regulations 2008 (S.I. 2008/794), the Universal Credit Regulations 2013 (S.I. 2013/376), the Jobseeker's Allowance Regulations 2013 (S.I. 2013/378) and the Employment and Support Allowance Regulations 2013 (S.I. 2013/379), in particular so as to align the language and legislative references with those contained in the 2015 Act.

Regulation 39 introduces a Schedule which makes various housekeeping revocations consequential on the changes made to the definition of employed earner and changes made by the 2015 Act.

A Tax Information and Impact Note covering the changes made by the 2015 Act was published on 17th July 2014 and is available on the website at <http://www.gov.gov.uk/government/collections/tax-information-impact-notes-tiins>. It remains an accurate summary of the impacts that apply to this instrument.

A Tax Information and Impact Note was published on 16th July 2013 which considered the impact of changing the definition of employed earner and is available on the website at <http://www.gov.gov.uk/government/collections/tax-information-impact-notes-tiins>. It remains an accurate summary of the impacts that apply to this instrument.

A Tax Information and Impact Note covering the amendment made by Regulation 21(2) was published on 10th December 2014 alongside the draft Finance Bill and is available on the website at <http://www.gov.gov.uk/government/collections/tax-information-impact-notes-tiins>. It remains an accurate summary of the impacts that apply to this instrument.

A Tax Information and Impact Note covering the amendment made by Regulation 21(3) was published on 10th December 2013 alongside the draft legislation for Chapter 5B of Part 2 of ITEPA 2003 and is available on the website at <http://www.gov.gov.uk/government/collections/tax-information-impact-notes-tiins>. It remains an accurate summary of the impacts that apply to this instrument.

A Tax Information and Impact Note covering the amendment made by regulation 22(5) was published on 10th December 2013 alongside Finance Bill 2014 draft legislation on employee share schemes and is available on the website at <http://www.gov.gov.uk/government/collections/tax-information-impact-notes-tiins>. It remains an accurate summary of the impacts that apply to this instrument.

© Crown copyright 2015

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£6.00

UK2015030369 03/2015 19585

<http://www.legislation.gov.uk/id/uksi/2015/478>

ISBN 978-0-11-113173-2



9 780111 131732