
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Insurance Contributions Act 2014 (c. 7) (“the Act”). Section 1 of the Act allows a secondary contributor to claim an employment allowance towards their liability to pay secondary Class 1 National Insurance contributions. Section 2 of the Act contains exceptions and in particular provides that certain persons are not able to qualify for an employment allowance. Regulations 2 and 3 insert new subsections (4B) to (4G) into section 2 of the Act.

The new subsection (4B) prevents a person from qualifying for the employment allowance if they incur qualifying liabilities of £100,000 or more in the tax year prior to claiming the employment allowance.

The new subsection (4C) prevents a person from qualifying for the allowance where the person is connected to a company or charity in a tax year and any company or charity within the connected group has incurred qualifying liabilities for the previous tax year of £100,000 or more.

The new subsection (4D) provides the definitions for the term ‘connected’ used in subsections (4B) and (4C).

The new subsection (4E) provides the definitions for terms used in subsections (4B) to (4E).

The new subsection (4F) prevents a person from qualifying for the allowance in the tax year of claim if, upon acceptance of the full allowance, that person would exceed their applicable de minimis state aid limit (once converted into euros). Limits to the amount of de minimis state aid that may be granted to particular undertakings are set out in EU Regulations and are calculated over a period of three fiscal years.

The new subsection (4G) sets out the definition of de minimis state aid for the purpose of subsection (4F), and the EU Regulations which determine de minimis limits according to relevant economic sectors.

A Tax Information and Impact Note covering this instrument was published on 25 June 2019 alongside a consultation draft of this instrument and is available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/810548/_draft_Employment_Allowance_Excluded_Persons_Regulations_tax_information_and_impact_note.pdf. It remains an accurate summary of the impacts that apply to this instrument.