

# NATIONAL INSURANCE CONTRIBUTIONS ACT 2014

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### ***Section 10: GAAR to apply to national insurance contributions***

119. *Subsection (1)* applies the GAAR in Part 5 of the Finance Act 2013 to NICs.
120. *Subsection (1)(a)* provides that where the GAAR refers to tax, such references include NICs.
121. *Subsection (1)(b)* provides that where the GAAR refers to a charge to tax it also includes a liability to pay NICs.
122. *Subsection (2)* modifies the list (at section 206(3) of the Finance Act 2013) of taxes to which the GAAR applies so that it includes NICs.
123. *Subsection (3)* includes “earnings” as defined for SSCBA 1992 and SSCB(NI)A 1992 within the examples of tax arrangements that may be abusive in section 207(4)(a) of the Finance Act 2013.
124. *Subsection (4)* provides that the adjustments to counteract a NICs advantage under section 209 of the Finance Act 2013 may be made by a notice given under paragraph 12 of Schedule 43 to the Finance Act 2013.
125. *Subsection (5)* sets out the process by which consequential relieving adjustments may be claimed for Class 4 NICs and the other classes of contributions. Such relieving adjustments may be necessary, for instance, to avoid contributors being double charged NICs because contributions have already been paid on earnings, for example if Class 4 contributions have been paid but the counteraction requires Class 1 contributions to be paid.
126. *Subsection (6)* provides for consequential relieving adjustments to be made in a notice given under section 210(7) of the Finance Act 2013.
127. *Subsection (7)* provides that the GAAR applies to arrangements entered into on or after Royal Assent.
128. *Subsections (8) and (9)* specify that where the arrangements under consideration form part of other arrangements entered into before Royal Assent, the other arrangements should be ignored in determining whether the tax arrangements are abusive. However, subsection (10) allows for other arrangements before Royal Assent to be taken into account as evidence that the arrangements under consideration are not abusive.
129. *Subsection (11)* defines “abusive”, “arrangements”, “HMRC” and “national insurance contributions”.