

SCHEDULE 1

Regulation 18

EXEMPTION FOR EXISTING MICRO-BUSINESSES AND NEW BUSINESSES

Micro-businesses

1. A micro-business is a business that has fewer than 10 employees (see paragraphs 6 to 8).

Existing micro-businesses

2. An existing micro-business is a business that was a micro-business immediately before 8th April 2013.

New businesses

3.—(1) A new business is a business which a person, or a number of persons, (“P”) begins to carry on during the period beginning on 8th April 2013 and ending on 31st March 2014.

(2) But a business is not a new business if—

- (a) P has, at any time during the period of 6 months ending immediately before the date on which P begins to carry on the business, carried on another business consisting of the activities of which the business consists (or most of them); or
- (b) P carries on the business as a result of a transfer (within the meaning of sub-paragraph (3)).

(3) P carries on a business as a result of a transfer if P begins to carry on the business on another person ceasing to carry on the activities of which it consists (or most of them) in consequence of arrangements involving P and the other person.

(4) For this purpose, P is to be taken to begin to carry on a business on another person ceasing to carry on such activities if—

- (a) P begins to carry on the business otherwise than in partnership on such activities ceasing to be carried on by persons in partnership; or
- (b) P is a number of persons in partnership who begin to carry on the business on such activities ceasing to be carried on—
 - (i) by a person, or a number of persons, otherwise than in partnership;
 - (ii) by persons in partnership who do not consist only of all the persons who constitute P; or
 - (iii) partly as mentioned in paragraph (i) and partly as mentioned in paragraph (ii).

(5) P is not to be regarded as beginning to carry on a business for the purposes of sub-paragraph (1) if—

- (a) before P begins to carry on the business, P is a party to arrangements under which P may (at any time during the period beginning on 8th April 2013 and ending on 31st March 2014) carry on, as part of the business, activities carried on by any other person; and
- (b) the business would have been prevented by sub-paragraph (2)(b) from being a new business if—
 - (i) P had begun to carry on the activities when beginning to carry on the business; and
 - (ii) the other person had at that time ceased to carry them on.

(6) “Arrangements” includes an agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Overpayments and Recovery) Regulations 2013, SCHEDULE 1. (See end of Document for details)

The exemption period: existing micro-businesses

4.—(1) This paragraph defines the exemption period in relation to an existing micro-business.

(2) The exemption period starts on 8th April 2013 and ends on the day after a grace period in relation to the business ends, if the grace period is one in which the business grows (see paragraphs 5 and 6).

(3) The following are grace periods in relation to a business for the purposes of this paragraph—

- (a) the 6-month period that starts with the first day after 8th April 2013 on which the business has 10 or more employees;
- (b) the 6-month period that starts after the end of a grace period (the “earlier grace period”) that is not one in which the business grows, in accordance with sub-paragraph (4) or (5).

(4) If the business has 10 or more employees on the day after the end of the earlier grace period, the next grace period starts on that day.

(5) If the business has fewer than 10 employees on that day, the next grace period starts on the next day on which the business has 10 or more employees.

Grace periods in which business grows

5.—(1) For the purposes of this Schedule, a grace period is one in which a business grows if A is greater than B, where—

- (a) A is the number of days in the grace period when the business has 10 or more employees; and
- (b) B is the number of days in the grace period when the business has fewer than 10 employees.

Number of employees of a business

6. For the purposes of this Schedule, the number of employees of a business is calculated as follows—

$TH/37.5$

where TH is the total number of hours per week for which all the employees of the business are contracted to work.

Employees of a business

7. For the purposes of this Schedule, the employees of a business are the persons who are employed for the purposes of the business in connection with any of the activities of which the business consists.

Employees

8.—(1) In this Schedule, “employee” means an individual who has entered into, or works under, a contract of employment.

(2) In sub-paragraph (1) “contract of employment” means a contract of service, whether express or implied, and (if it is express) whether oral or in writing.

Franchises

9. For the purposes of this Schedule, a business that is carried on pursuant to a franchise agreement is treated as part of the business of the franchisor (and not as a separate business carried on by the franchisee).

Changes to legislation:

There are currently no known outstanding effects for the The Social Security (Overpayments and Recovery) Regulations 2013, SCHEDULE 1.