

EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (CONTRIBUTIONS) (AMENDMENT NO. 4)
REGULATIONS 2020

2020 No. 923

1. Introduction

- 1.1 This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs (HMRC) and is laid before Parliament by Command of Her Majesty.
- 1.2 This explanatory memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 These regulations provide for certain bursary payments made to care leavers starting an apprenticeship ("the care leaver's apprenticeship bursary payment") which are now exempted from liability to income tax, to be disregarded from the Class 1 National Insurance contributions (NICs) calculation of an employed person's earnings.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 This instrument will apply in relation to any payments made on or after 29 September 2020. In relation to payments made since the scheme came into effect in August 2018, but before this instrument came into force, HMRC will exercise its collection and management discretion and will refrain from collecting any NICs due on those payments.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is Great Britain.
- 4.2 The territorial application of this instrument is Great Britain.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 Section 11(1) of the Finance Act 2020 (c. 14) inserted a new section 254A into the Income Tax (Earnings and Pensions) Act 2003 (ITEPA), providing for a new income tax exemption for the care leaver's apprenticeship bursary payment. Further details of the scope of the exemption are provided in the Income Tax (Care Leaver's

Apprenticeship Bursary Payment) Regulations 2020 (S.I. 2020/922), which prescribes certain conditions and definitions as required by section 254A.

- 6.2 The care leaver's apprenticeship bursary payment would ordinarily constitute earnings from an employment under section 3 of the Social Security Contributions and Benefits Act 1992 (SSCBA), and therefore both the employer and the apprentices would be liable to pay Class 1 NICs under section 6 of the SSCBA. These regulations are being introduced alongside S.I. 2020/922 to ensure that these payments are not subject to Class 1 NICs.
- 6.3 The Secretary of State for Work and Pensions has concurred to the making of the final text of this instrument.

7. Policy background

What is being done and why?

- 7.1 The Education and Skills Funding Agency (ESFA) is an executive agency sponsored by the Department for Education. In August 2018 it introduced a one-off bursary of £1,000 payable to individuals aged between 16 and 24, who are either in or have left the care of a local authority. This bursary is payable upon the individual starting an English statutory apprenticeship.
- 7.2 Young people leaving care can experience additional barriers to getting an apprenticeship. The care leaver's apprenticeship bursary payment helps to cover some of the additional costs incurred in the first year of their apprenticeship as learners transition into the workplace for their practical studies.
- 7.3 Individuals are generally liable to pay income tax, and individuals and employers are both liable to pay Class 1 NICs, on payments that derive from an employment. This includes individuals who are employed as apprentices, and so the income tax exemption (Section 254A of ITEPA and S.I. 2020/922) coupled with this instrument, will ensure that individuals receiving the care leaver's apprenticeship bursary payment have the full benefit of the payment.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

- 9.1 There are no plans for consolidation as this is a stand-alone instrument.

10. Consultation outcome

- 10.1 No formal consultation exercise has been held as this is a minor change which is wholly relieving to the taxpayer. However, the Department for Education and ESFA who are responsible for making care leaver's apprenticeship bursary payments have been consulted as stakeholders during the drafting of these regulations.

11. Guidance

- 11.1 Guidance will be made available on the gov.uk website when the regulations come into effect at: <https://www.gov.uk/guidance/expenses-and-benefits-for-apprenticeship-bursaries-for-care-leavers>.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A Tax Information and Impact Note covering this instrument was published on 11 March 2020 and is available on the gov.uk website at:

<https://www.gov.uk/government/publications/income-tax-and-national-insurance-exemptions-for-bursary-payments-to-care-leavers/income-tax-and-national-insurance-exemptions-for-bursary-payments-to-care-leavers>

It remains an accurate summary of the impacts that apply to this instrument.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses who operate eligible apprenticeship schemes.
- 13.2 No specific mitigating action is proposed to minimise regulatory burdens on small businesses.
- 13.3 The basis for the final decision on what action to take to assist small businesses is that the legislation does not impose new requirements on small businesses. It was therefore considered that no mitigating action was required, as it is a wholly relieving measure.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is to monitor and review it, as appropriate, within the context of the wider tax framework.
- 14.2 This measure will be monitored through information collected by ESFA and kept under review through regular communication with affected taxpayer groups.
- 14.3 These regulations do not include a statutory review clause because of an exemption for taxes and other charges in section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015.

15. Contact

- 15.1 Muhammad Chaudhary at HMRC Telephone: 03000 534 629 or email: Muhammad.chaudhary@hmrc.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Rachel Nixon, Deputy Director for National Insurance Policy, at HMRC can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Rt Hon Jesse Norman MP, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.