



National Insurance and Self-employed Entertainers

Summary of Responses
23 October 2013

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1. Introduction

Background

- 1.1 Since 1998 self-employed entertainers¹ have been subject to separate treatment for the purpose of paying tax and National Insurance contributions (NICs). For the purposes of tax, Her Majesty's Revenue & Customs' (HMRC) view is that, as a generality, entertainers are engaged under self-employment terms and that their employment status, for both tax and NICs, applying relevant case law criteria², is self-employment (although this will depend on the facts). Most entertainers are therefore taxed as self-employed.
- 1.2 The Social Security (Categorisation of Earners) Regulations 1978 ("the Regulations"), amongst other things, deem self-employed entertainers to be employed earners for National Insurance purposes. They achieve this by deeming that under prescribed circumstances the earnings of a self-employed entertainer are treated as employed earnings, as a consequence of which Class 1 NICs are payable on those earnings. They also determine which person or party is liable to account for and pay the Class 1 NICs to HMRC as the secondary contributor.
- 1.3 The principal policy reason for deeming the earnings of self-employed entertainers in certain circumstances to be those of an employed earner, is to provide access to earnings-related contributory benefit entitlement, particularly, contributions-based Jobseeker's Allowance (JSA).
- 1.4 In more recent years, the manner in which entertainers are engaged and paid for their work has made it increasingly difficult for the Regulations to operate as intended. This gap between the strict application of the legislation and the reality of how entertainers are engaged and paid, causes fundamental, and in some cases insurmountable, problems in terms of the practical operation of Class 1 NICs on payments made to self-employed entertainers.
- 1.5 The Regulations in some cases fail to meet their original policy intention to protect the access of most entertainers to earnings-related contributions-based JSA; they nevertheless place an increasing administrative burden on their industry engagers in determining whether or not the Regulations should be applied and if so by whom. A combination of issues is creating uncertainty for both entertainers and their engagers.

¹ An entertainer is defined as " a person employed as an actor, singer or musician or in any similar performing capacity" – Regulation 1(2) of The Social Security (Categorisation of Earners) Regulations 1978, as inserted by Regulation 2 of the Social Security (Categorisation of Earners)(Amendment) Regulations 1998

² *McCowen and West (Appellants) v Inland Revenue (Respondent)*, 1993, Appeal to Special Commissioners for Income Tax

- 1.6 Sir Stanley Burnton in the recent Court of Appeal judgement in the case of *ITV Services V HMRC* summed up one aspect of this uncertainty.

“It is thankfully rare for such deceptively simple and superficially clear formulations as those in paragraph 5A of column (B) of the Categorisation Regulations in force with effect from 6 April 2003 to create difficulties of interpretation and application such as those in the present case.

Paragraph 115, Court of Appeal judgement, *ITV Services v HMRC*, 23 July 2013 (<http://www.bailii.org/ew/cases/EWCA/Civ/2013/867.html>)

Details of the consultation

- 1.7 On 15 May 2013 HMRC published a consultation document: “National Insurance and Self-Employed Entertainers”, which discussed the precise difficulties being caused by the current application of the Regulations. The consultation ran for 12 weeks until 6 August 2013 and was an opportunity for self-employed entertainers, their engagers and other interested parties in the entertainment industry to assist HMRC in finding a solution that would deliver:

- Access to unemployment benefits for all self-employed entertainers, broadly equivalent to the current standard rate of earnings-related contributory benefit;
- NICs legislation in respect of entertainers which works simply, transparently and effectively; thus alleviating the current burdens on the industry;
- NICs treatment of entertainers which does not undermine the commercial well-being of the entertainment industry;
- The continued integrity of the NICs system;
- Protection for the National Insurance Fund ; and
- A long-term fit-for-purpose legislative change that would effectively deal with the evolving trends in the industry that have occurred since the Regulations were amended in 2003 pertaining to the different ways in which entertainers are engaged and remunerated, and also accommodate future commercial changes in the industry.

- 1.8 The consultation set out four possible options for changing the NICs treatment of self-employed entertainers going forwards, all of which HMRC believe would have achieved these objectives:

Option 1: Provide for separate secondary contributors for those NICs due on Initial Performance Payments (IPPs) made to entertainers and those NICs due on Additional Use Payments (AUPs) made to entertainers;

Option 2: Provide that IPPs are subject to Class 1 NICs, but AUPs are subject to Class 4 NICs;

Option 3: Repealing the Regulations in respect of entertainers, and amending Social Security legislation to introduce a new higher rate special Class 2 NICs for entertainers only to be paid in addition to Class 4 NICs; and

Option 4: Repealing the Regulations in respect of entertainers in order that entertainers pay Class 2 and Class 4 NICs like other self-employed individuals

- 1.9 In the consultation, HMRC acknowledged Option 4 as its preferred option but invited views from the public in respect of all four options.

Responses received

- 1.10** In total HMRC has received 11,814 individual responses to this consultation. Of these, 11,714 responses support HMRC's preferred Option 4 – Repealing the Regulations in respect of entertainers. 100 responses oppose this Option. The largest group of respondents were musicians with 7,613 individual musicians/musical organisations responding. The vast majority of these musicians' responses use a standard wording prepared by the Musicians' Union which we understand was also shared with the Association of British Orchestras whose membership also responded using similar wording.
- 1.11** A breakdown of the responses received is presented in Annex A to this document.
- 1.12** During the course of the consultation, officials from HMRC, the Department for Work and Pensions (DWP) and the Department for Culture Media & Sport (DCMS), also attended a number of meetings with interested parties to discuss the proposals. Feedback from these parties has been considered additionally as part of the consultation exercise.
- 1.13** HMRC wishes to thank all those who responded to the consultation document and recognises the time and effort that went into the comments and contributions, which have informed our recommendations to ministers and the Government's decision on the future policy relating to NICs and entertainers. A list of these respondents (excluding individuals) is shown in Annex B.

2. Responses

2.1 This chapter summarises the responses to this consultation, and specifically each of the seven questions posed in the consultation document.

General comments

2.2 Overall, respondents welcomed the opportunity to comment and share their experiences of the current application of the Regulations.

2.3 Respondents almost universally agreed that:

- The current National Insurance treatment of entertainers does not take into account the commercial realities of making UK entertainment in 2013, resulting in confusion, financial uncertainty, and practical burdens;
- The current treatment cannot continue if the UK is to retain its prime position in the global market place as a world leader in the production of Film, Television, Music, Theatre and corporate video communications; and
- The preferred Option 4 – repealing the Regulations in respect of entertainers, is the simplest and most practical way of achieving all of the policy objectives listed in paragraph 1.7

2.4 All respondents indicated their understanding of the policy rationale for HMRC's proposal to change the NICs status for entertainers.

2.5 The single common point of concern raised by all opponents of Option 4 is the benefit implications for entertainers of no longer paying Class 1 NICs which could result in a potential loss of benefit entitlements (including statutory payments which depend on payment of Class 1 NICs such as Statutory Sick Pay and Statutory Maternity Pay). This concern is explained in more detail in paragraph 2.8.

Responses to the consultation questions

Question 1: Do you agree that current NICs treatment of entertainers under the Social Security (Categorisation of Earners) Regulations 1978 needs to be changed?

2.6 This question provided the clearest and most direct responses of all the consultation questions. Those respondents in disagreement were predominantly workers, engagers or representatives of the acting profession.

2.7 Specifically the concern raised by the minority of respondents who opposed Option 4 is that HMRC's proposed future treatment of entertainers as self-employed for NICs will provide a strong indicator to the DWP that entertainers should also be treated as self-employed for the purposes of Universal Credit (UC).

2.8 Some respondents feared that, being treated as self-employed by DWP, will have the impact of reducing the benefit awarded to entertainers under UC as

self-employed UC claimants are subject to specific gainful self-employment tests.

“Equity’s overarching concern relates to how welfare reform and in particular the introduction of Universal Credit delivers negative outcomes for Equity members. As Equity has explained to HMRC, the DCMS and DWP in meetings to discuss the NIC consultation, if the Minimum Income Floor is applied to entertainers who are gainfully self-employed and between engagements, the financial safety upon which many entertainers rely to sustain their careers in the entertainment industry will be significantly reduced and in some cases removed entirely.”

Equity (Entertainment Trade Union)

“If Background/Supporting Artists will be termed as self employed, with a set amount of earnings per year this will be incorrect and financially unsustainable. We should be termed Freelance Ad Hoc (working as and when needed) workers who continue to pay Class 1 NI contributions when in work, and benefit as any other unemployed worker who has paid their dues when we have no work. In short, we must retain the status quo because this is what works for our particular type of work and has done so since 1998”

S, Background/Supporting Artist

2.9 This view, however, was not shared by the majority of actors who responded.

“I have never once claimed benefits; I much prefer to find other temporary work if I need funds while I am not engaged in acting work. This attitude of self-reliance, resourcefulness and adaptability is very typical of entertainers, and it is a credit to us that so many of us do not resort to state support when we feel that we can earn money by other means.

M, Actor

2.10 Full details of this issue of benefit entitlement for entertainers under HMRC’s proposals can be found in Chapter 8 of the consultation document which is available to read at:

<https://www.gov.uk/government/consultations/national-insurance-and-self-employed-entertainers>

Question 2: Do you agree that self-employed entertainers should be removed from the Class 1 NICs regime? Please give reasons for your answer.

2.11 In this question, the views of the respondents largely flowed from their responses to question 1, with the same number of respondents answering ‘No’ to question 1 also answering ‘No’ to this question for the same reasons given for question 1.

- 2.12** Of the large majority of respondents (11,714) that answered ‘Yes’ to this question, a variety of reasons were given.

“Whilst there are detailed reasons for the regulations, an average tax payer would be astounded to find that certain individuals are subject to such specialised treatment. In general there would be an expectation that entertainers should be either employed or self-employed - and their tax and NIC position should be consistent. At the moment entertainers can ‘have their cake and eat it’ by winning the ‘self-employed’ argument for tax status whilst then arguing for contributory benefit protection and as a result being subject to Class 1 NICs”.

Company Pictures

“Against the perceived trend from my Equity colleagues, I guess, but as a registered self-employed performer, I pay 6-monthly Class 2 NICs as well as Class 4 NICs on submission of my accounts – on top of that I get, unavoidably, clobbered for Class 1 NICs at source from some Production Companies, Broadcasters and Advertising Agencies. Personally, I’d like to see Class 1 NICs done away with completely for the freelance, self-employed, performer.

I, Actor

“I have been a professional musician since I was 16 years old and am now 50. In all this time I have never had any help from government or indeed asked for it but am moved to write due to the NI regulations. It is extremely difficult to make a living as a musician in this country although it is recognised the world over that we have some of the best in the world. I will take care of my learning and long apprenticeship myself over the years and pay my tax like a good citizen. What I do find very hard to swallow is the NI laws that actively set all in the UK at a disadvantage in the world market. We as a music industry bring in huge amounts of revenue to this country but this is now under threat and seen by me and many others as cutting our nose off to spite our face.

The huge amount of global work that comes here to utilise our musicians, studios, engineers, producers etc etc will go else where.....

As I said, I have asked nothing of you but please repeal this non sensical act before too much damage is done”

I, Musician

- 2.13** Overall the views of respondents to question 2 are summed by the following respondent.

“The current interpretation of the Regulations has adversely affected the economics of film and TV production in the UK. An additional 13.8% Class 1 employers NIC liability is damaging the viability of UK production activity which runs contrary, and risks undermining wider policy initiatives such as the high end TV and feature film tax credits.

The current dual status for entertainers of self-employment for tax but employment for NICs creates an environment lacking in simplicity and certainty resulting in an increase in the cost and practicalities of regulatory compliance”

Time Warner Group

Question 3: Do you agree that self-employed entertainers should be placed in the Class 2 and 4 NICs regime?

2.14 Whilst the majority of responses (11,714) overwhelmingly agreed with this question, their reasons given once again varied.

“This Association considers the present arrangements for NICs to be illogical and contradictory to the self-employed status of circus artistes as entertainers. There should be no unnatural distinction between entertainers and other categories of self-employed workers, particularly one which is based on the ability to obtain state benefits“

The Association of Circus Proprietors of Great Britain

“To place self-employed entertainers within Class 2 or Class 4 for NIC results in consistent treatment with a self-employed status for income tax and takes out of the equation the potentially onerous requirements on those with secondary contribution liabilities”

Smith-Williamson LLP

2.15 Again however, there were a small number of respondents (90) disagreeing with question 3.

“None of the above addresses the impact the change in legislation would have on the entertainers themselves. It seems that very little information has been collected to see how many of them claim unemployment benefit and what the effect of the changes will mean to them. We don't know enough about the new Universal Credit but gather it will not be a good alternative to supporting any out of work actors. How many of them have other jobs is also an open question. One would assume that such jobs would be fairly low paid and temporary if the entertainer needs to be available to pursue their main career”

Sargent-Disc Ltd

Question 4: If you answered “Yes” to Question 3, which of the two possible options discussed in this chapter do you believe should be adopted?

2.16 Of those 11,714 responding positively to question 3, all unanimously chose Option 4 as their preferred option, again for differing reasons.

“Consistency of treatment with other self-employed workers suggests that the standard Class 2 and 4 approach is the most appropriate”

BBC

“Option 4 will deliver a significant administrative gain for the UK entertainment production industry. The administration and Class 1 NIC cost make engaging entertainers in the UK too much of a burden and is a deterrent to engaging entertainers in the UK”

Omnicom Europe Ltd, Advertising Group

“Should Option 4 not be taken forward then the situation could be completely unworkable and cause problems for live music performances across the country”

UK Music

Question 5: Having considered Chapter 9, do you agree that Option 4 should be implemented as the future NICs treatment of entertainers?

2.17 Here again those responses agreeing with question 4 also agree with question 5.

“An overwhelming majority of members who responded to our survey were in favour of this option (Option 4). It would simplify the system and bring entertainers in line with other self-employed workers, remove the administrative burdens created by the current system, and reduce production costs.

At the same time as we understand from chapters 8 & 9 of the consultation document, entertainers would pay less NICs under this option and those on a low income with modest savings would continue to be eligible for at least the same level of support in means tests benefits as at present”

Society of London Theatres and Theatrical Management Association

“I would like to firmly support the preferred option 4 – repealing the regulations in respect of entertainers.

I believe that self-employed musicians (self-employed for tax purposes) and those who engage them should not be subject to Class 1 NI.

The current situation poses huge problems for musicians and for those who engage musicians as a result of them having to pay employees’/employers’ NI.

Film producers, who bring lucrative inward investment into the UK’s creative economy by way of recording soundtracks for films, are expressing concern about engaging UK musicians as a result of the extra expense. If these regulations are not repealed, we may also see the closure of a number of orchestras.”

Extract from Musician’s Union standard letter to HMRC, sent by 6000+ individual musicians

Question 6: Do you have any other comments you would like to make about the information contained in this consultation document, or information which you believe is relevant to this consultation?

2.18 Many respondents used this question to reaffirm their previous responses.

“We reiterate that our overarching concern is provision of a financial safety net from the state that enables entertainers to weather periods between engagements and grow sustainable careers in the entertainment industry”

Equity

2.19 A number however, raised new ideas or points for consideration in the consultation.

“We suggest that rather than removing entertainers altogether from the Categorisation Regulations, the law be revised so that entertainers without a contract of service are automatically categorised as self-employed for NICs”

The Institute of Chartered Accountants in England and Wales

“Reporting such as for student loan repayments (driven from social security definitions) extends the administration to a wider extent which makes little sense i.e. the student loan legislation is targeted at employers, but the requirement to treat entertainers as employed for NIC hence has a knock-on effect for student loans despite these persons not being employees.

Omnicom Europe Ltd

2.20 HMRC is very grateful to those respondents who provided new perspectives and ideas on this issue, particularly those whom HMRC has not had reason to engage

with directly on previous occasions. All of these views have been considered and our response is outlined in the Chapter 3 of this document.

Question 7: Do you agree with our assessment of the Taxes impacts of Option 4? If not, please provide evidence for this.

2.21 This question is a standard question which HMRC includes in all its consultation documents as a matter of best practice. The question is intended to give the public, the opportunity to challenge us and comment on the impacts we have identified as resulting from our proposals.

2.22 In respect of this consultation, respondents either agreed with the impacts identified by HMRC or abstained on the basis that they felt unqualified or lacked alternative data with which to challenge HMRC's assessment of these impacts.

2.23 A number of respondents suggested that more data would be helpful in terms of the potential cost of a Special Class 2 NIC for entertainers as presented in Option 3 of the consultation document. We have considered this and again our response is outlined in the Chapter 3 of this document.

3. The Government's response

- 3.1** It is clear from the large number of responses received by HMRC to this consultation that the NICs treatment of entertainers is a matter of major concern to both entertainers and their engagers alike. The universal message that all respondents have sent from this consultation is the need for certainty in the operation of NICs for entertainers.
- 3.2** In the May consultation document, HMRC set out the evolution of the Regulations, and how they had come to the current point where they neither achieve their policy objective of providing benefit protection for entertainers nor deal effectively with the changes that have occurred since 2003 as regards the ways in which entertainers are engaged and paid.
- 3.3** It also outlined the exact difficulty with the Regulations and how to a greater or lesser extent the four policy options in the consultation might address these. HMRC's preferred option, it was explained, was Option 4 - repealing the Regulations. This option was felt to be the simplest and most pragmatic of the four options and would mostly achieve the policy objectives HMRC were seeking when it set out on the consultation exercise:
- Access to unemployment benefits, broadly equivalent to the current standard rate of earnings-related contributory benefit, for all entertainers;
 - NICs legislation (in respect of entertainers) which works simply, transparently and effectively; thus alleviating the current regulatory burdens on the industry;
 - NICs treatment of entertainers which does not undermine the commercial well-being of the entertainment industry;
 - The continued integrity of the NICs system;
 - Protection for the National Insurance Fund; and
 - A long-term solution that is able to accommodate future commercial changes in the industry
- 3.4** HMRC has based this view on nearly two years of extensive research, engaging with representatives of entertainers and engagers from across the UK entertainment and corporate communications industries.
- 3.5** The Government is pleased that the majority of responses received to this consultation support the view of HMRC that the Regulations should be repealed. We consider that this is the best solution giving certainty to entertainers and engagers alike for the future whilst at the same time protecting the commercial well-being of these industries and preserving the UK's place as a world leader in the production of entertainment and corporate communications.
- 3.6** However, we are also conscious of the possible benefit impacts for entertainers of paying Class 2 and 4 NICs rather than Class 1. We appreciate the concern of the minority of respondents that some entertainers may receive less benefits due to paying Class 2 and 4 NICs as a self-employed earner, than they would if they were to continue paying Class 1 NICs as at present.
- 3.7** An entertainer who pays Class 2 and 4 NICs on their entertainment income and consequently receives less UC than they would if paying Class 1 NICs (and receiving contributions-based Jobseeker's Allowance) does so because their

existing savings and other household income exceed the means tested limits. So although they will lose benefits, this is likely to be because they have other resources upon which to draw.

- 3.8** HMRC has worked extensively with colleagues from DWP, both prior to and through the consultation period. DWP colleagues have clarified that if HMRC's preferred option 4 is implemented, entertainers who would have otherwise been treated as 'employed' will likely be treated as 'self-employed' for UC purposes under HMRC's proposal. Liability for Class 2 and 4 NICs would be seen by DWP as an indicator that entertainers are in receipt of self-employed earnings.
- 3.9** In common with any claimant to UC who receives self-employed earnings, the DWP has to determine if their self-employment is 'gainful.' Gainful self-employment is determined on a case by case basis and dependant on individuals' circumstances.
- 3.10** A determination of gainful self-employment allows the DWP to assess whether claimants are entitled to a start-up period or not, whether the Minimum Income Floor³ applies to them or not, or whether they will be required to search for other work.
- 3.11** Claimants who are deemed to be gainfully self-employed will be exempt from work search and work availability requirements. As explained in the consultation document, they will also have a Minimum Income Floor applied to their award. For a number of claimants, this may result in a reduction in the monthly level of their UC award.
- 3.12** We also understand that, in particular, where an entertainer has paid Class 1 NICs on any of their earnings from any work in the relevant period prior to making a benefit claim, they may be eligible for the same contributory benefits as at present.
- 3.13** The carefully planned, timed and phased roll-out of the UC scheme by DWP means that for those entertainers without sufficient Class 1 NICs paid, there will be a sufficient lead-in time to adjust to the new rules.

Other issues

- 3.14** An additional issue raised by respondents to the consultation was the potential impact of changing entertainers to Class 2 and 4 NICs on those entertainers currently repaying student loans.
- 3.15** HMRC estimates that a very small proportion of the UK's 80,000 entertainers are student loan borrowers, who are currently repaying their loans via PAYE on income from entertaining. Presently such borrowers are liable to having their loan repayments deducted at source with Class 1 NICs. Repealing the Regulations would result in these borrowers being required instead to calculate and pay over any student loan repayments due on their entertainment income under Self-Assessment on an annual basis. This would bring entertainers into line with the calculation and repayment procedures which apply to all other self-employed student loan borrowers.

³ A fuller explanation of the Minimum Income Floor can be found in Chapter 8 of the consultation document which is available to read at:

<https://www.gov.uk/government/consultations/national-insurance-and-self-employed-entertainers>

- 3.16** Should such entertainers also be repaying their student loans via PAYE on other employment income, they will be able to claim a corresponding credit when calculating their student loan repayments due at the end of the tax year. Given the small number of individuals involved we think the impact in term of student loan repayments is likely to be nominal.

Conclusion

- 3.17** HMRC have analysed all of the responses to the consultation and paid due regard to the recent decisions of the Tribunals and the judgment of the Court of Appeal in the ITV Services case and have presented recommendations to Treasury Ministers which also consider carefully the Government's wider agenda in relation to the UK entertainment industry.

- 3.18** **The Government has concluded that entertainers who are engaged under a contract *for services* (a self-employed contract) should be treated as self-employed for tax, NICs and student loan purposes. To give effect to this, the provisions of the Regulations relating to entertainers should be repealed with effect from 6 April 2014.**

- 3.19** **Treasury ministers have given their approval for HMRC to lay regulations by negative resolution in Parliament that will repeal the Social Security (Categorisation of Earners Regulations) 1978 as they apply to entertainers with effect from 6 April 2014. This means that persons employed as actors, singers or musicians or in any similar performing capacity, who are engaged under a contract for services, will be subject to taxation and NICs as self-employed earners from this date.**

- 3.20** We believe that this is the correct, transparent and evidence-based option that is clearly supported by public opinion. It provides a simple and permanent solution to a very long standing issue that has burdened the entertainment industry and caused problems for both it and HMRC for over 10 years. This also aligns with wider Government policy and meets the wishes of the majority of those affected by these Regulations.

Next Steps

- 3.21** A draft of the Statutory Instrument to repeal the relevant parts of the Regulations for self-employed entertainers with effect from 6 April 2014 is attached to this document as Annex C. Technical comments are invited on the draft Statutory Instrument. These should be submitted by e-mail to paye.policy@hmrc.gsi.gov.uk by **20 November 2013**.

Annex A: Breakdown of consultation responses

HMRC received 11,814 individual responses to the consultation which can be broken down as follows:

Responses by professional group:

Musicians	7,613 responses
Actors	552 responses
Producers	2,636 responses
Specialist Tax/Legal Advisors	510 responses
Others	503 responses
Total responses received	11,814

Responses by chosen/preferred option⁴:

In favour of HMRC's preferred Option 4:	99.1% (11,714)⁵
Opposed to HMRC's preferred Option 4 only:	0.8% (90)⁶
Opposed to Option 4, but preferring Option 1:	0.1% (10)
No preference/option selected	0

⁴ Percentages are rounded to the nearest single decimal place

⁵ This response rate includes those individual Musicians' Union members using the standard wording suggested by the Musicians' Union in their response.

⁶ This response rate includes those individual Equity members using the standard wording suggested by Equity in their response.

Annex B: List of organisations contributing to this consultation

HMRC would like to thank the Department for Work and Pensions; the Department for Culture Media and Sport; the Department for Social Development Northern Ireland; and the following organisations for their direct or indirect contributions to this consultation:

2Boot Music
Aberystwyth Arts Centre
Academy of St Martins in the Fields
Accord Music Ltd
All Party Parliamentary Group for Classical Music
All3Media Ltd
Ambassador Theatre Group
Articulated Productions Ltd
Arts Council England
Association of Accounting Technicians
Association of Circus Proprietors of Great Britain
Association of British Orchestras
Association of Taxation Technicians
Bakers Entertainment
Bampton Opera
Barbican Centre
Bent Ear Ltd
Berwin Leighton Paisner LLP
Big Bang Music
Big Talk Productions
Birmingham Opera Company
Birmingham Royal Ballet
Bournemouth Symphony Orchestra
BPI (British Recorded Music Industry) Ltd
Bridgend County Borough Council
British Academy of Songwriters, Composers and Authors
British Broadcasting Corporation
British Equity Collecting Society
British Universities Finance Directors Group
BSkyB Group PLC
Canyoureelit
Cape Road Productions Ltd
Casa Management
City of Birmingham Symphony Orchestra
City of London Sinfonia
Clonter Farm Music Trust
Company Pictures
Concert Promoters Association
Cultural Foundation
Culturing Stuff
Dandy Riots
DDDco Ltd
Deep Blue Productions Ltd
Delfont Mackintosh Theatres
Deloitte LLP
Directors Guild of Great Britain
Disney
DJ School UK
Dombey Street Productions Ltd
Drew Bang recording
Ealing Studios
Ecobride Ltd
Ecosse Films
Elementary Productions Ltd
Endemol UK Ltd
English National Opera
Ensemble Cymru
Eon Productions Ltd
Equity
Farrow Accounting & Tax Ltd
Federation of Scottish Theatre
FilmFixer Ltd
Fire and Blood Productions Ltd
Flying Entertainment Ltd
FremantleMedia Group Ltd
Garsington Opera
Gorgon Productions Ltd
Grand Pavilion Porthcawl
Grange Park Opera
Grant Thornton LLP
Greenwich Theatre
Grosvenor Television Productions Ltd
Halle Concerts Society
Hanway Films
Harry Stoneham Music
Hartwood Films
Hat Trick Productions
HBO Film and Television Development Ltd
Icon Films
Imagine Theatre Ltd
Incorporated Society of Musicians
Independent Theatre Council
Institute of Chartered Accountants in England and Wales
International Visual Communications Association
ITV Services Ltd
Jazz Services
Juice Moving Images Ltd
KMPG LLP (UK)
Koco Drama Ltd
KPMG LLP
Lee & Thompson LLP
Leeds Independent Studios Ltd
Left Bank Pictures
Linklaters LLP
Lochnagar Ceilidh Band
London Banqueting Ensemble
London Metropolitan Orchestra
London Philharmonic Orchestra
London Society of Chartered Accountants
Low Incomes Tax Reform Group
Lyric Hammersmith
Making Music
Mammoth Productions Ltd

Mammoth Screen Ltd
Manchester Camerata
Mayzmusik Performing Arts Academy
Mitre Music
MTR Ltd
Music Industries Association
Music Publishers Association
Music Theatre Wales
Musicians' Union
National Music Council
NBCUniversal International Ltd
Nick Martin & Co
Nimax Theatres
Nederlander Organisation
North Music Trust
North Pole Studio
Northern Ballet
Northern Chamber Orchestra
Nugene Music & Management
Octagon Theatre Bolton
Omicom Europe Ltd
On The Record Studios
Opera & Music Theatre Forum Ltd
Opera Interludes
Orchestra of the Age of Enlightenment
Orchestras Live
Piatti Quartet
Pinewood Studios
Pricewaterhouse Coopers LLP
Producers Alliance for Cinema and Television
Production Guild
Pukka Films
QDOS Entertainment (Pantomimes) Ltd
QWERTY Films
Raise The Roof Productions
Rambert Dance Company
Rayner Essex LLP
Really Useful Group
Red Lion Films Ltd
Red Planet Pictures Ltd
Red Production Company
Renegade Pictures (UK) Ltd
Ricochet Ltd
Ricochet Productions Ltd
Robert Ziegler
Rocklock Films Ltd
Rory Duffy Trio & Jazz Quartet
Royal Academy of Music
Royal National Theatre
Royal Northern Sinfonia
Royal Opera House Covent Garden
Royal Philharmonic Orchestra
Royal Scottish National Orchestra
Royal Shakespeare Company
S4C
Sadler's Wells
Saffery Champness Chartered Accountants
Sargent-Disc Ltd
Scottish Ballet
Scottish Baroque Ensemble Ltd
Scottish Chamber Orchestra
Second Movement
Shadowdark Productions Ltd
Shed Media Group Ltd
Shed Media Ltd
Shed Media Scotland Ltd
Shed Productions (Waterloo Road) Ltd
Sinfonia Cymru
Sinfonia Viva
Sloane Square Films Ltd
SMA Talent Ltd
Smith & Williamson LLP
Society of London Theatres/Theatrical
Management Association
St David's Hall Cardiff
St John's College Cambridge
Sticky Company and Studios
Sweet Wave Audio
The First in Kommand Records
The Flying Music Group Ltd
The Recording Booth
Theatre Royal Stratford East
Thompson Place Productions Ltd
Tiger Aspect Productions
Time Warner Ltd
Tony Peers Productions
Trademark Films Ltd
Twenty Twenty Brighton Ltd
Twenty Twenty Productions Ltd
UK Music
Unexpected Opera
VeeEye Ltd
Veep Productions (UK) Ltd
Velocity Productions Ltd
Victoria Palace Group
Wall to Wall (New Tricks) Ltd
Wall to Wall Media Ltd
Wall to Wall South Ltd
Warner Bros. Productions Ltd
Watershed Television Ltd
Welsh National Opera
Wiggin LLP
Working Title Films Ltd
Yalli Productions Ltd
Zodiak UK Entertainment
Zram Records

Annex C: Draft Statutory Instrument repealing the Regulations

STATUTORY INSTRUMENTS

2014 No. 0000

SOCIAL SECURITY

The Social Security (Categorisation of Earners) (Amendment) Regulations 2014

<i>Made</i> - - - -	<i>1st January 2014</i>
<i>Laid before Parliament</i>	<i>2nd January 2014</i>
<i>Coming into force</i> - -	<i>6th April 2014</i>

The Treasury, in exercise of the powers conferred by sections 2(2)(b) and (2A), 7(2) and (3) and 175(4) of the Social Security Contributions and Benefits Act 1992⁽⁷⁾ and sections 2(2)(b) and (2A), 7(2) and (3) and 171(4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992⁽⁸⁾, make the following Regulations.

The Secretary of State concurs in the making of regulations 3, 4 and 5 and the Department for Social Development⁽⁹⁾ concurs in the making of regulations 7, 8 and 9.

Citation and commencement

1. These Regulations may be cited as the Social Security (Categorisation of Earners) (Amendment) Regulations 2014 and shall come into force on 6th April 2014.

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

2. The Social Security (Categorisation of Earners) Regulations 1978⁽¹⁰⁾ are amended as follows.

⁽⁷⁾ 1992 c. 4. Section 2(2A) was inserted by paragraph 2 of Schedule 11 to the Welfare Reform and Pensions Act 1999 (c. 30). Section 7(2) was amended and subsection (3) inserted by paragraph 7 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c. 11); and section 175(4) was amended by paragraph 29 of that Schedule.

⁽⁸⁾ 1992 c. 7. Section 2(2A) was inserted by paragraph 10 of Schedule 11 to the Welfare Reform and Pensions Act 1999 (c. 30). Section 7(2) was amended and subsection (3) inserted by paragraph 8 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671).

⁽⁹⁾ The functions of the Department of Health and Social Services for Northern Ireland under the Social Security Contributions and Benefits (Northern Ireland) Act 1992 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).

⁽¹⁰⁾ S.I. 1978/1689, amended by S.I. 1998/1728 (which itself was amended by S.I. 1999/3), 2003/736 and 2004/770; there are other amending instruments but none is relevant.

3. In regulation 1(2) (citation, commencement and interpretation) omit the definition of “entertainer”.

4. In Part I of Schedule 1 —

- (a) in paragraph 2(b) in column (B) after “as an” insert “actor, singer, musician or other”;
- (b) omit paragraph 5A in column (A); and
- (c) omit paragraph 5A in column (B).

5. In Schedule 3 (employments in respect of which persons are treated as secondary Class 1 contributors) omit—

- (a) paragraph 10 in column (A); and
- (b) paragraph 10.in column (B).

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

6. The Social Security (Categorisation of Earners) Regulations (Northern Ireland) 1978⁽¹¹⁾ are amended as follows.

7. In regulation 1(2) (citation, commencement and interpretation) omit the definition of “entertainer”.

8. In Part 1 of Schedule 1 —

- (a) in paragraph 2(b) in column (B) after “as an” insert “actor, singer, musician or other”;
- (b) omit paragraph 5A in column (A); and
- (c) omit paragraph 5A in column (B).

9. In Schedule 3 (employments in respect of which persons are treated as secondary Class 1 contributors) omit—

- (a) paragraph 8 in column (A); and
- (b) paragraph 8 in column (B).

Date *Name*
Name
Two of the Lords Commissioners of Her Majesty’s Treasury

The Secretary of State concurs.

Signed by the authority of the Secretary of State for Work and Pensions.

Date *Name*
Minister of State
Department for Work and Pensions

The Department for Social Development concurs.

Sealed with the Official Seal of the Department for Social Development on *th 2014

Date *Name*
Senior Officer of the Department for Social Development

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Categorisation of Earners) Regulations 1978 (“the principal Regulations”) and the Social Security (Categorisation of Earners) Regulations (Northern Ireland) 1978 (“the principal NI Regulations”) which provide, for the purposes of the Social Security Contributions and Benefits

⁽¹¹⁾ S.R. 1978 No. 401, amended by S.R. 1998 No. 250 (which itself was amended by S.R. 1999 No. 2, S.I. 2003/733 and 2004/770; there are other amending instruments but none are relevant,

Act 1992 and the Social Security Contributions and Benefits (Northern Ireland) Act 1992, for persons in employments of certain descriptions to be treated as falling within a different category of earners, and specify the person who is to be treated as the secondary contributor in respect of payments to certain description of earners. The amendments made by these Regulations mean the principal Regulations and the principal NI Regulations will no longer apply to entertainers.

Regulation 3 removes the definition of “entertainer” from the principal Regulations and regulation 7 does the same to the principal NI Regulations.

Regulation 4 removes paragraph 5A in column (A) of Part I of Schedule 1 to the principal Regulations so that the description of employment of a person as an entertainer, not being employment under a contract of service or in an office with general earnings is omitted from the list of descriptions of employment to which the principal Regulations apply. As a consequence, the corresponding paragraph 5A in column (B) is also removed. This regulation also adds an actor, singer, and musician to the category of persons excepted from the operation paragraph 2 in column (A). Regulation 8 does the same to the principal NI Regulations.

Regulation 5 removes from Schedule 3 the provision which specifies the person producing the entertainment as the secondary contributor in respect of payments of salary to entertainers. Regulation 9 does the same to the principal NI Regulations.

A Tax Information and Impact Note covering this instrument will be published on the HMRC website at <http://www.hmrc.gsi.gov.uk/thelibrary/tiins.htm>

Please submit technical comments only on the content of this draft Statutory Instrument to paye.policy@hmrc.gsi.gov.uk by 20 November 2013