



## National Insurance – Changes for entertainers from 6 April 2014

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### Who is likely to be affected?

Entertainers (that is, persons employed as an actor, singer, or musician; or in any similar performing capacity); those engaging entertainers; and those making any form of “additional use” payments to entertainers.

### General description of the measure

This legislative change will repeal the current Social Security (Categorisation of Earners) Regulations 1978 (“the 1978 Regulations”) and the Social Security (Categorisation of Earners) (Northern Ireland) Regulations 1978 (“the 1978 NI Regulations”) which deem, in certain prescribed circumstances, that a self-employed entertainer is in receipt of an employed earner’s earnings for the purposes of paying Class 1 National Insurance contributions whilst continuing to be treated as a self-employed person for the purposes of paying tax.

### Policy objective

This change aligns the tax and National Insurance positions for entertainers engaged under a contract *for services* (i.e. self-employment). It removes significant regulatory; financial; and practical burdens on entertainers and those who engage them. It also resolves a lack of clarity across the UK entertainment industry which has existed for many years regarding the circumstances under which Class 1 National Insurance contributions were payable and by whom.

This change has been almost universally welcomed by the entertainment industry.

### Background to the measure

Following public consultation between May and August 2013 on options for simplifying the operation of National Insurance for entertainers, 11,814 members of the public responded in favour of repealing the current National Insurance Regulations for entertainers.

The Government announced its decision in a formal response to this consultation on 23 October 2013, and published for technical comments a draft of the Statutory Instrument repealing the Regulations. This further technical consultation closed on 20 November 2013. No technical comments were received.

## Detailed proposal

### Operative date

This change will have effect from 6 April 2014.

### Current law

Regulation 1(2) of the 1978 Regulations and the 1978 NI Regulations defines an entertainer as a person who is employed as an actor, singer or musician, or in any similar performing capacity.

Paragraph 5A in columns (A) and (B) of Schedule 1 in Part 1 of the 1978 Regulations and the 1978 NI Regulations deems a self-employed entertainer to be in receipt of an employed earner's earnings where their remuneration from an engagement contains any element of "salary". The term "salary" is statutorily defined in this paragraph.

An entertainer engaged on a contract for services falling within this paragraph is liable to pay Class 1 National Insurance on their earnings from that contract.

Paragraph 10 in columns (A) and (B) of Schedule 3 to the 1978 Regulations and paragraph 8 the in columns (A) and (B) of Schedule 3 to the 1978 NI Regulations provides that the secondary contributor who is responsible for deducting the employees' Class 1 contributions and also paying the Class 1 employers' contributions is the producer of the entertainment from which the entertainer's earnings are derived.

### Proposed revisions

From 6 April 2014, all of the above current law will be removed from the Regulations and entertainers will by default (and subject to normal minimum National Insurance thresholds) attract Class 2 and 4 National Insurance liabilities on their self-employed earnings.

A minor revision is also made to the wording of Paragraph 2 in Column (B) of Schedule 1 in Part 1 of the Regulations which relates to Agency workers. Since the definition of 'entertainer' will be deleted, the purpose of this minor revision is to reinstate the wording found in sub-paragraph (b) of Paragraph 2 of the original 1978 Regulations.

### Summary of impacts

<b>Exchequer impact (£m)</b>	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19
	-	-£50 million	-£50 million	-£50 million	-£50 million	-£50 million
	The measure will have a negative impact of £50million per annum. However, the Exchequer impacts must be considered in the context of the combined industry data which estimates entertainment production to be worth circa £50 billion per annum to the UK Economy (see next section below).					
<b>Economic impact</b>	<p>2010 research by Oxford Economics suggests the UK film sector alone generates £13 for every £1 spent on film production.</p> <p>Representations from industry stakeholders suggest reform could have a positive impact on UK Film, TV, Video Communication and Music Production companies due to the overall savings of not operating and paying Class 1 NICs.</p> <p>The financial viability of those parts of the industry which operate on extremely tight budgets will be improved, so enabling them to continue to engage entertainers. The certainty, and reduction in regulatory burden and cost, will help the UK to be better able to retain its place as a world leader in certain aspects of entertainment production.</p> <p>The removal of Class 1 NICs from these engagements may free the financial resources of UK producers allowing them to make more productions and hence to engage more entertainers and technicians; boosting both the economy and the number of UK jobs created by the industry at the same time.</p>					

<p><b>Impact on individuals and households</b></p>	<p>Based on Self-Assessment (SA) data from 2010-11, there are approximately 80,000 self-employed entertainers in the UK declaring total taxable profits of around £900 million.</p> <p>We estimate that around £670 million of this income came from entertainment and would be within scope of the Regulations. If all of this income was subject to Class 2 and 4 NIC rates rather than the higher Class 1 rates, then the cost to the National Insurance Fund is estimated to be around £50 million.</p> <p>DWP have advised that some households or individuals previously entitled to contributions-based JSA could see a substantial reduction in entitlement to benefits as they may have little or no entitlement to Universal Credit (UC) due to means testing, capital rules etc. Those likely to lose out will be entertainers with high savings or working partners. These groups are unlikely to satisfy the means testing for UC.</p> <p>DWP do not expect this impact to be significant at an overall level however.</p>
<p><b>Equalities impacts</b></p>	<p>The movement from Class 1 NICs regime to Class 2 and 4 NICs Regimes may impact upon pregnant female entertainers. These individuals are currently entitled to Statutory Maternity Pay operated by their engager on the basis of their Class 1 NICs paid. From 6 April 2014 they will only be entitled to Statutory Maternity Allowance which is significantly less.</p> <p>It is not possible to accurately measure this impact without knowing how many entertainers are currently entitled to Statutory Maternity Pay from their engagers and how many are correctly receiving this. Stakeholder evidence suggests most entertainers consider themselves as self-employed and hence those entertainers concerned would seek Statutory Maternity Allowance via DWP based on their Class 2 contributions if seeking to claim any maternity benefit at all.</p>
<p><b>Impact on business including civil society organisations</b></p>	<p>HMRC believes that repeal of the Regulations will deliver a significant administrative gain for the UK entertainment production industry.</p> <p>Based on one example provided by Industry stakeholders, the administrative cost of operating Class 1 NICs for one 2012 award winning UK film production alone was £680,000. These funds were obtained by cutting the jobs of 250 freelance performers and technicians. This figure is reflective of other commercially sensitive evidence provided to HMRC by other stakeholders. If this data is extrapolated across UK Film Television, Music and Corporate Video production, the total administrative gain can be estimated to be a saving for the industry of many millions of pounds and the number of jobs protected in the thousands.</p> <p>Producers (and potentially third party buyers inside the EEA) will not be required to operate payroll systems (or incur the related administrative costs of this) simply for the purposes of being able to operate Class 1 NICs if the Regulations apply to an entertainer they engage.</p>

<b>Operational impact (£m) (HMRC or other)</b>	There will be no visible operational impact on HMRC as no operational changes are required. From 6 April 2014 entertainers are simply being moved from the existing Class 1 National Insurance process to the existing Class 2 and Class 4 National Insurance processes. All these processes are already firmly established as part of HMRC's normal day to day operational delivery.
<b>Other impacts</b>	<p><u>Carbon assessment:</u> The measure will have no impact on the environment.</p> <p><u>Small firms' impact test:</u> The impact of this measure on small businesses is not anticipated to differ from that on large businesses.</p> <p>Other impacts have been considered and none have been identified.</p>

### **Monitoring and evaluation**

The measure will be evaluated on an ongoing basis following implementation. HMRC's Business and Customer Strategy team will offer advice and support to customers affected by the change to their National Insurance position. HMRC's Status Policy Team will monitor feedback from this engagement.

### **Further advice**

If you have any questions about this change, please contact Gill Standen on 03000 536786 (gill.standen@hmrc.gsi.gov.uk).