

NATIONAL INSURANCE CONTRIBUTIONS BILL

Overview for Regulations required for new paragraph 7BB inserted by section 9(3) to Schedule 1 of the National Insurance Contributions (NICs) Bill

New paragraph 7BB provides regulation making powers to allow HMRC to provide for Class 2 contributions to be paid in advance of submission of a Self Assessment in connection with Maternity Allowance under section 35 or 35B of the Social Security Contributions and Benefits Act 1992 (and the equivalent legislation in Northern Ireland). Any such contribution will be treated as a Class 2 contribution under section 11(6) if it is made before the end of the tax year. If it is made after the end of the tax year and the customer is liable under section 11(2) (by virtue of having profits at or above the new Small Profits Threshold) it will be treated as a contribution under section 11(2) or, if not, it will be treated as a Class 2 contribution under section 11(6).

New regulation 90A is being made under the power at paragraph 7BB. It provides for the exceptions process that will allow payment of Class 2 contributions in advance of submission of a Self Assessment return, where that payment is made in connection with Maternity Allowance. The regulation prescribes that such payments can only be made up to and including 31 January next following the end of the relevant tax year. In other words, such payments cannot be made after the deadline by which an individual has to complete their Self Assessment return for the relevant tax year.

Overview for Regulations required for Clause 2 of the National Insurance Contributions (NICs) Bill

Clause 2 provides regulation making powers for consequential and associated changes to regulations that are needed in connection with the provision in Clause 1, of this Bill. In addition paragraph 9(3) of Schedule 1 to the Bill amends sections 35A and 35B of the Social Security Contributions and Benefits Act 1992 (and the equivalent legislation in Northern Ireland) to reflect how eligibility for Maternity Allowance will be determined when the Bill comes into force. There will be a number of minor consequential amendments (such as altering cross references to reflect the new provisions) that will need to be made to existing legislation. Changes will also be required to the Social Security (Maternity Allowance)(Earnings) Regulations 2000 to reflect these changes.

The Maternity Allowance Earnings regulations will be amended to remove reference to the small earnings exception certificate, which is being abolished by this Bill. In addition the changes will enable self-employed women who do not wish to make voluntary Class 2 payments or who would have previously been eligible for a small earnings exception certificate, to be eligible for the lower rate of MA if they have been self-employed for 26 weeks out of the 66 week period before the week the baby is due.

The regulations will also be amended to reflect the fact that women will not be able to rely on a contemporaneous record of Class 2 payments record when Class 2 liability forms part of self-assessment. Women who have not filed a self-assessment return in respect of the appropriate period will be able to make a voluntary early payment of Class 2 contributions under the new exceptions process before their liability has been assessed.

The Maternity Allowance Earnings regulations will be amended so that women who have either made the relevant Class 2 contributions, or have made a voluntary payment under the exception process, will have access to the standard weekly rate of Maternity Allowance. This maintains the current position and ensures that no woman will be adversely impacted by the changes.

HMRC and DWP invite observations on this draft, which can be emailed to shell.makwana@hmrc.gsi.gov.uk and jane.e.edwards@dwp.gsi.gov.uk.