

EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (CONTRIBUTIONS) (AMENDMENT) REGULATIONS
2016 No. [XXXX]

1. This explanatory memorandum has been prepared by HM Revenue and Customs (HMRC) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument defines an apprentice for whom employers (secondary contributors) would pay a zero-rate of secondary Class 1 National Insurance contributions (NICs) on earnings up to the Upper Secondary Threshold.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 These Regulations use the power in section 9B(9) of the Social Security Contributions and Benefits Act 1992 for the first time.

4. Legislative context

4.1 The National Insurance Contributions Act 2015 (NICA 2015) amended the Social Security Contributions and Benefits Act 1992 (SSCBA 1992) and the equivalent Northern Ireland legislation to make provision for a zero-rate of secondary Class 1 NICs to be payable in relation to 'relevant apprentices'. Secondary Class 1 NICs are paid by employers. 'Relevant apprentices' are defined in section 9B of the SSCBA 1992 as earners aged under 25 who are employed in the employment as an apprentice. Section 9B(9) provides a power by which the Treasury can define 'apprentice' for the purposes of the section and thus define eligibility for the zero-rate of secondary Class 1 NICs for apprentices under the age of 25.

4.2 These Regulations exercise the new power in section 9B(9) of the SSCBA 1992, and the Northern Ireland equivalent to define apprentice. The new provision is inserted into the Social Security (Contributions) Regulations 2001 (S.I 2001/1004).

5. Territorial extent and application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

What is being done and why?

7.1 The policy is that a zero-rate of secondary Class 1 NICs will apply in respect of earnings paid to relevant apprentices under the age of 25, up to the Apprentice's Upper Secondary Threshold, which for 2016 to 2017 will be aligned with the NICs Upper Earnings Limit (for the 2015 to 2016 tax year this is £815 per week).

7.2 The policy intention is to support the growth of high quality apprenticeships for young people, which provide a high level of training and skills development. To achieve the policy intention, the NICs relief is focussed on apprentices under the age of 25 engaged in government approved frameworks which can be validated in routine HMRC compliance activity. This requirement will be achieved by limiting the definition of relevant apprentice to government recognised apprenticeships i.e. those which follow government arrangements underpinned by legislation.

7.3 The policy encompasses formal government arrangements across the UK, including recognised apprenticeships within the devolved administrations.

7.4 The policy will apply to both new and existing apprentices following a government recognised apprenticeship framework. .

7.5 The vast majority of government recognised apprenticeships are funded by the government but, in some cases, apprenticeships may be funded by employers or employees. Co-funded apprenticeships, with an element of both employer and government funding, are also likely to become more common in future across the UK and are thus necessary to include these in the definition of a relevant apprentice.

7.6 In defining the meaning of apprentice for the purposes of the zero rate, HM Treasury and HMRC have discussed the matter with those responsible for apprenticeship policy in the 4 nations and sought their input to these regulations

Consolidation

7.7 There are currently no plans to consolidate the Social Security (Contributions) Regulations 2001.

8. Consultation outcome

8.1 This policy was announced in the Autumn Statement on 3 December 2014 for implementation by April 2016. [Text to be added following technical consultation].

9. Guidance

9.1 There is currently online guidance available on the GOV.UK website in relation to English apprenticeships and employers' NICs liabilities. Similar online guidance exists for apprenticeships in Wales, Northern Ireland and Scotland. The GOV.UK website will be updated with information in relation to this secondary Class 1 zero-rate relief in January 2016.

10. Impact

10.1 The impact on business, charities or voluntary bodies will occur if they employ apprentices. There may be some small costs to employers in applying the definition of apprenticeship for the purposes of the employer NICs relief and retaining information to evidence their apprentice's eligibility.

10.2 The impact on the public sector is as described in 10.1.

10.3 A Tax information and Impact Note was published on 10 December 2014 about the impact of the abolition of employer contributions for apprentices under 25.

11. Regulating small businesses

11.1 The legislation will apply to small businesses, who will need to retain evidence of their apprentice's eligibility for the secondary Class 1 zero-rate relief. The benefit for smaller businesses (the reduction of secondary Class 1 NICs from 13.8% to 0% on earnings below the upper secondary threshold) will significantly outweigh any costs.

12. Monitoring and review

12.1 The legislation will be kept under review through communication with affected taxpayer groups.

13. Contact

13.1 If you have any questions about this change, please contact Joanne Collings on Telephone: 03000 575869 (email: joanne.collings@hmrc.gsi.gov.uk).