EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (CONTRIBUTIONS) (RE-RATING) ORDER 2013

2013 No. [XXXX]

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

2. Purpose of the instrument

2.1 This instrument gives effect to the annual re-rating of various National Insurance contributions (NICs) rates and limits. The purpose of this Statutory Instrument is to specify for the tax year beginning 6 April 2013:

- the rate of Class 2 NICs payable by the self-employed;
- the Class 2 small earning exception (SEE), which sets the level of earnings below which the self employed can be exempted from paying Class 2 NICs;
- the rate of Class 3 NICs payable by those wishing to protect their contribution record for basic state pension and bereavement purposes; and
- the lower profits limit (LPL) and the upper profits limit (UPL) between which the self employed pay the main Class 4 percentage rate.

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

3.1 None.

4. Legislative Context

4.1 In each tax year the Treasury is required, by section 141 of the Social Security Administration Act 1992 ("the Administration Act"), to conduct a review of the general level of earnings in Great Britain taking into account changes in that level since their last review with a view to determining whether an order should be made under that section to have effect for the following tax year.

4.2 It is a condition precedent to laying such an order under section 141 of the Administration Act that a copy of a report by the Government Actuary or the Deputy Government Actuary be laid before Parliament on the effect which, in that Actuary's opinion, the making of the order would have on the National Insurance Fund. A copy of the report can be found on the Government Actuary's Department website at http://www.gad.gov.uk/Publications/index.html. If an order is made under section 141 of the Administration Act, the order may also make a corresponding provision for Northern Ireland under section 129 of the Social Security Administration (Northern Ireland) Act 1992.

4.3 The report also covers the effect of the Social Security (Contributions) (Limits and Thresholds) (Amendment) Regulations 2013,which is made at the same time as this Order, which specifies the levels of the lower earning limit and upper earnings limits (UEL) and the primary and secondary thresholds for Class 1 NICs for

2013-14. The prescribed equivalents of the primary and secondary thresholds where the earnings period is a month or a year are also specified in those Regulations.

4.4 As a consequence of this Order being made consequential amendment will be made to regulation 125(c) of the Social Security (Contributions) Regulations 2001 (SI 2001/1004). The Social Security (Contributions) (Re-rating) Consequential Amendment Regulations 2013, which will be subject to negative resolution, will give effect to the annual re-rating exercise in respect of the special rate of Class 2 NICs payable by share fishermen for the tax year 2013-14. The amending Regulations will take effect from 6 April 2013. The proposed draft Regulations and associated explanatory memorandum are attached for advance notice and for information purposes only.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Exchequer Secretary to the Treasury, Mr David Gauke MP has made the following statement regarding Human Rights:

In my view the provisions of the Social Security (Contributions) (Re-rating) Order 2013 are compatible with the Convention rights.

7. Policy background

- ***What is being done and why***

7.1 In the Budget on 23 March 2011 it was announced that the basis for indexation of the NICs rates, limits and thresholds would be by reference to the Consumer Price Index (CPI). The exceptions are as follows: the secondary threshold (the point at which employers start to pay Class 1 NICs) which will continue to be set by reference to the Retail Price Index (RPI); and the Class 1 UEL / Class 4 UPL which will continue to be aligned with the point at which higher rate income tax is paid. For September 2012, the rates of the CPI and RPI were 2.15% and 2.65% respectively.

7.2 Class 2 contributions are payable by the self-employed and are a flat rate weekly contribution. This Order increases the rate of Class 2 contributions to £2.70 per week.

7.3 Self-employed earners whose earnings from self employment are below the SEE can apply to be exempt from the payment of Class 2 contributions. The SEE is increased to £5,725 per year.

7.4 Class 4 contributions are payable in addition to Class 2 contributions by those who are self-employed earners and whose taxable profits exceed the LPL. Class 4 contributions are payable at the main Class 4 percentage rate (currently 9%) on profits between the LPL and UPL and at the additional Class 4 percentage rate (currently 2%) on all profits above the UPL.

7.5 The LPL is increased to £7,755 from 6 April 2013 in line with the CPI. The UPL is set at the same level as the UEL for Class 1 contributions and is being reduced to £41,450 to maintain alignment both with the UEL and with the point at which higher rate income tax becomes payable.

7.6 Class 3 contributions are payable on a voluntary basis and are also a flat rate weekly contribution. Class 3 contributions are payable by those who wish to protect their entitlement to certain contributory benefits. This Order increases the rate of Class 3 contributions to £13.55 per week.

8. Consultation outcome

8.1 No consultation has been undertaken. This instrument relates to routine changes to rates and limits as part of the annual NICs re-rating exercise.

9. Guidance

9.1 This Order does not impose a new obligation.

9.2 The NICs rates, limits and thresholds for 2013-14 were announced on 5 December 2012 in the Autumn Statement and can be found on HMRC's website.

10. Impact

10.1 No impact on business, charities and voluntary bodies is foreseen.

10.2 No impact on the public sector is foreseen.

10.3 In line with government commitments, a Tax Information and Impact Note has not been prepared for this instrument as it gives effect to previously announced policy and it relates to routine changes to rates, limits and thresholds to a predetermined indexation formula.

11. Regulating small business

11.1 The changes to the SEE, Class 2 rate and Class 4 limits in this Order apply to small businesses in so far as the proprietor(s) are self employed. These small businesses will need to acquaint themselves with the new rates and limits in order to calculate their National Insurance liabilities for the tax year 2013-14. These changes have no impact on employees.

12. Monitoring & review

12.1 Section 141 of the Administration Act requires the Treasury to conduct in each tax year a review of the level of general earnings in Great Britain. This Order makes changes to existing rates, limits and thresholds as a result of that review and will not be subject to any further or specific monitoring and review.

13. Contact

Hasan Mustafa at HMRC, Tel: 0207 147 2508 or e-mail: hasan.mustafa@hmrc.gsi.gov.uk can answer any queries regarding the instrument.

Attachments

The following draft documents are laid for information only and are not subject to any parliamentary procedure

1. Informal draft of The Social Security (Contributions) (Re-rating) Consequential Amendment Regulations 2013

2. Informal draft Explanatory Memorandum

STATUTORY INSTRUMENTS

2013 No. 0000

SOCIAL SECURITY

The Social Security (Contributions) (Re-rating) Consequential Amendment Regulations 2013

Made - - - -	*****
Laid before Parliament	*****
Coming into force - -	*6th April 2013*

The Treasury make these Regulations in exercise of the powers conferred by sections 117(1) and 175(3) of the Social Security Contributions and Benefits Act 1992(**a**) and by sections 117(1) and 171(3) and (10) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**b**).

The Secretary of State and the Department for Social Development concur in the making of these Regulations.

This instrument contains only provisions in consequence of an order made under section 141 of the Social Security Administration Act 1992(**c**) and section 129 of the Social Security Administration (Northern Ireland) Act 1992(**d**).

Citation and commencement

1.—(1) These Regulations may be cited as the Social Security (Contributions) (Re-rating) Consequential Amendment Regulations 2013.

(2) These Regulations come into force on 6th April 2013 immediately after the coming into force of the Social Security (Contributions) (Re-rating) Order 2013(**e**).

DRAFT

(**a**) 1992 c. 4; section 117(1) was amended by paragraph 68 of Schedule 7 to the Social Security Act 1998 (c. 14) and by paragraph 23 of Schedule 3, and paragraph 6 of Schedule 7, to the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c. 2) ("the Transfer Act").

(**b**) 1992 c. 7; section 117(1) was amended by paragraph 50 of Schedule 6 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I.10)) and by paragraph 23 of Schedule 3, and paragraph 5 of Schedule 6, to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) ("the Transfer Order"). Section 171(10) was amended by paragraph 28(3) of Schedule 3 to the Transfer Order. The functions of the Department of Health and Social Services for Northern Ireland 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).

(**c**) 1992 c. 5; section 141 was amended by paragraph 44 of Schedule 3 to the Transfer Act and by paragraph 16 of Schedule 1 to the National Insurance Contributions Act 2002 (c. 19).

(**d**) 1992 c. 8; the relevant amendment to section 129 is that made by paragraph 43 of Schedule 3 to the Transfer Order.

(**e**) S. I. 2013/0000.

Amendment to the Social Security (Contributions) Regulations 2001

2. In regulation 125(c) of the Social Security (Contributions) Regulations 2001(**a**) (modification of provisions of the Social Security Contributions and Benefits Act 1992 in relation to share fishermen), for "£3.30" substitute "£3.35".

Name
Name
Date Two of the Lords Commissioners of Her Majesty's Treasury

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

Name
Minister of State
Date Department for Work and Pensions

The Department for Social Development concurs.
Sealed with the Official Seal of the Department for Social Development on [date]

L.S.

Name
A senior officer of the Department for Social Development

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 6th April 2013, amend the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004) ("the principal Regulations"). They are made in consequence of the annual up-rating order made under section 141 of the Social Security Administration Act 1992 (c. 5) and section 129 of the Social Security Administration (Northern Ireland) Act 1992 (c. 8).

Regulation 2 amends regulation 125(c) of the principal Regulations by altering the special rate of any Class 2 contributions payable by share fishermen from £3.30 to £3.35.

A Tax Information and Impact Note has not been prepared for this instrument as it gives effect to previously announced policy and it relates to routine changes to rates, limits and thresholds to a predetermined indexation formula.

(**a**) S.I. 2001/1004, amended by S.I. 2012/867; there are other amending instruments but none is relevant.

DRAFT

EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (CONTRIBUTIONS) (RE-RATING) CONSEQUENTIAL AMENDMENT REGULATIONS 2013

2013 No. [XXXX]

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

2. Purpose of the instrument

2.1 The purpose of this Statutory Instrument is to make a consequential amendment to the special rate of Class 2 National Insurance contributions (NICs) payable by share fishermen from 6 April 2013.

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

3.1 [*Free text* or None [Drafting Note: free text will only be required if, at the time the instrument is laid, there are matters of special interest to bring to the attention of the JCSI].]

4. Legislative Context

4.1 The Social Security (Contributions) (Re-rating) Order 2013, approved by the House of Commons and House of Lords on the [** Feb/March and ** Feb/March 2013 respectively], increased the rate of Class 2 NICs to £2.70 per week. A consequence of this is that the special rate payable by share fishermen is increased from £3.30 to £3.35 per week.

4.2 This requires an amendment to regulation 125(c) of the Social Security (Contributions) Regulations 2001 (modification of provisions of the Social Security Contributions and Benefits Act 1992 in relation to share fishermen). These amendments are made under powers contained in sections 117(1) and 175(3) of the Social Security Contributions and Benefits Act 1992, and the corresponding powers for Northern Ireland.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

DRAFT

- ***What is being done and why***

7.1 In the Budget on 23 March 2011 it was announced that the basis for indexation of the weekly Class 2 contribution rates would be by reference to the Consumer Price Index (CPI). The September 2012 CPI was 2.15%.

7.2 Share fishermen pay a special rate of Class 2 NICs that entitles them to receive Contribution-based Jobseeker's Allowance for periods of inactivity (normally in the winter months). It is based on the ordinary rate of Class 2 NICs with a loading to cover Contribution-based Jobseeker's Allowance. Payment of ordinary Class 2 NICs does not give entitlement to this. This change is necessary because of the CPI increase to the weekly rate of Class 2 NICs.

- ***Consolidation***

7.3 These amendments will make only a small amendment to the Social Security (Contributions) Regulations 2001 which are very large and complex (the printed text ran to around 150 pages in 2001). HMRC has no current plans to consolidate these Regulations. On the last occasion it was a task involving 18 months work and contributions from four different Government departments.

8. Consultation outcome

8.1 No consultation has been undertaken. This instrument relates to routine changes to limits, rates and thresholds as part of the annual NICs re-rating exercise.

9. Guidance

9.1 These consequential Regulations do not impose a new obligation.

9.2 The NICs rates, limits and thresholds for 2013-14 were announced on 5 December 2012 in the Autumn Statement and can also be found on HMRC's website.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 In line with government commitments, a Tax Information and Impact Note has not been prepared for this instrument as it gives effect to previously announced policy and it relates to routine changes to rates, limits and thresholds to a predetermined indexation formula.

11. Regulating small business

11.1 The change to the special rate of Class 2 contributions payable by share fishermen apply to small businesses in so far as the proprietor(s) are self employed. These small businesses will need to acquaint themselves with the new rate in order to

DRAFT

calculate their National Insurance liabilities for the tax year 2013-14. These changes have no impact on employees.

12. Monitoring & review

12.1 These Consequential Regulations make changes to the special rate of Class 2 contributions payable by share fishermen and will not be subject to specific monitoring and review.

13. Contact

Hasan Mustafa at HMRC, Tel: 020 7147 2508 or e-mail: hasan.mustafa@hmrc.gsi.gov.uk can answer any queries regarding the instrument.

DRAFT