EXPLANATORY MEMORANDUM TO

THE FINANCE ACT 2009, SECTIONS 101 AND 102 (INTERST ON LATE PAYMENTS AND REPAYMENTS) APPOINTED DAYS AND CONSEQUENTIAL PROVISIONS ORDER 2014

2014 No. 992 (C.45)

1. This explanatory memorandum has been prepared by HM Revenue & Customs (HMRC) on behalf of HM Treasury and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

2.1 The instrument appoints the day for section 101 of the Finance Act 2009 to come into force for payments made in respect of the tax year 2014-15 and subsequent tax years for:

a. any Pay As You Earn (PAYE) amount[1] payable by a PAYE employer[2] to HMRC;
b. any Class 1 National Insurance Contributions (NICs) amount payable by an employer to HMRC; and
c. any Construction Industry Scheme (CIS) amount payable by a contractor to HMRC.

2.2 It appoints the day for section 102 of the Finance Act 2009 to come into force for payments made in respect of the tax year 2014-15 and subsequent tax years for:

a. any PAYE amount repayable by HMRC to a PAYE employer;
b. any Class 1 NICs amount which fall to be repaid by HMRC to an employer; and
c. any CIS amount which falls to be repaid by HMRC to a contractor.

2.3 The instrument also makes the necessary consequential amendments to both primary and secondary legislation.

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

3.1 None.

[1] Any amount of income tax which a person making payments within section 683 of the Income Tax (Earnings and Pensions) Act 2003 is required to deduct from those payments.
[2] As defined by article 3(3) of the Order.

4. Legislative Context

4.1 The instrument appoints 6th May 2014 as the day from which sections 101 and 102 of the Finance Act 2009 have effect in relation to:

a. any PAYE amount which is due and payable for tax year 2014-15 and subsequent tax years;
b. any Class 1 NICs amount which is due and payable for tax year 2014-15 and subsequent tax years; and
c. any CIS amount which is due and payable for tax year 2014-15 and subsequent tax years.

4.2 The instrument also makes consequential amendments to:

i. Taxes Management Act 1970;
ii. Social Security Administration Act 1992;
iii. Social Security Administration (Northern Ireland) Act 1992;
iv. Income Tax (Earnings and Pensions) Act 2003;
v. the Income Tax (Trading and Other Income) Act 2005;
vi. Income Tax (Pay As You Earn) Regulations 2003;
vii. Social Security (Contributions) Regulations 2001; and
viii. Income Tax (Construction Industry Scheme) Regulations 2005.

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 (David Gauke MP) has made the following statement regarding Human Rights:

In my view the provisions of The Finance Act 2009, Sections 101 and 102 (Interest on Late Payments and Repayments), Appointed Days and Consequential Provisions Order 2014 are compatible with the Convention rights.

7. Policy background

7.1 Sections 101 and 102 of the Finance Act 2009 contain provisions for late payment interest on sums due to HMRC and repayment interest on sums to be paid by HMRC.

7.2 These provide for a single set of rules for interest across the taxes and duties for which HMRC has responsibility. The intention is that the rules will apply to all new taxes and to existing taxes over time and will be switched on using an Appointed Day Order.

7.3 This Order switch on the rules for sums due to and from employers and contractors as outlined in 2.1 and 2.2 in respect of the tax year 2014-15 and subsequent tax years.

8. Consultation outcome

8.1 This instrument appoints the day for sections 101 (Late payment interest on sums due to HMRC) and 102 (Repayment interest on sums to be paid by HMRC) of the Finance Act 2009 and makes consequential amendments. It gives effect to previously announced policy for PAYE, NICs and CIS as outlined in 2.1 and 2.2 of this memorandum. The Government is therefore not consulting about the instrument.

9. Guidance

9.1 Relevant HMRC guidance will be amended to reflect this change.

10. Impact

10.1 The legislation will impact on any business, charity or voluntary body, regardless of its sector.

10.2 The legislation is applicable to employers and contractors who either do not make payment of the sums referred to in paragraph 2 above by the due and payable date or who overpay such sums to HMRC.

10.3 A Tax Information and Impact Note has not been prepared for this instrument as it gives effect to previously announced policy and it is an Appointed Day Order.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 The legislation is applicable to employers and contractors who either do not make payment of the sums referred to in paragraph 2 above by the due and payable date or who overpay such sums to HMRC.

12. Monitoring & review

12.1 The legislation contained within this Order will be monitored and reviewed as appropriate within the context of the wider legislative schemes.

13. Contact

Leon Wong (Tel: 03000 586624 / email: leon.wong@hmrc.gsi.gov.uk) at HMRC can answer any queries regarding the instrument.