

EXPLANATORY NOTES

National Insurance Contributions Act 2015

Chapter 5

NATIONAL INSURANCE CONTRIBUTIONS ACT 2015

EXPLANATORY NOTES

INTRODUCTION

1. These explanatory notes relate to the National Insurance Contributions Act 2015 which received Royal Assent on 12 February 2015. They have been prepared by HM Revenue & Customs (HMRC) in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament

2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

Structure of these notes

3. These notes begin with an overview of National Insurance contributions (NICs) and a summary of the measures contained within the Act. This is followed by an outline of the structure of the Act, its territorial extent and application and commentary on the Act's sections. The final part contains information about when the provisions in the Act come into force and a table showing the Act's passage through Parliament. Annex A contains a brief overview of how NICs works for the self-employed and Annex B contains a glossary of terms used in these notes.

SUMMARY AND BACKGROUND

Overview of NICs

4. The National Insurance Scheme was first established in 1911 and expanded in the late 1940s to provide funds for a more comprehensive and inclusive range of contributory benefits and to provide assistance with the funding for a new National Health Service.

5. Receipts from contributions are paid into the National Insurance Fund (NIF). Money kept in the NIF is separate from all other revenue raised by national taxes. The NIF is used exclusively to pay for contributory benefits and operates on a pay as you go basis: broadly speaking, this year's contributions pay for this year's benefits.

6. Briefly, the scheme consists of a number of benefits financed by NICs payable by earners, employers and others. Employees pay NICs on their earnings, employers pay NICs on the earnings they pay to their employees and the self-employed pay flat rate NICs and NICs on their profits and gains.

7. An earner can be either an employed earner or a self-employed earner. An employed earner is a person who is gainfully employed in Great Britain or Northern Ireland either under a contract of service, or in an office (including elective office) with earnings. A self-employed earner is a person who is gainfully employed in Great Britain or Northern Ireland otherwise than as an employed earner. Provision is made within the scheme to allow those who are not compulsorily covered to protect their entitlement to state retirement pension and bereavement benefits by means of voluntary NICs payments.

8. NICs are currently divided into six classes:

- Class 1 contributions, which are paid by both employees and employers on the employee's earnings, are payable at 12% and 2% by employees and 13.8% by employers.

- Class 1A contributions are payable annually, by employers only, on most taxable benefits in kind. Class 1A contributions are payable at a rate of 13.8%.

- Class 1B contributions are payable annually, by employers on items which are dealt with under a PAYE Settlement Agreement (PSA) for income tax. Class 1B contributions are payable at a rate of 13.8% on the value of items included in the PSA and on the total tax payable by the employer under the PSA.

- Class 2 contributions are paid by the self-employed at a flat rate of £2.75 per week for the 2014-15 tax year. Class 2 contributions are paid either monthly or six monthly. An individual whose earnings from self-employment are below a set level, which is £5,885 for 2014-15 (referred to as the small earnings exception (SEE)) and which is approximately equivalent to the exception limit that applies to employed earners[1], may apply for exception from Class 2 contributions on the grounds of low earnings.

- Class 3 contributions are payable at a flat weekly rate of £13.90 per week for the 2014-15 tax year by people who are not otherwise liable to pay Class 1 or Class 2 contributions, to protect entitlement to State Pension.

- Class 4 contributions are paid annually by the self-employed on profits chargeable to tax as trading income. Class 4 NICs are payable at a rate of 9% on profits between a lower and upper profits limit and 2% on profits above the upper profits limit.

9. An additional class of NICs (Class 3A) was introduced in the Pensions Act 2014 (section 25) and will be payable on a voluntary basis for a limited period by those who reach state pension age before 6 April 2016.

[1] Employed earners do not pay NICs until their earnings reach the Primary Threshold but they are treated as having paid NICs from a lower threshold referred to as the Lower Earnings Limit (LEL). Employed earners pay no NICs below the LEL.

Zero-rate secondary Class 1 contributions for apprentices under 25

10. The Government announced at Autumn Statement 2014 that it would introduce a zero-rate of secondary Class 1 NICs on earnings paid to apprentices under the age of 25 from 6 April 2016. Secondary Class 1 NICs are the contributions paid by employers and others who pay earnings. The zero-rate will apply to earnings up to the upper secondary threshold (to be provided for in regulations), for those employees.

11. The Act introduces the zero-rate and also provides for regulation-making powers exercisable by the Treasury to:

- define apprentice;
- vary the age group for which the zero-rate applies; and
- introduce an earnings threshold above which the zero-rate would not apply.

Simplifying NICs paid by the self-employed

12. At Budget 2014 the Government announced that the collection of Class 2 NICs would be moved into self-assessment (SA) so that the self-employed could deal with their Class 2 NICs together with their income tax and Class 4 NICs. This followed a 2012 recommendation by the Office of Tax Simplification and a consultation published in July 2013 entitled *Simplifying the National Insurance Processes for the Self-Employed*, which sought views on proposals to simplify Class 2 NICs.

13. This simplification will:

- change the way in which Class 2 NICs are structured;
- change the means by which Class 2 NICs are collected; and
- change the means by which Class 2 NICs are enforced with changes to associated appeal rights.

14. An overview of the way NICs currently works for the self-employed is contained in Annex A to these Explanatory Notes, together with a summary of the changes being made.

Follower notices and accelerated payments

15. The Government confirmed at Autumn Statement 2013 that it would introduce a new measure where HMRC would send a ‘follower notice’ to users of avoidance schemes that have failed in another party’s litigation, setting out HMRC’s view that they should settle their tax dispute. If they decide not to settle the dispute they would risk a penalty.

16. The Government also announced at Autumn Statement that a taxpayer who chose not to settle on receipt of a follower notice would be required to make an accelerated payment of the tax in dispute.

17. The consultation paper *Tackling marketed tax avoidance* was published on 24 January 2014. It set out the proposals and draft legislation for the further stages of the accelerated payment measures.

18. A follower notice sets out HMRC's view that a judicial decision determines a taxpayer's case and will invite them to settle their case. They will face a tax-geared penalty if they unsuccessfully continue with their case and cannot show either it was materially different from the other party's litigation or that they had reasonable grounds to continue the dispute.

19. Accelerated payments may be required from taxpayers in the following circumstances:

- Where a follower notice has been issued and the taxpayer decides not to settle their dispute;

- Where taxpayers are involved in schemes subject to disclosure under the Disclosure of Tax Avoidance Schemes (DOTAS) rules; or

- Where taxpayers have used arrangements that HMRC decides to counteract under the General Anti-Abuse Rule (GAAR), and where the Advisory Panel gives its opinion that the arrangements are not a reasonable course of action.

20. This Act applies the Finance Act 2014 (FA 2014) provisions to NICs ensuring that there is a single follower notices regime and accelerated payments regime for tax and NICs.

High risk promoters of avoidance schemes

21. FA 2014 includes legislation that will allow HMRC to issue conduct notices to promoters of tax avoidance schemes and monitor promoters who breach them. This Act applies FA 2014 provisions to promoters of NICs avoidance schemes ensuring that equivalent provision is made in respect of NICs.

22. Monitored promoters will be subject to new information powers and penalties which will also apply to intermediaries that continue to represent them after the monitoring commences. The monitored promoter will be named by HMRC, details of the breach of the conduct notice will be published and the promoter will be required to inform its clients that it is being monitored by HMRC. Clients of monitored promoters will also be subject to certain obligations (with a penalty for non-compliance) and extended time limits for assessments.

Targeted Anti Avoidance Rule to prevent people from circumventing new legislation tackling avoidance involving employment intermediaries

23. The temporary labour market is quick to react to any legislative changes and to find new ways of reducing income tax and NICs. Stakeholders have indicated that intermediaries involved in the facilitation of false self-employment may use avoidance vehicles and set up structures specifically designed to circumvent the legislation introduced by amending the Social Security (Categorisation of Earners) Regulations 1978 (as amended by the Social

Security (Categorisation of Earners) (Amendment) Regulations 2014). This Act includes a targeted anti-avoidance rule (TAAR) to deter such avoidance focussing on:

- the motive for setting up the arrangements – that they are set up with the motive of avoiding NICs under certain provisions themselves aimed at counteracting avoidance through false self-employment, intermediaries and structures involving overseas elements; and

- what it achieves – does it result in less NICs being paid?

OVERVIEW OF THE STRUCTURE OF THE ACT

24. The Act has nine sections and two Schedules.

25. Section 1 provides for a zero-rate of secondary Class 1 contributions for apprentices under 25.

26. Sections 2 and 3 and Schedule 1 make provision for simplifying NICs paid by the self-employed.

27. Section 4 and Schedule 2 provide for applying Part 4 (follower notices and accelerated payments) and Part 5 (promoters of avoidance schemes) of FA 2014 to NICs. Section 5 provides a power to amend legislation, if Part 4 or 5 of the FA 2014 is modified and those modifications would otherwise only apply to tax, to take account of them for NICs.

28. Section 6 inserts into the Social Security (Categorisation of Earners) Regulations 1978 (S.I. 1978/1689) (SS(CE)R) 1978) and Northern Ireland equivalent, a new TAAR to prevent people from circumventing new legislation tackling avoidance involving employment intermediaries. Section 6 also extends the scope of two existing regulation-making powers for (i) treating a person as being either employed or self-employed, and (ii) treating a person as a secondary contributor so as to enable regulations made under them to provide for TAARs.

29. Section 7 makes provision for HMRC's administrative expenses in relation to the provisions in this Act.

30. Section 8 defines abbreviations used in the Act.

31. Section 9 names the Act and makes provision about territorial extent.

TERRITORIAL EXTENT AND APPLICATION

32. The Act extends to England and Wales, Scotland and Northern Ireland. Northern Ireland has separate National Insurance legislation equivalent to that made for the rest of the United Kingdom. So, where appropriate, the Act either amends, or refers to, the equivalent Northern Ireland legislation relating to NICs.

COMMENTARY ON SECTIONS

Section 1: Zero-rate secondary Class 1 contributions for apprentices under 25

33. *Subsection (1)* provides for amendments to the Social Security Contributions and Benefits Act 1992 (SSCBA 1992).

34. *Subsection (2)* amends section 9 (calculation of secondary Class 1 contributions) by introducing the concept of a zero-rate of secondary Class 1 contributions for certain apprentices, alongside the secondary percentage and age-related secondary percentage.

35. *Subsection (3)* amends section 9A (the age-related secondary percentage) to clarify that it does not apply where new section 9B applies.

36. *Subsection (4)* inserts a new section 9B (zero-rate secondary Class 1 contributions for certain apprentices) into SSCBA 1992.

37. Subsection (1) of new section 9B provides that where a secondary Class 1 contribution is payable, this section will apply to earnings paid in the tax week if the employed earner is a relevant apprentice in relation to that employment.

38. Subsection (2) of new section 9B introduces the concept of a "relevant apprentice" and provides two criteria which must be met. The earner must be under the age of 25 and must be employed, in the employment, as an apprentice.

39. Subsection (3) of new section 9B provides that a person is still to be regarded as liable for secondary Class 1 NICs even though the amount of the contribution is nil because the secondary percentage is 0%. This provision ensures that whilst the requirement to pay secondary Class 1 NICs in respect of earnings paid to certain apprentices under the age of 25 is removed, a technical liability for such contributions continues to arise. As a result, the new zero-rate does not affect other legislation which relies on the existence of a secondary contributor, including the obligation to make statutory payments to employees such as Statutory Sick Pay and Statutory Maternity Pay.

40. Subsection (4) of new section 9B provides that the Treasury may make regulations to provide that, in relation to relevant apprentices, there will be set for every tax year an "upper secondary threshold" for secondary Class 1 NICs and to specify the amount of that threshold for that year.

41. Subsection (5) of new section 9B applies the regulation-making power in section 5(4) to (6) of SSCBA 1992 for the purposes of prescribing equivalents to the upper secondary threshold for earners paid otherwise than weekly, in the same way as they apply for the purposes of prescribing equivalents to the secondary threshold.

42. Subsections (6) and (7) of new section 9B provide that where a secondary Class 1 contribution is payable, the earner is a relevant apprentice, and the earnings paid in the tax week exceed that upper secondary threshold (or the prescribed equivalent), the zero-rate of secondary Class 1 contributions will not apply to those earnings in so far as they exceed that threshold (or the prescribed equivalent). In that case, the secondary percentage rate will apply to that part of the earnings.

43. Subsection (8) of new section 9B provides that the Treasury may make regulations modifying the effect of subsection (7) in a case where the earner falls within an age group to which an age-related secondary percentage normally applies. This will enable the legislation to take account of the fact that the upper secondary threshold for apprentices may be set at a different level to upper secondary thresholds for aged-related secondary percentages.

44. Subsection (9) of new section 9B provides that the Treasury may make regulations to prescribe the meaning of "apprentice" in subsection (2)(b).

45. Subsection (10) of new section 9B provides that the Treasury may make regulations to alter the age that an earner must be in order to be a relevant apprentice. Regulations made under this power may allow any earner of an age at which secondary Class 1 contributions are payable to be a relevant apprentice.

46. *Subsection (5)* amends section 176(1)(a) of SSCBA 1992 (parliamentary control of regulations and orders made under that Act) by inserting a reference to new sections 9B(4), (8) and (10). The effect of this is to require a statutory instrument containing regulations made using these powers to be laid in draft before, and approved by, each House of Parliament ('the affirmative procedure').

47. *Subsections (6)* to *(10)* amend the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (SSCB(NI)A 1992) to make equivalent provision to *subsections (1)* to *(5)* in relation to Northern Ireland.

48. *Subsection (11)* provides that the powers conferred on the Treasury under new section 9B and the amendments in new subsections (5) and (10) will come into force on 12 April 2015 (this is at the end of two months beginning with the day on which the Act is passed). For all remaining purposes the amendments will come into force on 6 April 2016.

Section 2: Reform of Class 2 contributions

49. Section 2 introduces Schedule 1 to the Act.

Section 3: Consequential etc power

50. *Subsection (1)* provides the power to make consequential, incidental or supplementary provision in connection with the provision made in Schedule 1. This power would allow the Treasury to make consequential amendments to legislation. Any changes made using this power would be technical in nature, resulting from provision made in the Act to simplify Class 2 NICs.

51. *Subsections (2)* and *(3)* enable regulations made under this section to modify any provision in primary or secondary legislation, including by amending, repealing or revoking it.

52. *Subsection (4)* allows, among other things, the regulations to make different provision for different cases or classes.

53. *Subsection (5)* requires the regulations to be made by statutory instrument.

54. *Subsection (6)* provides that a statutory instrument containing regulations under this section that amend or repeal a provision of an Act is subject to the affirmative procedure.

55. *Subsection (7)* provides that a statutory instrument containing regulations that is not subject to the affirmative procedure under *subsection (6)* is subject to annulment by resolution of either House of Parliament ('the negative procedure').

Schedule 1: Reform of Class 2 contributions

56. Schedule 1 contains the amendments required to SSCBA 1992 and SSCB(NI)A 1992 to introduce the reform of Class 2 NICs. It also amends the Social Security Administration Act 1992 (SSAA 1992), the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (SSC(TF)A 1999), the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order (S.I. 1999/671) (SSC(TF)(NI)O 1999) and the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004) (SS(C)R 2001).

57. Paragraph 2 removes the reference to Class 2 contributions being payable weekly from section 1 of SSCBA 1992 (outline of contributory system). This reflects the fact that Class 2 contributions will now be payable annually through the SA system.

58. Paragraph 3 replaces section 11 of SSCBA 1992. It also provides for a new section 11A.

59. The new section 11 of SSCBA 1992 provides as follows:

a) Subsection (1) applies section 11 to those who are self-employed earners in the relevant tax year.

b) Subsection (2) provides that a Class 2 contributions liability will only arise where the earner has relevant profits of or exceeding the small profits threshold (SPT). This takes away the need for the earner to apply for a SEE. It also prescribes the weekly rate of Class 2 contributions which will be payable in respect of each week of self-employment in the relevant tax year.

c) Subsection (3) sets out the meaning of relevant profits and aligns the profits to be used when determining whether a Class 2 contributions liability exists with that already used for Class 4 NICs purposes under section 15 of SSCBA 1992.

d) Subsection (4) provides the value of the SPT.

e) Subsection (5) aligns the payment method for those liable for Class 2 contributions to that which applies to Class 4 NICs (subject to provisions made under section 11A). At present Class 2 NICs are payable by either six monthly payment request or monthly/six monthly Direct Debit and Class 4 NICs are payable through the SA process alongside Income Tax. Under this new section 11(5), Class 2 contributions will also be payable through the SA process.

f) Subsection (6) provides for those who are not liable for Class 2 contributions, because they do not have relevant profits or their profits do not exceed the SPT, to be able to pay Class 2 contributions voluntarily. It also prescribes the weekly rate of voluntary Class 2 NICs which can be paid for each week of self-employment in the relevant tax year. The rate of Class 2 will be the same under both subsection (2) and (6).

g) Those covered under subsection (6) will include those who would otherwise be liable but for their profits falling below the prescribed threshold and those who would never be liable, despite their profit levels, because they are not chargeable to tax under Chapter 2 of Part 2 of the Income Tax (Trading and Other Income) Act 2005 (ITTOIA 2005) and who are not, therefore required to pay Class 4 NICs under section 15 of SSCBA 1992. This means that it covers those who fall into the category of a self-employed earner for NICs purposes but who are not operating a trade, profession or vocation. It will also include those who, for a variety of reasons are treated as self-employed earners for NICs purposes.

Example of a person with low profits who could pay voluntary Class 2 contributions

The position pre Class 2 reform

John becomes self-employed on 18 August 2014 and immediately registers with HMRC. He anticipates that his earnings will be below the SEE limit of £5,885 for the 2014/15 tax year. He completes the form CF10 to apply for a SEE certificate. HMRC are satisfied with John's application and award the certificate. Depending upon his circumstances, John may need to apply to renew his certificate if his earnings continue to be below the SEE limit in future years. Although he has an exception certificate, John can pay voluntary Class 2 contributions if he wishes to maintain his contribution record for contributory benefit purposes.

The position post Class 2 reform

John becomes self-employed on 18 August 2015 and immediately registers with HMRC. He does not need to take any further action until he is sent a SA notice in April 2016. He chooses to file his SA return online and has until 31 January 2017 to file his return and pay. John files his SA return in December 2016 and declares profits below the SPT and is therefore not liable to pay Class 2 contributions. He is given the option to pay voluntary Class 2 contributions if he wishes to maintain his contribution record for contributory benefit purposes.

Example of a person without relevant profits who could pay voluntary Class 2 contributions

Clare has been self-employed in South Africa since May 2012. She is entitled to pay voluntary Class 2 contributions as she was self-employed in the UK immediately before going to work in South Africa. In July 2015 she applies to pay Class 2 contributions. As she has no relevant profits (her self-employment is carried on wholly outside of the United Kingdom and she does not satisfy the conditions under section 15 of SSCBA 1992 for a Class 4 NICs liability) Clare can pay voluntary Class 2 contributions. As she is not a UK taxpayer, Clare is not required to file a return under the SA system and arrangements are made for her to pay voluntary Class 2 contributions on an annual basis.

h) Subsection (7) provides that, as now, only those who are aged 16 or over and below state pension age will be liable for or eligible to pay Class 2 contributions.

i) Subsection (8) maintains the current position whereby the Treasury may make provision for a higher rate of Class 2 contributions to be payable by those who are employed earners but are treated as self-employed earners under SS(CE)R 1978 and the Northern Ireland equivalent.

j) Subsection (9)(a) provides the Treasury with the power to modify the meaning of "relevant profits" and would allow for certain exceptions to be applied when calculating the profit figure for Class 2 contributions purposes.

k) Subsection (9)(b) provides the Treasury with the power to exclude certain prescribed employments and certain prescribed earners from the scope of Class 2 NICs. The power can also be exercised to exclude payment of voluntary Class 2 contributions in prescribed circumstances. An example of how this power could be used is provided at paragraph 34 of Schedule 1.

l) Subsection (10) provides for section 11 to be amended by regulations made under section 11(9)(a).

m) Subsection (11) provides that any regulations made under subsection (9)(b) are to be made with the concurrence of the Secretary of State in recognition of the fact that there may be an impact upon benefit entitlements if the scope of Class 2 contributions is modified.

60. Section 11A of SSCBA 1992 allows for the application of certain provisions of the Income Tax Acts (see Schedule 1 to the Interpretation Act 1978) in relation to Class 2 contributions under section 11(2) as if those contributions were income tax chargeable under Chapter 2 of Part 2 of ITTOIA 2005 in respect of profits of a trade, profession or vocation carried on in the UK.

a) Subsection (1) provides for the application of certain tax provisions, with the necessary modifications, to those individuals who are liable for Class 2 contributions under section 11(2). This will enable the administration of Class 2 contributions for those within the SA system to be more closely aligned to Class 4 NICs and Income Tax. In particular, the relevant provisions of the Taxes Management Act 1970 (TMA 1970) (as regards the making of returns, assessments and claims, appeals, certain criminal offences and the payment, collection and recovery of tax); the Finance Act 2007 (concerning penalties for errors); the Finance Act 2009 (FA 2009) (concerning late payment interest on sums due to HMRC and repayment interest on sums to be repaid by HMRC; penalties for the failure to make returns or payments) and follower notices, accelerated payments and promoters of tax avoidance, will apply to Class 2 contributors within the SA system.

b) Subsection (2) specifically excludes section 59A of TMA 1970 from applying to Class 2 contributions payable under section 11(2). Under section 59A there is a mandatory requirement for the tax payer to make two payments on account of his liability to income tax for the year of assessment — the first on or before the 31st January in that year, and the second on or before the next following 31st July – when certain prescribed conditions are met. As explained at paragraph 24 of Annex A below, most self-employed people will be able to access a voluntary budget payment plan should they wish to spread the cost of their NICs.

c) Subsection (3), amongst other things, enables provisions to be made in regulations for the collection of Class 2 contributions from those who are liable but who are not within the SA system, for example, those who are self-employed in the EU and who remain UK insured but who are not subject to UK income tax and are therefore not within the SA system.

61. Paragraph 4 amends section 12 (late paid Class 2 contributions) of SSCBA 1992. The effect of the amendments to section 12 is that the current higher rate charges that are applied to late paid Class 2 contributions will now apply only to voluntary Class 2 contributions that are payable under section 11(6). Contributions payable under section 11(2) that are late in being paid will be subject to the same penalties and interest charges that apply to income tax and Class 4 NICs payable under the SA system.

62. Paragraph 5 makes a consequential amendment to section 18 of SSCBA 1992 dealing with recoverable Class 4 NICs under regulations.

63. Paragraph 6 makes consequential amendments to section 35A of SSCBA 1992 to allow women to continue to become eligible for MA post reform. The amendments will allow women to continue to be eligible for the standard rate of MA where they have a record of Class 2 contributions paid through SA or have made voluntary contributions before they have filed their SA return (and so before their liability to pay Class 2 contributions has been established). Women with profits falling below the SPT who choose not to pay Class 2 contributions voluntarily will still be able to receive the lower rate of MA.

64. Paragraph 7 makes consequential amendments to section 35B of SSCBA 1992 to ensure that participating spouses or civil partners can continue to receive the lower rate of MA if their spouse or civil partner has made Class 2 contributions for the requisite length of time within the relevant period. These payments could be voluntary and paid before the SA filing date or dealt with via their SA return.

65. Paragraph 8 replaces the reference in section 176(1)(a) of SSCBA 1992 (parliamentary control) to section 11(3) with section 11(8) and (9). A statutory instrument containing regulations made using this power is subject to the affirmative procedure.

66. Paragraphs 9(1) and (2) make amendments to Schedule 1 to SSCBA 92 (supplementary provisions) in relation to the changes to Class 2 contributions.

67. Paragraph 9(3) provides for regulations to enable those women (or the spouse or civil partner of a participating spouse) who have not had the opportunity to file an SA return and to pay Class 2 contributions to pay them early to enable them to establish their entitlement to MA. It also makes provision for those Class 2 contributions that are paid early to be given their correct classification (either liable contributions or voluntary contributions) when the woman has filed her SA return and her actual Class 2 liability or entitlement position has been established.

68. Paragraph 9(4) omits paragraph (j) and (k) which were powers enabling regulation to be made to deal with the former SEE process.

69. Paragraphs 10 to 18 amend SSCB(NI)A 1992 by making equivalent provisions to paragraphs 1 to 9.

70. Paragraph 19 provides for some consequential amendments to SSAA 1992.

71. Paragraph 20 relates to the annual uprating of NICs. The NIC rates and thresholds are reviewed and, where appropriate, changed each year by secondary legislation by reference to the consumer price index. Consequential amendments to section 141 of SSAA 1992 allow this uprating to continue after the changes brought about by Class 2 reform.

72. Paragraphs 21 and 22 make consequential amendments to sections 143 and 145 of SSAA 1992 to take into account changes to Class 2 NICs. An order under section 141, 143 or 145 of SSAA 1992 (alteration of contributions) may also make corresponding provision for Northern Ireland (see section 129 of the Social Security Administration (Northern Ireland) Act 1992 (SSA(NI)A 1992)).

73. Paragraphs 23 and 24 provide for changes to SSC(TF)A 1999 to reflect the fact that contributions payable under new section 11(2) will be recoverable through the SA system under the provisions of TMA 1970.

74. Paragraph 25 amends section 8 of SSC(TF)A 1999 in connection with decisions on National Insurance and related matters. Broadly speaking, paragraph 25 prevents a decision being made under section 8(1)(c) (liability to pay) or (e) (whether contributions have been paid) of SSC(TF)A 1999 in relation to anyone liable to pay Class 2 NICs until it is clear that there will be no appeal in relation to the same issues under Part 5 of TMA 1970. This will ensure only one appeal can be heard on any matter covered by both provisions.

75. Paragraphs 26 and 27 make further consequential changes to SSC(TF)A 1999.

76. Paragraphs 28 to 31 amend SSC(TF)(NI)O 1999 by making equivalent provisions to paragraphs 25 to 27.

77. Paragraph 33(1) amends regulation 125(c) of SS(C)R 2001 to set the Share Fisherman's rate of Class 2 contributions that will apply for the 2015-16 tax year.

78. Paragraph 33(2) provides that the amendment to regulation 125(c) of SS(C)R 2001 is made without prejudice to any power to make regulations amending or revoking the provision inserted by paragraph 33(1).

79. Paragraph 34(1) amends regulation 127 of SS(C)R 2001 to maintain the current position that a married woman with a valid reduced rate election is neither liable nor entitled to pay Class 2 contributions.

80. The Social Security Act 1975 (or the Social Security (Northern Ireland) Act 1975) gave a married woman the right to elect to pay Class 1 contributions at a reduced rate from a specified tax year and not to pay Class 2 contributions from a specified year if she became self-employed. The election lasted for the whole tax year for which it was made and continued until the woman cancelled it or changed her marital status. Although the Social Security Pensions Act 1975 and associated regulations took away the right of a married woman to elect to pay reduced rate Class 1 contributions and not to pay Class 2 contributions where she married on or after 6 April 1977, there are still a small number of women with valid reduced rate elections. Even with a valid election, the woman is liable for Class 4 NICs.

81. Under the Class 2 contributions reform, women with reduced rate elections would be liable to pay Class 2 contributions by virtue of the fact they have profits on which they are liable to pay Class 4 NICs. Paragraph 34 provides that these women will be excluded from Class 2 NICs to maintain the current position.

82. Paragraph 34(2) provides that the amendment to regulation 127 of SS(C)R 2001 is made without prejudice to any power to make regulations amending or revoking the provision inserted by paragraph 34(1).

83. Paragraphs 35 and 36 relate to the commencement of Schedule 1. More detail on the commencement dates is contained at paragraph 178 of these Explanatory Notes.

84. Paragraph 37 provides for the Treasury to make regulations to do with transitional or transitory provisions or savings in connection with the coming into force of the new Class 2 system.

Section 4: Application of Parts 4 and 5 of FA 2014 to national insurance contributions

Follower Notices and Accelerated Payments: Class 1, 1A, 1B and certain Class 2

85. *Subsection (1)* provides that Part 1 of Schedule 2 applies Part 4 of FA 2014 (follower notices and accelerated payments) to Class 1, 1A, 1B and certain Class 2 contributions.

86. Paragraph 1 of Part 1 of Schedule 2 provides that Part 4 of FA 2014 (follower notices and accelerated payments) is to have effect with the modifications contained in the rest of that Part of the Schedule. Paragraph 22 provides a definition of 'relevant contributions' which applies to Part 1 of this Schedule. It includes Class 1, 1A, 1B and Class 2 contributions (to which section 11A of SSCBA 1992 and section 11A of SSCB(NI)A 1992 do not apply).

87. Paragraph 2 provides that references to tax or a relevant tax, other than references to particular taxes, include relevant contributions. Where the tax legislation deals with a specific tax (for example, Stamp Duty Land Tax or Annual Tax on Enveloped Dwellings) this does not have any effect on relevant contributions.

88. Paragraph 3 provides that references to a charge to tax include a liability to pay relevant contributions and references to a person being chargeable to tax, or to tax being charged, are to be read with this modification in mind.

89. The effect of the modifications described in paragraphs 2 and 3 above enables key concepts defined in Chapter 1 of Part 4 of FA 2014 to apply in respect of the relevant contributions. For example, the term 'tax' includes relevant contributions, 'tax advantage' includes a relevant contributions advantage and the meaning of this term includes the avoidance of a liability to pay relevant contributions (section 201(1) of FA 2014). Also, the term 'tax arrangement' includes a relevant contributions arrangement, that is arrangements where, having regard to all the circumstances, it would be reasonable to conclude that the obtaining of a relevant contributions advantage was the main purpose, or one of the main purposes, of those arrangements (section 201(3) of FA 2014).

90. Paragraph 4 provides that references to an assessment to tax include a NICs decision relating to a person's liability for relevant contributions. For the purposes of this Part of the Schedule a 'NICs decision' means a decision under section 8 of SSC(TF)A 1999 or Article 7 of SSC(TF)(NI)O 1999.

91. Paragraph 5 provides that references to a tax enquiry include a relevant contributions dispute. This has been introduced to ensure that the tax and NICs rules work together satisfactorily. In particular, a regulation 80 determination under the Income Tax (Pay As You Earn) Regulations 2003 (S.I. 2003/2682) will often be issued earlier than the related 'NICs decision'. Introducing this concept permits accelerated payments of avoided PAYE and relevant contributions to be dealt with together, rather than issuing separate notices at different times.

92. Paragraph 6 defines the term "relevant contributions dispute". Such a dispute will arise if, without having made a 'NICs decision' HMRC notifies a person in writing that they consider them to be liable to pay an amount of relevant contributions and the person informs HMRC in writing ("a notification of dispute") that they dispute liability for some or all the contributions ("the disputed contributions").

93. Paragraph 7 provides that a relevant contributions dispute is in progress, in relation to a notification of dispute, during the period which starts on the day when the person gives notification of a dispute and ends on the day which either (i) the disputed contributions are paid in full, (ii) HMRC and the person enter into a written agreement regarding the person's liability for the disputed contributions and any amount of those contributions that a person is to pay under that agreement has been paid, (iii) an officer of HMRC makes a NICs decision in relation to the disputed contributions, or (iv) without making a NICs decision, HMRC notifies the person in writing that HMRC no longer considers the person to be liable to pay the disputed contribution.

94. Paragraph 8 provides that references to a return into which a tax enquiry is in progress include a notification of a dispute in relation to which a relevant contribution dispute is in progress.

95. Paragraph 9 provides that references to a tax appeal include a NICs appeal.

96. Paragraph 10 defines "NICs appeal" as an appeal under section 11 of SSC(TF)A 1999 or Article 10 of SSC(TF)(NI)O 1999 against a NICs decision relating to relevant contributions ('the initial appeal'), an appeal against any determination of the initial appeal ('a further appeal') or an appeal against any determination of a further appeal.

97. Paragraph 11(1) provides that where a reference is made to Part 7 of the Finance Act 2004 (disclosure of tax avoidance schemes) (a "DOTAS provision") that reference includes the regulations made under section 132A of SSAA 1992 (disclosure of contributions avoidance arrangements), which either apply the DOTAS provision to, or make corresponding provision for the purposes of, NICs. Paragraph 11(2) enables contrary provision to be made by regulations.

98. Paragraph 12 modifies the definition of "relevant tax" in section 200 of FA 2014 ("relevant tax") to include relevant contributions within its list.

99. Paragraph 13 modifies the effect of section 204 of FA 2014 (circumstances in which a follower notice may be given). Section 204(3) sets out that there must be a return, claim or appeal made on the basis that a particular tax advantage arises from 'chosen arrangements'. For the purposes of the relevant contributions that condition is also met if, in a relevant contributions dispute, a person disputes liability for relevant contributions on the basis that a NICs advantage results from the use of a NICs arrangement, regardless of whether the notification of the dispute was given on that basis.

100. Paragraph 14 applies in a case where a follower notice has been issued whilst a NICs dispute is in progress. Paragraph 14(2) specifies what necessary corrective action is to be taken by a person receiving a follower notice for the purposes of section 208 of FA 2014 (penalty if corrective action not taken in response to follower notice). These steps are:

a) in a case in which the denied advantage can be counteracted by making a payment to HMRC, the person makes that payment and notifies HMRC that they have done so, or

b) in any case, the person takes all necessary action to enter into an agreement in writing with HMRC for the purpose of relinquishing the denied advantage.

101. Paragraph 14(3) disapplies subsections (4) to (7) and (9) to (11) of section 208 of FA 2014, which are specific to tax, and extends the reference in section 209(3)(a) (amount of a section 208 penalty) to amending a return or claim as including the making of the payment referred to in paragraph 14(2)(a).

102. Paragraph 15(1) modifies the application of section 212 of FA 2014 (aggregate penalties). It extends references to "relevant penalty provision" to include:

a) any provision mentioned in section 212(4), as applied in relation to relevant contributions by regulations (whenever made);

b) section 98A of TMA 1970, as applied in relation to relevant contributions by regulations (whenever made);

c) any provision specified in regulations made by the Treasury under which a penalty can be imposed in respect of relevant contributions.

103. Paragraph 15(2) allows for regulations to be made to disapply, or modify the effect of, sub-paragraphs (1)(a) or (1)(b). This is to cover circumstances where the application of provisions in regulations is no longer appropriate. Paragraph 15(3) allows for regulations to be made to modify section 212 of FA 2014 so that the aggregate penalty cap applies appropriately to the relevant contributions. Paragraph 15(4) applies the power to make various supplementary provision under section 175(3)-(5) of SSCBA 1992 to regulations made under this paragraph.

104. Paragraph 16 provides that for the purposes of section 219 of FA 2014 (circumstances in which an accelerated payment notice may be given), Condition B is met if in a relevant contributions dispute a person disputes liability for relevant contributions on a basis mentioned in section 219(3), regardless of whether the notification of dispute was given on that basis.

105. Paragraph 17 sets out the nature and recovery of an accelerated payment. Sub-paragraph (1) provides that the paragraph applies so far as it represents understated tax that consists of an additional amount that would be due and payable in respect of relevant contributions ("the understated contributions").

106. Sub-paragraph (2) provides that the accelerated payment is a payment of understated contributions, not a payment on account of them. This reflects the need for sums to be treated as contributions for the various purposes in the Social Security Acts, such as being held in the NIF and accounted for as National Insurance, and so that their payment can count towards the qualifying conditions for contributory benefits. Accordingly sub-paragraph (3) provides that subsections (3), (7) to (9) of section 223 do not apply in relation to the accelerated payment.

107. Sub-paragraph (4) specifies that the accelerated payment must be paid before the end of the payment period regardless of whether an individual ("P") brings a NICs appeal.

108. Sub-paragraph (5) provides that section 117A of SSAA 1992 and section 111A of SSA(NI)A 1992 (issues arising in proceedings: contributions etc) do not apply to proceedings for the recovery of any amount of the accelerated payment that remains unpaid at the end of the payment period.

109. Sub-paragraph (6) provides that a certificate of an officer of Revenue and Customs under section 25A of the Commissioners for Revenue and Customs Act 2005 (CRCA 2005) (certificates of debt) that the accelerated payment has not been paid is to be treated as conclusive evidence that the amount is unpaid.

110. Sub-paragraph (7) deals with the repayment of an accelerated payment of contributions and the effect on a person's entitlement to benefit. It provides that, for the purposes of determining a person's entitlement to benefit, or the amount of a person's benefit, if some or all of the understated contributions are repaid, they are treated as if they had not been paid. Any payments of benefit made to a person before repayment would not be affected.

111. Sub-paragraph (8) defines "benefit" as meaning a contributory benefit or a statutory payment.

112. Sub-paragraph (9) provides that the terms used in paragraph 17 that are defined for the purposes of section 223 of FA 2014 has the same meaning as that section.

113. Paragraph 18 describes the effect of an accelerated payment notice where there is an existing appeal against a NICs determination. Sub-paragraph (1) provides that paragraph 18 applies where P has been given an accelerated payment notice which has not been withdrawn, and the appeal, by virtue of that notice, is a NICs appeal in respect of relevant contributions.

114. Sub-paragraph (2) specifies when P must pay the disputed contributions. The timings are in line with those for tax.

115. Sub-paragraph (3) provides that subsections (4) and (5) of section 117A of SSAA 1992 or section 111A of SSA(NI)A 1992 do not apply to proceedings before a court for recovery of the disputed contributions. The effect is that civil proceedings cannot be adjourned to await the outcome of an appeal against a NICs decision.

116. Sub-paragraph (4) provides that if proceedings have been adjourned under subsection (5) of the enactments specified in sub-paragraph (3), they cease to be adjourned so far as they relate to the disputed contributions.

117. Sub-paragraph (5) provides that a certificate of an officer of Revenue and Customs under section 25A of CRCA 2005 (certificates of debt) that the accelerated payment has not been paid, is to be treated as conclusive evidence that the amount is unpaid.

118. Sub-paragraph (6) deals with the repayment of an accelerated payment of contributions and the effect on a person's entitlement to benefit. It provides that, for the purposes of determining a person's entitlement to benefit, or the amount of a person's benefit, if some or all of the understated contributions are repaid they are treated as if they had not been paid. Any payments of benefit made to a person before repayment would not be affected.

119. Sub-paragraph (7) defines "benefit" as meaning a contributory benefit or statutory payment.

120. Sub-paragraph (8) provides that for the purposes of paragraph 18, "the disputed contributions" means the relevant contributions to which the NICs appeal relates.

121. Paragraph 19(1) applies the relevant paragraphs of Schedule 56 to FA 2009 (provisions which apply to penalties for failure to make payments of tax on time) as specified in section 226(7) of FA 2014 (penalty for a failure to pay accelerated payment) to NICs but that the reference in that subsection to tax is not extended to include relevant contributions.

122. Paragraph 19(2) confirms that in applying the relevant paragraphs of Schedule 56 to FA 2009 to relevant contributions those provisions have effect:

a) as if references to an assessment to tax were to a NICs decision relating to a person's liability for relevant contributions,

b) as if a reference to an appeal against an assessment to the tax concerned were a reference to an appeal against a NICs decision,

c) as if sub-paragraph (3)(b) of paragraph 11 were omitted (subject to paragraph 20 of this Schedule), and

d) with any other necessary modifications.

123. Paragraph 20(1) provides that a penalty under section 208 (penalty if corrective action not taken in response to a follower notice) or section 226 of FA 2014 (penalty for a failure to pay accelerated payment) may be recovered as if they were an amount of relevant contributions which is due and payable.

124. Paragraph 20(2) provides that section 117A of SSAA 1992 or (as the case may be) section 111A of SSA(NI)A 1992 (decision of officer of HMRC not conclusive if subject to appeal and proceedings for recovery to be adjourned pending appeal) has effect in relation to proceedings before a court for recovery of the penalty as if the assessment of the penalty were a NICs decision as to whether the person is liable for the penalty. Accordingly, paragraph 20(3) disapplies section 211(4)(b) of FA 2014 (assessment of penalty to be enforced as if it were an assessment to tax) in relation to a penalty under section 208 imposed by virtue of Part 1 of Schedule 2.

125. Paragraph 21 provides that section 227(9) (withdrawal, modification or suspension of accelerated payment notice), has effect as if the provisions mentioned in that subsection included paragraph 18(2) of Schedule 2.

126. Paragraph 22 defines for the purposes of this part of Schedule 2 "accelerated payment notice", "contributory benefit", "the disputed contributions", "HMRC", "NICs appeal", "NICs decision", "notification of dispute", "relevant contributions", "relevant contributions dispute" and "statutory payment".

Promoters of Avoidance Schemes: Class 1, 1A, 1B and certain Class 2

127. *Subsection (2)* of section 4 provides that Part 2 of Schedule 2 applies Part 5 of FA 2014 (promoters of tax avoidance schemes) to Classes 1, 1A, 1B and certain Class 2 contributions.

128. Paragraph 23 of Part 2 provides that Part 5 of FA 2014 (promoters of avoidance schemes) is to have effect with the modifications made by the rest of that Part of the Schedule.

129. Paragraph 24 provides that where the promoters of tax avoidance schemes provisions refer to tax, such references include relevant contributions except where reference is made to a particular tax.

130. Paragraph 25 provides that references to a tax advantage include the avoidance or reduction of a liability to pay relevant contributions.

131. Paragraph 26(1) provides that where a reference is made to Part 7 of the Finance Act 2004 (disclosure of tax avoidance schemes) that reference includes regulations made under section 132A of SSAA 1992 (disclosure of contributions avoidance arrangements) which either apply the DOTAS provision to, or make corresponding provision for the purposes of, NICs.

132. Sub-paragraph 26(2) provides for exceptions to the contrary to be made by regulations.

133. Paragraph 27 extends the reference to a tax return in section 253 of FA 2014 (duty of a person to notify the Commissioners) to include a return relating to NICs that is required to be made by or under legislation.

134. Paragraph 28 extends section 255 of FA 2014 (power to obtain information and documents) so that references to a person's tax position includes the person's position as regards the deduction or repayments of relevant contributions or sums representing relevant contributions, that a person is required to make.

135. Paragraph 29 provides that section 276 of FA 2014 which requires a higher standard of reasonable care applies to clients of monitored promoters of NICs avoidance schemes when submitting returns to HMRC.

136. Paragraph 30 includes relevant contributions within the definition of tax in section 283(1) of FA 2014 (interpretation).

137. Paragraph 31 defines for the purpose of this Part of Schedule 2 "relevant contributions" as Class 1, 1A, 1B and certain Class 2 contributions to which section 11A of SSCBA 1992 or section 11A of SSCB(NI)A 1992 does not apply.

Application of Parts 4 and 5 of FA 2014: Class 4

138. *Subsection 3* of Section 4 provides that Part 3 of Schedule 2 applies Part 4 (follower notices and accelerated payments) and Part 5 (promoters of tax avoidance schemes) in FA 2014 to Class 4 contributions.

139. Paragraph 32 amends section 16 of SSCBA 1992 accordingly.

Commencement and transitory provision

140. Paragraph 33 relates to the commencement of Schedule 2. More details on commencement dates are contained in paragraphs 177 and 185 of these Explanatory Notes.

141. Paragraph 34 provides for the reference in paragraph 22 to jobseeker's allowance to be treated as a reference to contributions-based Jobseeker's Allowance pending the coming into force of the repeals in section 4C of SSCBA 1992 made by Part 1 of Schedule 14 to the Welfare Reform Act 2012 (WRA 2012).

142. Paragraph 35 provides for the references in paragraph 22 to employment and support allowance to be treated as references to contributory employment and support allowance pending the coming into force of the repeal of section 22(8) of SSCBA 1992 made by Part 1 of Schedule 14 to WRA 2012.

Section 5: Provision in consequence etc of tax-only changes to Part 4 or 5 of FA 2014

143. *Subsection (1)* provides that where there has been a change to Part 4 or 5 of FA 2014 (follower notices, accelerated payments and promoters of tax avoidance schemes) that does not apply in relation to NICs ("the tax only modification"), the Treasury may make regulations to apply the tax only changes to NICs with or without modification, make provision for NICs that corresponds to the tax only modification or make consequential changes to that Part of FA 2014 in relation to its effect on NICs or changes that are supplementary or incidental to the tax only modification.

144. *Subsection (2)* makes further provision as to the regulations that may be made under this power. The regulations can amend other legislation, make consequential, incidental, supplementary, transitional, transitory or saving provision and make different provision for different cases, purposes or classes of NICs.

145. *Subsection (3)* requires the regulations to be made by statutory instrument.

146. *Subsection (4)* provides that a statutory instrument containing, with or without other provision, regulations that amend or repeal a provision of an Act is subject to the affirmative procedure. Any other statutory instrument made under this section is subject to the negative procedure (see *subsection (5)*).

147. *Subsection (6)* defines "national insurance contributions" for the purposes of the section.

148. *Subsection (7)* specifies that this section comes into force at the end of the period of two months beginning with the day on which the Act receives Royal Assent (12 April 2015).

Section 6: Categorisation of earners etc: anti-avoidance

149. *Subsection (1)* inserts a new regulation 5A (anti-avoidance) after regulation 5 of SS(CE)R 1978.

150. Paragraph (1) of new regulation 5A provides that paragraph 2 applies if 3 conditions are met:

a) a person (the earner) holds an employment in which they personally provide services to another person who is resident or has a place of business or is present in Great Britain.

b) a third person (therefore not the earner or the person having a service provided to them) enters into relevant avoidance arrangements (as defined in paragraph (3)), and

c) but for paragraph (2), the earner would not be or be treated as being within the category of an employed earner in regards to their employment.

151. Paragraph (2) provides that where all the condition in paragraph (1) are met the earner is to be treated as an employed earner in regards to their employment.

152. Paragraph (3) provides a definition for "relevant avoidance arrangements" used in paragraph 1(b).

153. Paragraph (4) provides that paragraph (5) applies if both of the following conditions are met:

a) a person enters into arrangements the main purpose, or one of the main purposes, of which is to ensure that the person is not treated as the secondary Class 1 contributor (commonly referred to as the employer) for payments of earnings to or for the benefit of the employed earner (commonly referred to as the employee or worker) in relation to an employment, and

b) in the absence of paragraph (5) no person who is resident or present or has a place of business in Great Britain would (i) be the secondary Class 1 contributor (commonly referred to as the employer) in respect of these payments or (ii) be treated as the secondary Class 1 contributor under provisions of SS(CE)R 1978 other than the provisions that provide for a person who has provided fraudulent documents to be treated as the secondary Class 1 contributor.

154. Paragraph (5) provides that if the conditions in paragraph (4) are satisfied and the person who entered into the arrangements described there is resident or present or has a place of business in the Great Britain, they are to be treated as the secondary Class 1 contributor in respect of payments of earnings to or for the benefit of the employed earner.

155. Paragraph (6) provides a definition for "relevant provision" used in paragraph (4)(a). The definition is divided into:

a) provisions of Schedule 3 to SS(CE)R 1978 (with the exception of those that cause a person to be treated as the secondary Class contributor where they provided fraudulent documents) that apply where the deemed secondary contributor would be based in Great Britain, and

b) the provisions of Schedule 3 to SS(CE)R 1978 that apply where either the employer or certain intermediaries are based outside the UK.

156. Paragraph (7) provides a definition of "arrangements" for the purposes of new regulation 5A.

157. *Subsection (2)* of section 6 makes corresponding provision for Northern Ireland.

158. *Subsection (3)* inserts a new subsections (2ZA) and (2ZB) after subsection (2) of section 2 of SSCBA 1992 (categories of earner).

159. New subsection (2ZA) provides that regulations under section 2(2)(b) of SSCBA 1992 may provide for a person to be treated as falling within a category of earner in relation to an employment where arrangements have been entered into the main purpose, or one of the main purposes, of which is to secure that the person is not treated under regulations under that section as being within that category of earner in relation to that employment, or that another person is not treated as the secondary contributor in relation to that employment.

160. New subsection (2ZB) provides a definition of "arrangements" used in subsection (2ZA).

161. *Subsection (4)* inserts new subsections (2A) and (2B) after subsection (2) of section 7 of SSCBA 1992 ("secondary contributor").

162. New subsection (2A) provides that regulations under subsection (2) may provide that a person is the secondary contributor in relation to earnings paid to or for the benefit of the earner where arrangements have been entered into the main purpose, or one of the main purposes, of which is to secure that the person is not treated as the secondary contributor.

163. New subsection (2B) provides a definition of "arrangements" used in subsection (2A).

164. *Subsections (5) and (6)* of section 6 make provision for Northern Ireland corresponding to that made for Great Britain by *subsections (3) and (4)*.

165. *Subsection (7)* provides that *subsections (1) and (2)* are to be treated as having come into force for purposes of inserting regulation 5A(1) to (5), (6)(a) and (7) on 6 April 2014 and for the purposes of inserting 5A(6)(b) on the day the Act is passed.

166. *Subsection (8)* provides that paragraphs (4) and (5) of regulation 5A (inserted by *subsections (1) and (2)*) have effect in relation to arrangements entered into on or after 6 April 2014 where the main purpose or one of the main purposes is to ensure that a person is not treated under a provision mentioned in paragraph (6)(b) as a secondary Class 1 contributor (commonly referred to as employer).

167. *Subsection (9)* provides that where payments of earnings are made as a result of arrangements mentioned in *subsection (8)*, regulation 5A(5) only applies to the payments of earnings that are made on or after the day on which the Act is passed.

168. *Subsection (10)* provides that references to regulation 5A in *subsections (7) to (9)* refer to that regulation inserted by (a) *subsection (1)* into SS(CE)R 1978 and (b) *subsection (2)* into the Social Security (Categorisation of Earners) Regulations (Northern Ireland) 1978 (S.R. (NI) 1978 No. 401).

169. *Subsection (11)* provides that the changes made by subsections (1) and (2) do not affect powers to make regulations amending or revoking the provision inserted.

Section 7: HMRC administrative expenses financial provision

170. *Subsection (1)* amends section 165(5)(a) of SSAA 1992 by replacing the words from "other" to "Act 2014" with "relevant legislation".

171. This subsection also inserts new subsection (5B) which defines "relevant legislation" to mean legislation relating to ordinary statutory paternity pay, additional statutory paternity pay or statutory adoption pay, the National Insurance Contributions Act 2014, or this Act. This subsection will enable any administrative expenses incurred by HMRC in relation to the Act ultimately to be met from the NIF.

172. *Subsection (2)* makes an equivalent provision for Northern Ireland.

Section 8: Abbreviations of Act

173. This section defines abbreviations used in the Act.

Section 9: Short title and extent

174. *Subsection (1)* provides for the Act to be known as the National Insurance Contributions Act 2015.

175. *Subsection (2)* provides that the Act extends to England and Wales, Scotland and Northern Ireland, subject to subsection (3).

176. *Subsection (3)* provides that an amendment, repeal or revocation made by the Act has the same extent as the provision amended, repealed or revoked.

COMMENCEMENT DATES

177. In relation to the zero-rate secondary Class 1 contributions for apprentices under 25 in section 1(4), the powers conferred on the Treasury in new section 9B SSCBA 1992 or new section 9B SSCB(NI)A 1992 (subsections (4), (8), (9) and (10)) will come into force on 12 April 2015 (at the end of the period of two months beginning with the day on which the Act receives Royal Assent). Section 1 will come into force on 6 April 2016 for remaining purposes.

178. Sections 2 and 3, and Schedule 1 come into force on the day on which the Act receives Royal Assent (12 February 2015). The amendments made by Schedule 1 have effect for the tax year 2015-16 and subsequent tax years apart from amendments made by paragraphs 4, 9(2), 13,18(2), 27 and 31 which have effect in relation to a Class 2 contribution in respect of a week in the tax year 2015-16 or subsequent tax years.

179. Section 4 introduces Schedule 2. Parts 1 and 3 of Schedule 2 will come into force at the end of the period of two months beginning with the day on which the Act receives Royal Assent (12 April 2015).

180. Part 2 of Schedule 2 will come into force at the end of the period of two months beginning with the day on which the Act receives Royal Assent (12 April 2015) except for the purposes of making regulations under Part 5 of FA 2014 in relation to which it will commence on the day on which the Act receives Royal Assent (12 February 2015).

181. Section 5 comes into force at the end of the period of two months beginning with the day on which the Act receives Royal Assent (12 April 2015).

182. Section 6(1) and (2) is to be treated as having come into force for purposes of inserting regulation 5A(1) to (5), (6)(a) and (7) on 6 April 2014 and for the purpose of inserting regulation 5A(6)(b) on the day on which the Act receives Royal Assent (12 February 2015).

183. Paragraph (4) and (5) of regulation 5A (inserted by subsections (1) and (2)) have effect in relation to arrangements entered into on or after 6 April 2014 where the main purpose or one of the main purposes is to ensure that a person is not treated under a provision mentioned in paragraph (6)(b) as a secondary Class 1 contributor (commonly referred to as employer).

184. Subsection (9) of section 6 provides that where payments of earnings are made as a result of arrangements mentioned in subsection (8) of that section, regulation 5A(5) only applies to the payments of earnings that are made on or after the day on which the Act receives Royal Assent (12 February 2015).

185. Section 7 relating to HMRC's administrative expenses in relation to the Act (which will principally be in respect of the follower notices, accelerated payments and high risk promoters regimes) will come into force on the day on which the Act receives Royal Assent (12 February 2015).

HANSARD REFERENCES

186. The following table sets out the dates and Hansard references for each stage of this Act's passage through Parliament.

Stage	Date	Hansard reference
House of Commons		
First Reading	17 July 2014	Vol. 584 Col. 1069
Second Reading	8 September 2014	Vol. 585 Col. 681
Public Bill Committee	21 October 2014	Hansard Public Bill Committee Cols. 1-32, 33-56
Report Stage	11 November 2014	n/a
Third Reading:	11 November 2014	Vol. 587 Col. 1327
House of Lords		
First Reading	11 November 2014	Vol. 757 Col. 226
Second Reading	25 November 2014	Vol. 757 Col. 801
Committee	15 December 2014	Vol. 758 Col. GC1
Report Stage	6 January 2015	Vol. 758 Col. 262
Third Reading	21 January 2015	Vol. 758 Col. 1332
Ping Pong		
Commons Consideration of Lords Amendments	3 February 2015	Vol. 592 Col. 150
Royal Assent - 12 February 2015	House of Lords Hansard Vol. 759 Col. 1353 House of Commons Hansard Vol. 592 Col. 1000	

ANNEX A

1. This annex sets out how NICs for the self-employed currently operates and summarises the changes that are being made.

Background on National Insurance for the self-employed

2. The definition of self-employed for National Insurance purposes is a person who "is gainfully employed" in a trade, business, profession, office or vocation other than as an employed earner. The Act proposes no change to the current definition of a self-employed earner for National Insurance purposes.

3. All self-employed earners in Great Britain and Northern Ireland are required to notify HMRC of the start and end dates of their self-employment and are liable for weekly Class 2 contributions unless they are excepted (see below) or exempt[2] from payment. If they have UK profits that are chargeable to tax as trading income, they are also liable for Class 4 NICs on an annual basis[3].

Exception for low earnings from Class 2

4. Where a self-employed individual estimates that they will have earnings below the SEE level (set at £5,885 for 2014-2015) in the coming tax year they can apply to be excepted from Class 2 liability. If they do not apply for a SEE then they remain liable for Class 2 contributions.

Earnings for Class 2 purposes

5. The term 'earnings' for social security purposes includes "any remuneration or profit derived from an employment". The effect of this is that the definition of earnings for NICs purposes applies equally to the income of an employed and a self-employed earner although how such earnings are calculated or estimated differs between the two.

6. Since Class 2 contributions are a flat rate contribution, not earnings related, the question of a self-employed earner's earnings only becomes relevant in the context of eligibility for the SEE, which is based on net earnings.

7. Net earnings for the purposes of the SEE is interpreted as meaning the figure which would normally appear in a profit and loss account prepared in accordance with normal accounting principles. Deductions are allowed for business expenses and depreciation but not for income tax or Class 2 or 4 NICs paid.

[2] The most common reason for Class 2 liability to be suspended is where the individual is incapable of working, claiming maternity allowance or undergoing imprisonment.
[3] Where a self-employed earner is also employed and expects to pay the maximum amount of contributions as an employee they can apply to HMRC to defer payment of their Class 2 & 4 contributions.

Collection of Class 2

8. Class 2 contributions are currently collected either by payment of a six monthly bill or by monthly Direct Debit. Where these collection methods do not secure payment, recovery proceedings may be taken. The methods of recovery are diverse but include collection through a person's tax code, by distraint and county court and high court proceedings. Unlike Class 4 contributions, unpaid Class 2 contributions are subject to the Limitation Act 1980 which means that enforcement of a Class 2 debt is limited, in most cases to 6 years.

9. At present Class 2 has its own late payment regime which is wholly separate from income tax and Class 4. For example, if Class 2 contributions are paid after the end of the tax year following the one for which they were due to be paid, they are payable at a higher rate.

Class 2 and securing entitlement to contributory benefit and maternity allowance

10. Class 2 contributions provide the means by which self-employed earners can access social security benefits.

11. Entitlement to the standard weekly rate of MA (currently £138.18) is based on payment of Class 2 contributions in respect of a prescribed period (currently any 13 weeks in the 66 week test period). A self-employed woman is treated as meeting the minimum earnings level if she holds an SEE certificate for the period in question, thus entitling her to the lower weekly MA rate (currently £27).

12. Class 2 contributions are also the means by which a self-employed earner accesses entitlement to contributory benefits such as the State Pension and the contributory strand of employment and support allowance. In addition, payment of Class 2 contributions allows access to contribution-based Jobseeker's Allowance for a limited group of people; namely self-employed share fishermen who pay a special rate for Class 2 contributions. A person needs to have a specific number of qualifying years (currently 30) in their working life to receive the full basic State Pension. Class 2 contributions will also count towards entitlement to the new State Pension which will be introduced on 6 April 2016.

Class 4 NICs

13. Those who are self-employed will normally also be liable to pay Class 4 NICs. A Class 4 NICs liability will arise if a self-employed individual's profits or gains are chargeable to income tax as trading profits.

14. Class 4 NICs do not secure benefit entitlements but are instead intended to equalise, broadly, the levels of NICs paid by both employed and self-employed individuals. They are charged annually as a percentage of the taxable profits (as opposed to earnings) above a lower profits limit (LPL) (for tax year 2014-15 the LPL is £7,956). They are assessed, collected and enforced through the income tax SA system, with some minor differences, for example, Class 4 NICs liability does not arise for tax years after a person reaches state pension age. There are also certain matters which are dealt with outside of the SA system, for example, an application for deferment of Class 4 liability.

Special Groups

15. In addition to the self-employed in Great Britain and Northern Ireland, there are a small number of special groups who are either liable to pay Class 2 contributions or who have the option of paying them on a voluntary basis under EU law and bi-lateral Social Security agreements with non-EU countries.

16. These include people who are usually self-employed in the UK but go to work in another European Economic Area Member State temporarily and those who are self-employed in more than one Member State but who reside in the UK and carry out a substantial part of their activity here.

17. There are also some other groups who are liable for Class 2 contributions or have the option of paying voluntary Class 2 contributions, including:

- Mariners who are not liable to pay Class 1 contributions;

- Share fishermen who are liable for a special rate of Class 2 contributions (£3.40 per week in 2014-2015) which provides additional benefit entitlement, specifically access to contribution based jobseeker's allowance; and

- Volunteer Development Workers who can choose to pay voluntary Class 2 contributions at a special rate (£5.55 per week in 2014-2015) which provides them with the same additional benefit entitlement as share fishermen.

Change to the structure of Class 2 contributions and the Small Earnings Exception

18. The Act will change the structure of Class 2 contributions from the existing liability that arises in respect of each week, or partial week, of self-employment to an annual liability which is triggered by reference to a self-employed earner's Class 4 NICs profits (rather than earnings) and which is then calculated by reference to the number of weeks, or part weeks, of self-employment in the tax year.

19. The Class 2 contributions liability will arise at the end of the tax year and the amount due will be assessed on an annual basis, with reporting and collection through the SA process. The self-employed will, as now, be required to file their SA return by the 31 October following the end of the tax year if submitted on paper, or by the 31 January following the end of the tax year if submitted online.

20. The payment of Class 2 contributions will be due no later than 31 January following the relevant year.

21. Penalties and appeals will be more closely aligned with those for SA so that the self-employed are not subject to two different regimes.

22. The current SEE arrangements will no longer be necessary. Liability for Class 2 contributions will be determined by whether the self-employed earner's Class 4 NICs profits (rather than earnings), declared at year end, exceed a set threshold – the SPT. The SPT has been determined by uprating the Class 2 contributions SEE level for 2014-2015 by reference

to the consumer prices index and will in future be uprated annually along with other NICs thresholds and limits. Those with either low profits (or even losses) or no profits, who will no longer be liable for Class 2 contributions under the new arrangements, will be able to opt to pay Class 2 contributions voluntarily so that they may protect their benefit rights.

23. The Class 2 contributions bi-annual bill and Direct Debit arrangements (monthly & six monthly) will end for the majority of self-employed earners. These customers will instead receive a payment request (either via paper or electronically) once they have filed their SA return at the end of the tax year.

24. Most self-employed earners will be able to choose to make in-year payments to budget for any annual Class 2 contributions liability (or to pay voluntary Class 2 contributions if their profits fall below the threshold). This is to avoid those with low profits facing a large end of year bill, something which was raised in a number of responses to the consultation on collecting Class 2 contributions through SA.

25. Those who are self-employed for Class 2 contributions purposes, but not for tax and Class 4 NICs purposes and who therefore do not have any Class 4 NICs profits for the purposes of establishing liability (for example, those running a property or investment business), will still be entitled to pay Class 2 contributions voluntarily. A separate process will be retained to allow these self-employed earners and the special groups mentioned above (other than Share Fishermen who can pay through SA) to continue to pay Class 2 contributions under the new arrangements.

26. Self-employed women wishing to claim MA may be impacted by the change given the contemporaneous nature of the qualifying condition that currently determines the weekly rate of MA payments to the payments of Class 2 contributions. Women who have not had the opportunity to file an SA return and pay Class 2 NICs will be able to pay Class 2 contributions early in order to secure MA entitlement at the standard weekly rate. This payment option will apply whether or not the woman ultimately becomes liable to pay Class 2 contributions. Self-employed women who choose not to make an early payment of Class 2 will receive the lower rate of MA, unless they have an SA record which demonstrates that they have made the requisite number of Class 2 contributions.

27. Women who are neither employed nor self-employed but who participate in the business of their spouse or civil partner can receive the lower rate of MA for 14 weeks if their spouse or civil partner has paid Class 2 contributions for 26 weeks, voluntarily or as evidenced by their SA return. Those spouses or civil partners who have not had the opportunity to file an SA return and pay Class 2 contributions will also be able to pay Class 2 contributions early.

ANNEX B

GLOSSARY

Term	Explanation
CRCA 2005	Commissioners for Revenue and Customs Act 2005
DOTAS	Disclosure of Tax Avoidance Schemes
FA 2009	Finance Act 2009
FA 2014	Finance Act 2014
GAAR	General Anti-Abuse Rule
ITTOIA 2005	Income Tax (Trading and Other Income) Act 2005
LEL	Lower Earnings Limit
MA	Maternity Allowance
NICs	National Insurance contributions
NIF	National Insurance Fund
NIA 1998	Northern Ireland Act 1998
PAYE	Pay As You Earn
PSA	PAYE Settlement Agreement
SA	Self-assessment
SEE	Small earnings exception
SSAA 1992	Social Security Administration Act 1992
SSA(NI)A 1992	Social Security Administration (Northern Ireland) Act 1992
SS(CE)R 1978	Social Security (Categorisation of Earners) Regulations 1978 (S.I. 1978/1689)
SSCBA 1992	Social Security Contributions and Benefits Act 1992
SSCB(NI)A 1992	Social Security Contributions and Benefits (Northern Ireland) Act 1992
SS(C)R 2001	Social Security (Contributions) Regulations 2001 (S.I. 2001/1004)
SSC(TF)A 1999	Social Security Contributions (Transfer of Functions, etc.) Act 1999
SSC(TF)(NI)O 1999	Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)
SPT	Small profits threshold
TAAR	Targeted anti-avoidance rule
TMA 1970	Taxes Management Act 1970
WRA 2012	Welfare Reform Act 2012

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