EXPLANATORY MEMORANDUM TO

THE RECOVERY OF SOCIAL SECURITY CONTRIBUTIONS DUE IN OTHER MEMBER STATES REGULATIONS 2010

2010 No. 926

1. This document has been prepared by HM Revenue and Customs and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations relate to the recovery of social security contributions due in other member States but recovered by the UK. They make provision for interest to be charged on a claim of another Member State which corresponds to a UK claim for class 1, 1A, 1B or 4 national insurance contributions. Interest in respect of the principal amount and any penalty claimed is charged at the rate applicable to the corresponding UK claim under section 178 of the Finance Act 1989 from the date the claim of the other Member State is recognised. Such interest will apply where an instrument permitting enforcement of a claim under Regulation (EC) No 883/2004 on the coordination of social security systems and its implementing Regulation 987/2009, has been received by HMRC.

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

3.1 None.

4. Legislative Context

4.1 Regulation (EC) No 987/2009 lays down the procedure for implementing Regulation (EC) No 883/2004, which was introduced to modernise the rules on intra-state co-ordination of social security matters. The implementing Regulation comes into effect on 01 May 2010 and specifies the methods and procedures to be adopted by Member States for implementing and simplifying these rules.

4.2 The implementing Regulation includes provisions for mutual assistance between Member States for the recovery of social security claims, which for HMRC's purposes means social security contributions. The implementing Regulation is directly applicable in UK law, and provides that interest shall be charged for late payment of a claim under the Regulation in accordance with the laws and administrative provisions in force in the Member State recovering the claim.

4.3 These Regulations provide for the charging of interest on claims to be recovered by the UK on behalf of other member States where interest

would be charged on similar claims in the UK, specifically on claims relating to class 1, 1A, 1B and 4 national insurance contributions.

4.4 They implement the requirement under the European Regulation that interest shall be charged for late payment of claims under the Regulation under the laws and provisions in force in the Member State recovering the claim.

4.5 Regulation 3 lays down rules relating to the evidence required for the enforcement of a claim under the Regulation.

4.6 Regulation 4 lays down the rules for interest that is applied for late payment of claims.

5. Territorial Extent and Application

5.1 All of the United Kingdom.

6. European Convention on Human Rights

6.1 Since the instrument is subject to the negative resolution procedure and does not amend primary legislation, no ECHR statement is needed.

7. Policy background

7.1 The European Regulation on the co-ordination of social security systems and its implementing Regulation come into effect on 1 May 2010. The implementing Regulation includes provisions for mutual assistance between Members States in relation to the recovery of social security claims. For HMRC's purposes, this means social security contributions. The implementing Regulation provides that interest shall be charged for late payment of claims under the Regulation under the laws and provisions of the Member State recovering the claim.

7.2 Although there is existing UK legislation relating to charging interest on class 1, 1A, 1B and 4 national insurance contributions, it is necessary to clarify how this legislation should apply to similar claims of other Member States.

8. Consultation outcome

8.1 No consultation was necessary since the purpose of these regulations is to ensure the UK can fulfil its obligations under the EU-wide arrangements for mutual assistance applying to the recovery of social security claims.

9. Guidance

9.1 Existing processes are unchanged and only a limited addition is required to existing guidance to explain the charging of UK interest on claims from the date of recognition until the date of payment inclusive.

10. Impact

10.1 A full Impact Assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

11. Regulating small business

11.1 The legislation is unlikely to apply to small business and no Small Firms Impact Test has been undertaken because the legislation does not alter existing procedures.

12. Monitoring & review

12.1 Not appropriate as we are only introducing an interest charging provision.

13. Contact

13.1 Robert Horwill at HM Revenue & Customs Tel: 020 7147 2447 or e-mail: Robert.horwill@hmrc.gsi.gov.uk can answer any queries regarding the instrument.