EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY CLASS 3A CONTRIBUTIONS (AMENDMENT) REGULATIONS 2014

2014 No. 2746

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

2. Purpose of the instrument

2.1 The Pensions Act 2014 (c. 19) introduced a new class of voluntary National Insurance contributions (NICs) called Class 3A to give people the opportunity to increase their additional State Pension. These contributions are payable by those who reach State Pension age before 6 April 2016 and who are or will be entitled to a State Pension. This instrument provides a cut-off date, after which a person will no longer be able to pay a Class 3A Contribution, and details of the circumstances in which a Class 3A contribution will be refunded.

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

3.1 The amount of additional pension is a devolved matter. The Northern Ireland Pensions Bill contains powers to allow Northern Ireland Assembly to set by order the amount of additional pension that a person in Northern Ireland will receive in return for a Class 3A contribution. That Bill has yet to receive Royal Assent. Therefore, to avoid the situation that a person in Northern Ireland might purchase a Class 3A contribution before the amount of the additional pension that will be received has been legislated for, the provisions in the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) (SSCB (NI) A) which introduce Class 3A contributions in Northern Ireland will be commenced from a date to be appointed. These Regulations will come into force in Northern Ireland on that date.

4. Legislative Context

4.1 The Pensions Act 2014 made provision in the Social Security Contributions and Benefits Act 1992 (c. 4) (SSCBA) and the SSCB (NI) A relating to Class 3A contributions.

4.2 The instrument uses the negative powers at sections 14B and 14C of the SSCBA and SSCB (NI) A to:

- remove the option to pay a Class 3A contribution after 5 April 2017 by amending section 14A(1) SSCBA and SSCB (NI) A; and
- specify the circumstances in which a Class 3A contribution can be repaid.

4.3 The Social Security Class 3A Contributions (Units of Additional Pension) Regulations 2014 (yet to be made) are affirmative regulations which:-

- determine the amount of a Class 3A contribution payable; and
- specify the maximum number of units of the additional pension that a person may obtain.
- specify the value of a unit of additional pension that can be obtained by paying a Class 3A contribution in Great Britain.

5. Territorial Extent and Application

5.1 These regulations apply to all of the United Kingdom except for:
- Regulation 2 which will only apply to Great Britain.
- Regulation 3 which will only apply to Northern Ireland.

6. European Convention on Human Rights

The Financial 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 Class 3A Contributions Amendment Regulations 2014 are compatible with the Convention rights.

7. Policy background

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

7.1 In the Autumn Statement on the 5 December 2013 the Chancellor announced that those reaching State Pension age before 6 April 2016 (the start date of the new State Pension) and entitled to a State Pension would be able to pay a new class of voluntary National Insurance contribution (Class 3A) to boost their additional State Pension.

7.2 The objective of this measure is to give people who do not qualify for the new State Pension, and who may have lost out because of the structure of the legacy State Second pension system, the opportunity to increase their State Pension in retirement.

7.3 The price of a Class 3A contribution is to be set at an actuarially fair rate based on advice from the Government Actuary. Details about the price of a Class 3A contribution; the maximum number that could be made; the increase in additional pension payment it would give; and duration of the scheme were announced by the Minister for Pensions in a Written Ministerial Statement shortly after Budget 2014.

7.4 Regulations 2 and 3 remove the option to pay a Class 3A contribution after 5 April 2017.

7.5 Regulation 4 provides for a Class 3A contribution to be repaid in the following circumstances:

- Where the person who has paid the contribution dies within 90 days of the date of payment.
- The person applies for repayment within 90 days of paying a Class 3A contribution.
- Any additional pension increase that arises from the payment of a Class 3A contribution will deducted from any refund.

- ***Consolidation***

7.6 Regulation 4 of this instrument amends the Social Security (Contributions) Regulations 2001. HMRC has no current plans to consolidate these Regulations.

8. Consultation outcome

8.1 Research was undertaken in February 2014 by the Department for Work and Pensions to gauge levels of interest from those eligible to pay Class 3A contributions. It updated an earlier survey conducted in summer 2013 prior to the policy being announced. This second survey provided respondents with more information about the policy and prices for making contributions. The research indicated that there was a demand for such a scheme. Details of the research are on GOV.UK website on the following link:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/294036/research-report-class-3a-vnics.pdf

9. Guidance

9.1 More information about Class 3A contributions (also referred to as State Pension Top-up) is available on the GOV.UK website. More details about the application process will be published prior to the start in October 2015.

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 been prepared for this instrument and is available on the HMRC website.

11. Regulating small business

11.1 This legislation does not impact on small businesses.

12. Monitoring & review

12.1 Class 3A contributions will be monitored and reviewed against expected take-up levels published in the TIIN.

13. Contact

Hasan Mustafa at HMRC, Tel: 03000 586 718 or e-mail: hasan.mustafa@hmrc.gsi.gov.uk can answer any queries regarding the instrument.