EXPLANATORY MEMORANDUM TO THE

SOCIAL SECURITY (CONTRIBUTIONS) (AMENDMENT No. 2) REGULATIONS 2005

2005 No. 728

1. This explanatory memorandum has been prepared by the Treasury and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

2.1 The purpose of this Statutory Instrument is to secure parity of treatment between National Insurance and income tax of payments made by employers to employees when attending full-time education courses at recognised educational establishments. Such payments, of up to £15,000 for the 2005-06 academic year, are exempted from income tax by virtue of Inland Revenue Statement of Practice 4/86, a revised version of which was published 16 March 2005.

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

3.1 None

4. Legislative Background

4.1 The instrument is being made to amend Part 7 of schedule 3 of the 2001 regulations adding a new paragraph 12 which corresponds as closely as possible to the provisions contained in the revised Statement of Practice.

4.2 This instrument also amends regulation 40 of the 2001 Regulations to ensure that the sums which are disregarded in computing the liability to Class 1 National Insurance Contributions are also disregarded in computing the employers liability for Class 1A contributions.

5. Extent

5.1 These Regulations apply throughout the United Kingdom.

6. European Convention on Human Rights

6.1 This instrument is subject to the negative resolution procedure and does not amend primary legislation. And accordingly, no statement of compliance with the European Convention on Human Rights is required.

7. Policy background

7.1 The Statement of Practice 4/86 concerns the tax treatment of payments by employers to employees for periods of attendance at full-time educational courses. Such payments are within certain conditions treated as exempt from income tax.

7.2 The Statement of Practice was first published in August 1986 when the limit for tax-free payments was set at the higher of £5, 000 or the amount that a public awarding body

such as a Research Council might award to students with similar personal circumstances. This monetary amount was increased to £7, 000, from April 1992.

7.3 The Statement of Practice is to be revised on 16 March 2005. As well as modernising the language and layout to increase clarity, the monetary amount has been raised to £15, 000 per academic year and the link to public awarding bodies has been broken.

7.4 However, the Statement of Practice was silent on the NICs treatment in relation to these payments. This has meant that the NICs treatment was dependent upon whether the payments were made under a contract of employment or one of training. If payments were made under a contract of employment, National Insurance Contributions Class 1 were liable, but not if payments were made under a training contract.

7.5 To ensure parity of treatment across tax and National Insurance Contributions for these payments this instrument makes amendments to the 2001 regulations to effectively mirror Statement of Practice 4/86.

8. Impact

8.1 A regulatory impact assessment has not been prepared for this instrument as it does not impose any new costs on business.

9. Contact

Gerry Petherick or Huw Johns at the Inland Revenue, Tel: 020 7147 2511 / 2481 or e-mail: Gerry.Petherick@ir.gsi.gov.uk / Huw.Johns@ir.gsi.gov.uk can answer any queries regarding the instrument.