EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (CONTRIBUTIONS) (AMENDMENT NO. 2) REGULATIONS 2006

2006 No. 576

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs and is laid before the House of Commons by Command of Her Majesty.
This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

2.1. This memorandum follows the Explanatory Memoranda for -

- Statutory Instruments 2005/3448 to 3458 (laid before the House of Commons on 15 December 2005),
- Statutory Instruments 2006/129 to 138 (laid before that House on 26th January 2006),
- Statutory Instruments 2006/206 to 212 (laid before that House on 2nd February) and,
- Statutory Instruments 2006/364 and 365 (laid before that House on 17th February).

2.2. These Regulations amend the Social Security (Contributions) Regulations 2001 (SI 2001/1004) in consequence of the income tax provisions relating to pensions and pension contributions contained in Part 4 of the Finance Act 2004 as amended. They also contain amendments in consequence of the abolition of the payment of Working Tax Credit via employers introduced by the Tax Credit (Payment by Employers, etc) Regulations 2005 (S.I. 2005/2200). The principal effect of these amendments is to remove the requirement to include Working Tax Credit in the calculation of any default surcharge or calculations required for quarterly payment of earnings-related contributions

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

3.1. The Joint Committee is respectfully referred to the Explanatory Memorandum for Statutory Instruments 2005/3448 to 3458 laid before the House of Commons on 15th December 2005.

4. Legislative Background

4.1 This Instrument is made by the Treasury and the Commissioners for Her Majesty's Revenue and Customs.

4.2 The powers exercised by the Treasury are contained in sections 3(2) and (3) and 10(9) of, and paragraph 7B of Schedule 1 to, the Social Security Contributions and Benefits Act 1992 and sections 3(2) and (3) and 10(9) of, and paragraph 7B of Schedule 1 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

4.3 The powers exercised by the Commissioners for Her Majesty's Revenue and Customs are those contained in by paragraph 6(1) of Schedule 1 to the Act

and paragraph 6(1) of Schedule 1 to the Northern Ireland Act and now vested in them.

5 Extent

5.1. These Regulations apply throughout the United Kingdom.

6 **European Convention on Human Rights**

6.1. These Regulations are subject to annulment and do not amend primary legislation. Accordingly, no statement of compatibility with the European Convention on Human Rights is required.

7 Policy Background

7.1. The Government wants to encourage today's workers, tomorrow's pensioners, to save for their retirement and offers generous tax incentives to encourage people to save in a pension. Following extensive consultation, pensions tax simplification was legislated for in Part 4 of the Finance Act 2004. As a result of ongoing consultation a package of supplementary measures were introduced in Finance Act 2005. The objectives are to increase individual choice and flexibility and cut industry costs by tackling the complexity and fragmentation caused by the current rules.

7.2. From 6th April 2006, a new unified pensions tax regime will replace the numerous existing regimes. The new regime will contain two key controls on tax relief for pension savings, a lifetime allowance and an annual allowance, which will replace the plethora of controls currently in existence.

7.3. This instrument makes amendments which will come into force on 6 April 2006 to give effect to that policy for National Insurance purposes.

7.4. Regulations 3 of this Instrument introduces a new definition for "registered pension scheme" and regulation 4 makes amendments to regulation 40 of the 2001 Regulations which prescribes general earnings in respect of which Class 1A contributions are not payable.

7.5. The effect of the regulation 4 amendment is to ensure that payments that are disregarded for Class 1 contributions are also disregarded for Class 1A contributions.

7.6. Part 6 of Schedule 3 of the Regulations specifies the payments that are to be disregarded in the calculation of earnings for the purposes of earnings-related contributions. Regulation 8 of this Instrument introduces amendments to define pension payments and contributions in respect of:

- registered pension schemes,
- migrant member and corresponding relief,
- employer-financed retirement benefits schemes, and
- employer-financed pension only schemes; and
- superannuation funds to which section 615 of the Taxes Act applies,

that are disregarded in the calculation of earnings for the purposes of earnings-related contributions.

7.7. Working Tax Credit is one of two tax credits introduced in April 2003 (the other being Child Tax Credit). Its purpose is to top up the earnings of low income families and ensure that work pays more than welfare. Under the Working Tax Credit (Payment by Employers) Regulations 2002 SI 2005/2002 employers pay Working Tax Credit to their employees through the payroll if told to do so by HMRC. However, in line with its commitment to reduce regulatory burdens on business the Government announced in Budget 2004 that the payment of Working Tax Credit by employers would in due course be phased out. In Budget 2005 it was announced that phasing out of payment by employers would take place between November 2005 and April 2006. Regulations 6 and 9 of this Instrument make amendments to the Contributions Regulations to remove references to Working Tax Credit and the Working Tax Credit (Payment by Employers) Regulations 2002 consequent on the coming into force of the Tax Credits (Payment by Employers, etc) (Amendment) Regulations 2005 (S.I. 2005/2200).

8 Impact

8.1. The impact of these regulations in respect of:

- pension simplification is contained within the Simplifying the taxation of pensions Regulatory Impact Assessment and Appendix which can be found at www.hmrc.gov.uk/ria/simplifying-pensions.pdf and www.hmrc.gov.uk/ria/simplifying-pensions-appendix.pdf .
- Working Tax Credit can be found at http://www.hmrc.gov.uk/ria/20052200ria.pdf

9 Contact

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can answer any queries regarding the instrument.