EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (CONTRIBUTIONS) (AMENDMENT) REGULATIONS 2016

2016 No. 117

1. Introduction

1.1 This explanatory memorandum has been prepared by HMRC and is laid before Parliament by Command of Her Majesty.

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

2. Purpose of the instrument

2.1 This instrument amends the Social Security (Contributions) Regulations 2001 (S.I 2001/1004) to insert a definition of an "apprentice" for whom employers (secondary contributors) would pay a zero-rate of secondary Class 1 National Insurance contributions (NICs) on earnings up to the Upper Secondary Threshold.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 These Regulations use the power in section 9B(9) of the Social Security Contributions and Benefits Act 1992 for the first time.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 The National Insurance Contributions Act 2015 (NICA 2015) amended the Social Security Contributions and Benefits Act 1992 ("SSCBA 1992") and the equivalent Northern Ireland legislation to make provision for a zero-rate of secondary Class 1 NICs to be payable in relation to "relevant apprentices". Secondary Class 1 NICs are paid by employers. "Relevant apprentices" are defined in section 9B of the SSCBA 1992 as earners aged under 25 who are employed in the employment as an apprentice. Section 9B(9) provides a power by which the Treasury can prescribe the meaning of "apprentice" for the purposes of the section and thus define eligibility for the zero-rate of secondary Class 1 NICs for apprentices under the age of 25.

5. Extent and Territorial Application

5.1 The extent of this instrument is the United Kingdom.

5.2 The territorial application of this instrument is the United Kingdom.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

7.1 The policy is that a zero-rate of secondary Class 1 NICs will apply in respect of earnings paid to relevant apprentices under the age of 25, up to the Apprentice's Upper Secondary Threshold, which for 2016/17 will be aligned with the NICs Upper Earnings Limit (for the 2015/16 tax year this is £815 per week).

7.2 The policy intention is to support the growth of high quality apprenticeships for young people, which provide a high level of training and skills development. To achieve the policy intention, the NICs relief is focussed on apprentices under the age of 25 engaged in Government approved frameworks which can be validated in routine HMRC compliance activity. This requirement will be achieved by limiting the definition of relevant apprentice to Government recognised apprenticeships i.e. those which follow Government arrangements underpinned by legislation.

7.3 The policy encompasses formal Government arrangements across the UK, including recognised apprenticeships within the devolved administrations.

7.4 The policy will apply to both new and existing apprentices following a Government recognised apprenticeship framework.

7.5 The vast majority of Government recognised apprenticeships are funded by the Government but, in some cases, apprenticeships may be funded by employers or employees. Co-funded apprenticeships, with an element of both employer and Government funding, are also likely to become more common in future across the UK and are thus necessary to include these in the definition of a relevant apprentice.

7.6 In defining the meaning of apprentice for the purposes of the zero rate, HMT and HMRC have discussed the matter with those responsible for apprenticeship policy in the four nations and sought their input to these regulations

Consolidation

7.7 There are currently no plans to consolidate the Social Security (Contributions) Regulations 2001.

8. Consultation outcome

8.1 This policy was announced in the Autumn Statement on 3 December 2014 for implementation by April 2016. A technical consultation was held for 8 weeks between 24.07.15 and 18.09.15. Responses confirmed that the definition was welcome and did not reveal any practical compliance issues with the approach taken.

9. Guidance

9.1 There is currently online guidance available on the GOV.UK website in relation to English apprenticeships and employers' NICs liabilities. Similar online guidance exists for apprenticeships in Wales, Northern Ireland and Scotland. Guidance for employers on how to apply the secondary Class 1 zero-rate correctly will be made available on GOV.UK in advance of the measure coming into effect in April 2016.

10. Impact

10.1 The impact on business, charities or voluntary bodies will occur if they employ apprentices. There may be some small costs to employers in applying the definition of apprenticeship for the purposes of the employer NICs relief and retaining information to evidence their apprentice's eligibility.

10.2 The impact on the public sector is as described in 10.1.

10.3 A Tax information and Impact Note was published on 10th December 2014 about the impact of the abolition of employer contributions for apprentices under 25.

11. Regulating small business

11.1 The legislation will apply to small businesses, who will need to retain evidence of their apprentice's eligibility for the secondary Class 1 zero-rate relief. The benefit for smaller businesses (the reduction of secondary Class 1 NICs from 13.8% to 0% on earnings below the upper secondary threshold) will significantly outweigh any costs.

12. Monitoring & review

12.1 The legislation will be kept under review through communication with affected taxpayer groups.

13. Contact

13.1 Joanne Collings at HMRC (Telephone: 03000 575869 or email: joanne.collings@hmrc.gsi.gov.uk) can answer any queries regarding the instrument.