EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY CONTRIBUTIONS (AMENDMENTS IN CONSEQUENCE OF PART 4 OF THE FINANCE ACT 2014) REGULATIONS 2015

2015 No. 521

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs (HMRC) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument amends the Social Security Contributions (Decisions and Appeals) Regulations 1999 (S.I. 1999/1027) ("the 1999 Regulations") and the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004) ("the 2001 Regulations").

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

None.

4. Legislative Context

4.1 The amendment made by regulation 2 of this instrument amends regulation 12 of the 1999 Regulations (appeals from the tribunal), to make it clear that the reference in that regulation to section 56 of the Taxes Management Act 1970 includes a reference to that section as amended by section 225(1) of the Finance Act 2014. Regulation 3 of this instrument amend the 2001 Regulations to make it clear that references in those Regulations to Schedule 24 to the Finance Act 2007 (penalties for errors) and Schedule 55 to the Finance Act 2009 (penalty for failure to make a return) include reference to those Schedules as amended by paragraphs 3 and 5 of Schedule 33 to the Finance Act 2014.

4.2 These amendments follow the application of Part 4 of the Finance Act 2014 to National Insurance contributions (NICs) by section 4 of, and Schedule 2 to, the National Insurance Contributions Act 2015 (NICA 2015).

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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 Follower Notice and Accelerated Payment legislation in Part 4 of the Finance Act 2014 ("FA 2014") introduces new rules designed to:

- Improve the rate at which tax avoidance cases are resolved; and
- Require taxpayers using certain tax avoidance schemes to pay disputed tax upfront.

Some changes were also made to existing rules on tax appeals and penalties.

7.2 NICA 2015 does the majority of the work in extending the Follower Notice and Accelerated Payment rules to NICs. This instrument ensures that the extension to NICs is complete and fully effective by amending the rules on appeals and penalties that apply to NICs so that they also incorporate the changes made by Part 4 of the Finance Act 2014.

7.3 Paragraph 1 of Part 1 of Schedule 2 to the NICA 2015 provides that Part 4 of Finance Act 2014 (follower notices and accelerated payments) is to have effect with the modifications contained in the rest of that Part of the Schedule. The modifications in the Act result in a single Follower Notice and Accelerated Payment regime that applies to both tax and NICs.

7.4 Within Part 4, at section 225, an amendment is made to section 56 TMA 1970 (payment of tax where there is a further appeal). Regulation 12 of the Social Security Contributions (Decision and Appeals) Regulations 1999 applies section 56 of TMA 1970 to NICs. This instrument makes clear that the application of section 56 TMA 1970 includes section 56 TMA 1970 as amended by Part 4 of FA 2014.

7.5 In addition, paragraphs 3 and 5 of Schedule 33 to the Finance Act 2014 amend Schedule 24 to the Finance Act 2007 (penalties for errors) and Schedule 55 to the Finance Act 2009 (penalty for failure to make a return), respectively. These Schedules are applied to NICs in various places in the 2001 Regulations. This instrument makes clear that the application of Schedule 24 to the Finance Act 2007 and Schedule 55 to the Finance Act 2009 includes those Schedules as amended by FA 2014.

- ***Consolidation***

7.2 There are currently no plans to consolidate the 2001 Regulations.

8. Consultation outcome

8.1 This instrument has not been published in draft.

9. Guidance

9.1 These Regulations do not impose any new obligations.

9.2 No changes to guidance are considered necessary.

10. Impact

10.1 The provisions in this instrument do not impose a significant impact on businesses, charities or the voluntary sector.

10.2 There is no impact on the public sector.

10.3 A Tax Information and Impact Note was published on 17 July 2014 covering the changes included in the NICA 2015 about Accelerated payments of NIC associated with schemes subject to a Follower Notice or covered by the Disclosure of Tax Avoidance Schemes rules or counteracted under the General Anti Abuse Rule. It is available here: https://www.gov.uk/government/publications/accelerated-payments-of-nic-associated-with-schemes-subject-to-a-follower-notice-or-covered-by-the-dotas-rules-or-counteracted-under-the-gaar. This instrument imposes no additional impacts.

11. Regulating small business

11.1 The provisions in this instrument apply to all employers. There is no additional impact on small business arising from this instrument.

12. Monitoring & review

HMRC will monitor the practical effects of this legislation to ensure the objectives of it are met.

13. Contact

Raj Nayyar at HMRC, Tel: 03000 586543 or e-mail: raj.nayyar@hmrc.gsi.gov.uk can answer any queries regarding the instrument.