EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (CONTRIBUTIONS) (RE-RATING) CONSEQUENTIAL AMENDMENT REGULATIONS 2011

2011 No. 1001

1. This explanatory memorandum has been prepared by H.M. Revenue and Customs and is laid before Parliament by Command of Her Majesty.

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

2. Purpose of the instrument

The purpose of this Statutory Instrument is to make a consequential amendment to the special rate of Class 2 National Insurance Contributions (NICs) payable by share fishermen from 6th April 2011.

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

3.1 It is very much regretted that this Statutory Instrument is in breach of the rule requiring laying of an instrument 21 days before its provisions take effect.

3.2 The timing of these regulations is dependent on the approval of the Social Security (Contributions) (Re-rating) Order 2011 by both houses of Parliament. This took place on 14 March 2011 in the House of Commons and on 22 March 2011 in the House of Lords. Unfortunately the timing means that it has not been possible to lay the amending Statutory Instrument 21 days before its provisions take effect.

3.3 The amendment needs to take effect from the beginning of the 2011-12 tax year and accordingly it is not possible in the circumstances to allow 21 days to elapse between the laying of the instrument and its coming into force.

4. Legislative Context

4.1 The Social Security (Contributions) (Re-rating) Order 2011 ("the Re-rating Order"), approved by the House of Commons and House of Lords on 14th March 2011 and 22nd March 2011 respectively, increased the rate of Class 2 NICs to £2.50 per week. A consequence of this is that the special rate payable by share fishermen is increased from £3.05 to £3.15 per week.

4.2 This requires an amendment to regulation 125(c) of the Social Security (Contributions) Regulations 2001 (modification of provisions of the Social Security Contributions and Benefits Act 1992 in relation to share fishermen). These amendments are made under powers contained in sections 117(1) and 175(3) of the Social Security Contributions and Benefits Act 1992, and the corresponding powers for Northern Ireland.

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 Share Fishermen pay a special rate of Class 2 NICs that entitles them to receive Contribution-based Jobseeker's Allowance for periods of inactivity (normally in the winter months). It is based on the ordinary rate of Class 2 NICs with a loading to cover Contribution-based Jobseeker's Allowance. Payment of ordinary Class 2 NICs does not give entitlement to this.

- ***Consolidation***

7.2. These amendments will make only a small amendment to the Social Security (Contributions) Regulations 2001 which are very large and complex (the printed text ran to around 150 pages in 2001). HM Revenue and Customs has no current plans to consolidate these Regulations. On the last occasion it was a task involving 18 months work and contributions from four different Government departments.

8. Consultation outcome

No consultation has been undertaken.

9. Guidance

9.1 These consequential Regulations do not impose a new obligation.

9.2 The NICs Rates and Thresholds for 2011-12 were announced on 2 December 2010 in a Written Ministerial Statement *(Hansard – Written Ministerial Statements 2 December 2010: Column 85WS)* and can also be found on HMRC's website.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 In line with government commitments, a Tax Information and Impact Note has not been prepared for this instrument as it gives effect to previously announced policy and it relates to routine changes to rates to a predetermined formula.

11. Regulating small business

The change to the special rate of Class 2 contributions payable by share fishermen apply to small businesses in so far as the proprietor(s) are self employed and has no impact on employees.

12. Monitoring & review

These Consequential Regulations make changes to the special rate of Class 2 contributions payable by share fishermen and will not be subject to specific monitoring and review.

13. Contact

Hasan Mustafa at H.M. Revenue and Customs, Tel: 020 7147 2508 or e-mail: hasan.mustafa@hmrc.gsi.gov.uk can answer any queries regarding the instrument.