EXPLANATORY MEMORANDUM

THE SOCIAL SECURITY (MATERNITY ALLOWANCE) (EARNINGS) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2015

S.R. 2015 No. 211

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Social Development to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2 The Statutory Rule is made under powers conferred by the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and is subject to the negative resolution procedure.

2. Purpose

2.1 This Statutory Rule amends the Social Security (Maternity Allowance) (Earnings) Regulations (Northern Ireland) 2000.

2.2 HM Treasury introduced, in the National Insurance Contributions Act 2015, (the Act), changes to the method of collection of Class 2 National Insurance contributions (NICs) for the self-employed.

2.3 Currently, a self-employed person has an automatic liability for payment of Class 2 NICS for each week of self-employment, unless a Small Earnings Exception Certificate ("SEE Certificate") has been obtained from Her Majesty's Revenue and Customs (HMRC).

2.4 Under the reforms introduced by the Act, changes will be made to the assessment and collection of Class 2 NICS. From the start of the 2015/16 tax year, a self-employed person will no longer have an automatic liability for payment of Class 2 NICs in year. Instead, liability will be determined on an annual basis, respectively, alongside income tax and Class 4 NICs, through the individual's self-assessment (SA) return. The last due date for payment of Class 2 NICs becomes 31 January in the year which immediately follows the end of the relevant tax year. So where liability is established for 2015/16, for example, the Class 2 NICs will fall due no later than 31 January 2017. Those with profits below a new Small Profits Threshold will not be liable for Class 2 NICs, but will be given the option to pay them voluntarily to protect their entitlement to benefit. These reforms make SEE Certificates obsolete.

2.5 These Regulations (alongside further provisions in the Act) are designed to safeguard the position of self-employed women who, in consequence of the reforms introduced by the Act, might otherwise be denied access to MA. These Regulations therefore make amendments to the way MA is

calculated following the changes to Class 2 NICs assessment and collection contained in the Act.

3. Background

3.1 Maternity Allowance (MA) is paid by the Department to women who are not entitled to Statutory Maternity Pay from their employer, the self-employed and those who have irregular employment. If a woman is entitled, MA is payable for 39 weeks.

3.2 For self-employed women, MA is paid at two rates:

- the standard rate (currently £138.18 per week); or
- the lower rate (currently £27 per week)

Currently, to be entitled to MA, a woman must be self-employed for at least 26 weeks in a 66 week period before the week her baby is due (known as the "Test Period") and either:

- has paid 13 weeks' Class 2 NICs during the Test Period and is therefore treated as having sufficient average earnings to entitle her to the standard weekly rate of MA, or
- has not paid the requisite Class 2 NICs but holds a SEE Certificate and is therefore treated as earning the minimum weekly amount required to be entitled to the lower weekly rate of MA.

3.3 Provisions in the Act affect the way MA is calculated in two respects. Firstly, as the liability for Class 2 NICs will arise on an annual basis, rather than in year, a self-employed woman may not have a contemporaneous record of her Class 2 NICs payments. Provisions in the Act provide an exception to the new rules enabling payment of the requisite number of Class 2 NICs to be made on a voluntary basis and before any liability is established, for the purposes of a claim for MA, thereby allowing such women to access MA at the standard rate. These Regulations therefore enable account to be taken of all Class 2 NICs paid, in calculating MA.

3.4 Secondly, since the provisions in the Act make the SEE obsolete, these Regulations remove any reference in the Social Security (Maternity Allowance) (Earnings) (Amendment) Regulations (Northern Ireland) 2000 to SEE certificates, and enable a woman, who has merely been self-employed for at least 26 weeks in her Test Period to be eligible for MA at the lower rate.

4. Consultation

4.1 A formal consultation on these Regulations by the Department was not considered necessary due to the fact that the changes are merely consequential on the UK wider policy proposal to reform the collection of class 2 NICs.

5. Equality Impact

5.1 In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on these legislative proposals and has concluded that the proposals do not have significant implications for equality of opportunity. In light of this, the Department considers that an equality impact assessment is not necessary.

6. Regulatory Impact

6.1 These Regulations do not require a Regulatory Impact Assessment as they do not impose any new costs on business, charities or voluntary bodies.

7. Financial Implications

7.1 There are no significant costs to the Department to implement these proposals.

8. Section 24 of the Northern Ireland Act 1998

8.1 The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied the Rule—

(a) is not incompatible with any of the Convention rights,

(b) is not incompatible with Community law,

(c) does not discriminate against a person or class of person on the ground of religious belief or political opinion, and

(d) does not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

9.1 Not applicable.

10. Parity or Replicatory Measure

10.1 The corresponding Great Britain Regulations are the Social Security (Maternity Allowance) (Earnings) (Amendment) Regulations 2015 (S.I. 2015/342). The enclosed regulations are therefore being made to ensure parity with amending regulations that are being made in Great Britain.

10.2 Parity of timing and substance is an integral part of the maintenance of single systems of social security, pensions and child support provided for in section 87 of the Northern Ireland Act 1998.