

# NATIONAL INSURANCE CONTRIBUTIONS ACT 2008

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## EXPLANATORY NOTES

### BACKGROUND

#### COMMENTARY ON SECTIONS

##### *Schedule 1: Consequential amendments*

34. [Schedule 1](#) contains consequential amendments arising as a result of the introduction of the upper accrual point.
35. [Paragraphs 1 to 6](#) amend the SSCBA 1992.
36. [Paragraph 2](#) inserts new section 22(9). This is a minor technical change that provides that when calculating earnings factors derived from an employee's earnings for an employee paid other than weekly, any reference to earnings not exceeding the upper earnings limit or from 2009-10 the upper accrual point is to be read as a reference to earnings that do not exceed the prescribed equivalent.
37. [Paragraph 3\(3\)](#) inserts new section 23(3A), which provides that for the purpose of calculating additional pension from the tax year 2009-10 onwards the upper accrual point replaces the upper earnings limit as the cap on earnings factors.
38. [Paragraphs 4](#) amends section 44A by replacing the reference to the upper earnings limit, as the ceiling on deemed earnings factors for state second pension purposes, with a reference to the "applicable limit" provided in section 44.
39. [Paragraph 5](#) amends section 44B(2)(a) by replacing the now superfluous reference to the applicable limit with a reference to the upper accrual point. As the upper accrual point will be introduced from 2009-10 it will be the only ceiling relevant for earnings factors derived under the new deeming provisions for state second pension that take effect from 2010-11 onwards.
40. [Paragraph 6](#) makes amendments to paragraph 1 of Schedule 1, which deals with the calculation of National Insurance contributions where an earner is employed in more than one employment, to reflect the introduction of the upper accrual point from 2009-10. Where earnings from two or more employments are aggregated, the separate earnings are afforded a priority order. At present any contracted-out rate contributions are assessed on contracted-out earnings up to the upper earnings limit. The amendment, which takes into account earlier amendments made to paragraph 1 by the Pensions Act 2007, ensures that where earnings from two or more employments are aggregated after 6 April 2009, any contracted-out rate contributions are assessed on contracted-out earnings up to the upper accrual point.
41. [Paragraphs 7 to 13](#) amend the Pension Schemes Act 1993 as a result of bringing forward the introduction of the upper accrual point and setting it at the level of the 2008-09 upper earnings limit.

*These notes refer to the National Insurance Contributions Act  
2008 (c.16) which received Royal Assent on 21 July 2008*

42. Paragraphs 8, 11 and 12 cover changes required to the contracting-out arrangements for defined contribution (money purchase) schemes as a consequence of the changes to the state second pension. The amendments have the effect of mirroring the change to the band of earnings on which state second pension accrues (ie the upper accrual point replacing the upper earnings limit as the maximum amount of earnings on which state second pension accrues) in certain calculations connected with the contracted-out rebate. The amendments ensure that this change is reflected in:
- the definition of “minimum payments” (paragraph 8);
  - the band of earnings on which reduced rate of Class 1 contributions and rebates are paid in respect of members of money purchase contracted-out schemes (paragraph 11);
  - the band of earnings on which “minimum contributions” are paid to members of appropriate personal pension schemes (paragraph 12).
43. Paragraphs 9, 10 and 13 cover the changes required to the arrangements for defined benefit (salary related) schemes as a consequence of the decision to introduce the upper accrual point from 2009-10. These amendments revise those made in the Pensions Act 2007 when the upper accrual point introduction date was planned for 2012. The amendments ensure that the change is reflected in:
- the calculation of reference scheme test benefits (paragraph 9);
  - the band of earnings on which reduced rates of Class 1 contributions are paid in respect of members of salary related contracted-out schemes (paragraph 10);
  - the band of earnings on which the rebate is paid in cases of bankruptcy where the employer must make, as a priority, a payment to the scheme of outstanding contributions in relation to the rebate (paragraph 13).