



National Insurance Contributions Act 2022

2022 CHAPTER 9

PART 1

SECONDARY CLASS 1 CONTRIBUTIONS

Freeports

1 Zero-rate contributions for employees at freeport tax sites: Great Britain

- (1) This section applies where—
 - (a) a secondary Class 1 contribution is payable as mentioned in section 6(1)(b) of the 1992 Act in respect of earnings paid in a tax week in respect of an employed earner's employment by an employer other than a public authority,
 - (b) the freeport conditions are met in relation to the contribution (see section 2), and
 - (c) the employer (or, if different, the secondary contributor) elects that this section is to apply in relation to the contribution for the purposes of section 9(1) of the 1992 Act instead of section 9(1A) of that Act or section 6 of this Act.
- (2) For the purposes of section 9(1) of the 1992 Act—
 - (a) the relevant percentage in respect of any earnings paid in the tax week up to or at the upper secondary threshold is 0%, and
 - (b) the relevant percentage in respect of any earnings paid in the tax week above that threshold is the secondary percentage.
- (3) The upper secondary threshold (or the prescribed equivalent in relation to earners paid otherwise than weekly) is the amount specified in, or in regulations under, section 8.
- (4) For the purposes of the 1992 Act a person is still to be regarded as being liable to pay a secondary Class 1 contribution even if the amount of the contribution is £0 as a result of this section.

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- (5) The Treasury may by regulations make provision about cases in which this section is to be treated as applying in relation to contributions payable in respect of a tax week in a given tax year only when—
- (a) that tax year has ended, and
 - (b) all contributions payable in respect of a tax week in that tax year have been paid.
- (6) Regulations under subsection (5) may modify the freeport conditions in section 2(1)(c) and (d) for the purposes of cases to which the regulations apply.

2 Freeport conditions

- (1) The freeport conditions are that—
- (a) the employed earner’s employment is a new employment that—
 - (i) begins on or after 6 April 2022, but
 - (ii) does not begin later than 5 April 2026,
 - (b) the earnings—
 - (i) are paid during the period of three years beginning with the first day of the employment, but
 - (ii) are not paid after the relevant end date (see subsection (6)),
 - (c) the contribution is paid in respect of earnings paid in a tax week all of which is in a qualifying period of the employment, and
 - (d) at the time the qualifying period begins, the employer reasonably expects that 60% or more of the earner’s employed time during that period will be spent in a single freeport tax site in which the employer has business premises.
- (2) For the purposes of subsection (1)(a), an employment is new if the earner was not employed by the employer or by a person connected with the employer (within the meaning of section 993 of the Income Tax Act 2007) at any time within the period of two years ending with the day on which the employment begins.
- (3) For the purposes of subsection (1)(c) a qualifying period of the employment is a period—
- (a) that begins with—
 - (i) the start of the employment, or
 - (ii) a substantial change in the earner’s working arrangements, and
 - (b) that ends (subject to subsection (4)(d)) with—
 - (i) the end of the employment,
 - (ii) the relevant end date, or
 - (iii) a substantial change in the earner’s working arrangements.
- (4) For the purposes of subsection (1)(d)—
- (a) an earner’s employed time is time when the earner is expected to provide services to the employer under the terms of a contract of service (“working time”), together with time when the earner would have provided such services but for being on leave (of any sort);
 - (b) it is to be assumed that the proportion of the time when an earner is on leave that is spent at any given freeport tax site is the same as the proportion of the earner’s working time that would be spent at that site if the earner were not on leave;

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- (c) it does not matter whether the earner is expected to provide services under a single contract of service or under successive contracts of service, provided that the employment does not cease;
 - (d) if an expectation for the purposes of subsection (1)(d) ceases to be reasonable in any given tax week, the condition in that subsection ceases to be met, and the qualifying period is taken to end, at the end of the previous tax week.
- (5) If the secondary contributor in relation to the earner is not the earner’s employer—
- (a) subsection (1)(d) has effect as if both references to “the employer” were references to “the secondary contributor”, and
 - (b) subsection (2) has effect as if, after both references to “the employer”, there were inserted “or the secondary contributor”.
- (6) The relevant end date is the earlier of—
- (a) the last day of the period of three years beginning with the day after the day for the time being specified in subsection (1)(a)(ii), and
 - (b) 5 April 2031.

3 Freeport conditions: supplementary

- (1) The Treasury may by regulations made before the end of the day for the time being specified in section 2(1)(a)(ii) amend that subsection to substitute for that day any other day up to and including 5 April 2031.
- (2) The Treasury may by regulations provide for circumstances in which a freeport condition is to be treated as being met.
- (3) The Treasury may by regulations make such other changes in relation to the freeport conditions as they consider appropriate (including by adding, removing or altering conditions).
- (4) Regulations under subsection (3) may, among other things—
 - (a) provide for circumstances in which a condition is to be treated as not being met;
 - (b) add conditions relating to accounts or other records;
 - (c) add conditions requiring a person to take steps specified in the regulations.
- (5) Regulations under subsection (2) or (3) may make provision by reference to sectors of the economy or to descriptions of employer, earner or employment.
- (6) Regulations under subsection (2) or (3) may amend, repeal or otherwise modify this Part.

4 Anti-avoidance

- (1) Section 1 does not apply if it would otherwise apply only as a result of avoidance arrangements.
- (2) In this section—
 - “arrangements” include any scheme, transaction or series of transactions, agreement or understanding, whether or not legally enforceable;
 - “avoidance arrangements” means any arrangements which it is reasonable in all the circumstances—

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- (a) to conclude are, or include steps that are, contrived, abnormal or lacking a genuine commercial purpose, or
- (b) to regard as circumventing the intended limits of the application of section 1 or otherwise exploiting shortcomings in that section or in provision made in or under sections 2 and 3.

5 Zero-rate contributions for employees at freeport tax sites: Northern Ireland

The Treasury may by regulations make provision corresponding or similar to provision made in, under or for the purposes of sections 1 to 4 in relation to Northern Ireland.