

**EXPLANATORY MEMORANDUM FOR THE
SOCIAL SECURITY (CONTRIBUTIONS) (AMENDMENT NO. 4)
REGULATIONS 2004**

SI 2004 No. 2096

This explanatory memorandum is laid before Parliament by Command of Her Majesty. This memorandum contains information for the Joint Committee on Statutory Instruments. The Department responsible for these regulations is the Inland Revenue.

Description

These regulations make minor amendments to the regulations relating to National Insurance elections. This will ensure that where necessary the regulations will also cover elections over awards of restricted and convertible securities.

Matters of Special Interest to the Joint Committee on Statutory Instruments

There are no matters of special interest which need to be brought to the attention of the Committee.

Legislative Background

This Instrument is not being made under any new regulation making powers but is a consequence of the changes made by sections 3 and 4 of NICSPA 2004. These sections extend the facility that allows employers and employees to jointly elect or agree to transfer the future secondary Class 1 National Insurance Contributions (NICs) liability arising on earnings from share options to future earnings from awards of restricted and convertible securities.

Schedule 5 of the Social Security (Contributions) Regulations 2001 sets out what should be contained in a joint election. Currently, the Schedule only provides for elections for awards of share options. This Instrument extends the provisions to include elections for awards of restricted and convertible securities. Consequential changes are also being made to other parts of the Regulations to reflect the extension of the election facility.

These amendments are made under powers contained in the Social Security Contributions and Benefits Act 1992, and the corresponding Act for Northern Ireland.

Extent

This Instrument applies throughout the United Kingdom.

Policy Background

The objectives of the NICSPA 2004 are to bring equivalent tax, NICs and Statutory Payments regimes closer together and to make the administration of NICs less burdensome for employers. This Instrument completes the changes made by sections 3 and 4 and ensures employers are able to transfer unpredictable future secondary NICs liability when they have awarded restricted or convertible securities and are not discouraged from making similar awards to employees in the future. It is estimated that around 500 employers will take advantage of the extension of the elections facility and ask their employees to fund the secondary NICs by an election under this Instrument, so the measure is small in impact.

Impact

A Regulatory Impact Assessment (RIA) for all the measures in the NICSPA 2004, including the consequential amendments made by Statutory Instrument, was prepared for the passage of the Bill through Parliament and therefore a further RIA is not considered necessary.

The impact on businesses making these awards is likely to be beneficial. The costs of applying to the Inland Revenue for approval of the form of elections is likely to be insignificant compared to the benefit that they gain from no longer having to meet and account for unpredictable future secondary NICs liability.

The cost to the Exchequer is considered to be negligible since the measure does not affect the amount of NICs due or when they are paid..

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