

**EXPLANATORY MEMORANDUM TO**  
**THE SOCIAL SECURITY CONTRIBUTIONS (INTERMEDIARIES)**  
**(AMENDMENT) REGULATIONS 2005**

**2005 No. 3131**

- 1.** This explanatory memorandum has been prepared by HM 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. Description**

- 2.1 These regulations make minor consequential amendments to the Social Security Contributions (Intermediaries) Regulations 2000 (S.I 2000/727) (“the principal Regulations”).
- 2.2 The principal Regulations require amendment as a consequence of the Civil Partnership Act 2004 (c.33) to ensure that civil partners will be treated the same as married couples.
- 2.3 The principal Regulations also require amendment as a result of the Pension Act 2004 (c. 35), which requires occupational pension schemes to pay levies to the Board of the Pension Protection Fund. The Government has agreed that, where a levy payment is funded by the employer, that payment should attract tax relief as if it were a contribution to a pension scheme, including where the Intermediaries legislation applies.
- 2.4 The principal Regulations also require amendment in connection with the simplification of the taxation of pension provisions introduced by the Finance Act 2004 (c 12). That is because tax-privileged pension schemes - to which employers may contribute - will no longer be “approved” by HM Revenue & Customs, but will instead be known as “registered pension schemes”.
- 2.5 Finally, the opportunity has been taken to amend the principal Regulations to recognise the formation of HM Revenue & Customs.

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

- 3.1 None.

**4. Legislative Background**

- 4.1 These regulations exercise the powers at sections 4A, 122(1) and 175 (3) and (4) of the Social Security Contributions and Benefits Act 1992.

## **5. Extent**

5.1 This instrument applies to Great Britain.

## **6. European Convention on Human Rights**

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

7.1 The Civil Partnership Act (CPA) 2004 will be brought into force on 5 December 2005. The CPA creates an entirely new legal status of civil partner, giving same-sex couples in the UK the opportunity of acquiring a legal status for their relationship. Couples who enter into a civil partnership will gain a package of rights and responsibilities reflecting those already available to a married couple. The Intermediaries legislation require amendment to ensure that references to both husband and wife and those living together as such apply equally to civil partners and same sex couples living together as civil partners.

7.2 The Intermediaries legislation is anti-avoidance legislation. As a consequence of the CPA a benefit, debt or obligation, where the legislation defines is passed to a member of an individual's family or household, should also refer to a Civil Partnership.

7.3 Where the Intermediaries legislation applies, the amount of earnings on which National Insurance contributions should be applied needs to be calculated. This is called the worker's attributable earnings calculation. The pension protection fund requires a levy from employers to protect individuals in the event that their pension fund becomes insolvent. The Government has agreed that the levy should attract tax relief and we therefore need to ensure that relief is also given in the calculation of the worker's attributable earnings calculation.

7.4 Under the pension simplification measures the concept of "approval" is removed and replaced with "registered" schemes. We therefore need to ensure that the worker's attributable earnings calculation allows for a deduction to a registered scheme.

7.5 As a result of the bringing into force of the Commissioners for Revenue and Customs Act 2005 (c.11), an amendment has been made to take account of the Inland Revenue's merger with Customs & Excise.

## **8. Impact**

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

## **9. Contact**

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