

**EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992
(MODIFICATION OF SECTION 10 (7B)) REGULATIONS 2007**

2007 NO. 799

- 1.** This explanatory memorandum has been prepared by the Treasury and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

- 2. Description**

These Regulations further amend section 10 of the Social Security Contributions and Benefits Act 1992 following the introduction of the Income Tax (Earnings and Pensions) Act 2003. The effect of the Regulations is to secure that section 10(7B) of the Social Security Contributions and Benefits Act 1992 has the same effect for the tax year 2006-2007 and subsequent years as it had immediately before the coming into force of ITEPA 2003

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

These Regulations come into force on 5th April 2007 and shall have effect in relation to the tax year beginning on 6th April 2006 and subsequent years. It is permissible to make provision for the current year because this amendment concerns the computation of the Class 1A NICs charge and that charge operates at the end of the tax year.

- 4. Legislative Background**

These Regulations are made in exercise of the powers in section 10(8) of the Social Security Contributions and Benefits Act 1992.

- 5. Territorial extent and application**

This instrument applies to Great Britain.

- 6. European Convention on Human Rights**

In the view of the Paymaster General, Dawn Primarolo, the provisions of these draft regulations are compatible with the convention rights.

7. Policy background

- 7.1 In April 2000 liability to Class 1A NICs, which is an employer only liability, was extended to cover the majority of benefits in kind. Prior to that date a liability to Class 1A NICs could only arise on company cars and car fuel benefit.
- 7.2 It was agreed with employer representatives that it would cause administrative difficulties for employers to claim deductions in respect of business use where the benefit had been available for both business and private use, i.e. a mixed use benefit. So the policy is not to allow business use deductions when calculating Class 1A NICs liability, unless the deductions were fully matching deductions, i.e. the benefits provided were used exclusively for business purposes. Section 10(7) of the Social Security Contributions and Benefits Act 1992 (SSCBA 1992) was drafted accordingly.
- 7.3 The introduction of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA 2003), which replaced part of the Income and Corporation Taxes Act 1988 (ICTA 1988), meant that consequential amendments were necessary to section 10 SSCBA 1992.
- 7.4 It has recently come to our attention that some of the provisions were omitted in this process. Whilst it is our view that the overall application of the legislation nevertheless achieves the policy, the intention of these Regulations is to put it beyond doubt that the consequential amendments made by ITEPA 2003 replicate the original provisions relating to mixed use benefits.

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.
- 8.2 There is no impact on the public sector.

9. Contact

Paul Harris at HM Revenue & Customs Tel: 020 7147 2528 or e-mail: paul.harris@hmrc.gsi.gov.uk can answer any queries regarding the instrument.