

**EXPLANATORY MEMORANDUM TO**  
**THE SOCIAL SECURITY (CONTRIBUTIONS) (AMENDMENT) REGULATIONS**  
**2011**

**2011 No. 225**

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs (HMRC) and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
  - 2.1 This instrument amends the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004) ("the 2001 Regulations"). It provides that certain expenses paid to members of the House of Commons and to other elected representatives are to be disregarded in calculating the amount of any earnings on which liability to Class 1 National Insurance Contributions (NICs) arises. It also introduces a disregard in the computation of an earner's liability to Class 1 NICs where an employer pays a registration fee on behalf of an employee (including reimbursement of the fee to an employee) in respect of the Protection of Vulnerable Groups Scheme (PVGS).
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 None.
4. **Legislative Context**
  - 4.1 In accordance with the Parliamentary Standards Act 2000 the Independent Parliamentary Standards Authority (IPSA) has developed a new scheme under which MPs have been paid their expenses since the Parliamentary election on 6 May 2010.
  - 4.2 The Finance (No.2) Act 2010 amended the Income Tax (Earnings and Pensions) Act 2003 to address the income tax consequences of the new scheme. Broadly speaking, those amendments maintained existing exemptions in relation to MPs' expenses. They also codified long standing concessions allowed in relation to certain UK travel expenses and introduced a new specific exemption for the costs of evening meals purchased by MPs and eaten on the Parliamentary estate when the House of Commons is sitting late. Previously such costs were reimbursed as general subsistence expenditure in connection with overnight accommodation and were covered by the exemption for overnight accommodation.
  - 4.3 These Regulations have been introduced to ensure that the tax and NICs treatment of certain expenses are aligned.
  - 4.4 These Regulations also amend the 2001 Regulations to allow certain payments to be disregarded in the calculation of earnings for the purpose of establishing liability for earnings-related NICs. The disregard is in respect of a fee relating to an application to join the scheme administered under section 44 of the Protection of Vulnerable Groups (Scotland) Act 2007 (2007 asp 14). Under the Scheme, information about individuals undertaking or wishing to undertake regulated work with children or protected adults is collated and disclosable.

## **5. Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom.

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

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

## **7. Policy background**

### MPs expenses and expenses of other elected representatives

7.1 IPSA has developed a new scheme under which MPs have been paid their expenses since the Parliamentary election on 6 May 2010. Prior to the establishment of IPSA, expenses were reimbursed in accordance with resolutions of the House of Commons. The tax treatment of particular expenses was determined by specific legislation for MPs in relation to some expenses and long standing concessions in relation to some travel expenses.

7.2 The NICs treatment of such expenses was determined by legislation applicable to all employed earners in relation to some expenses and long standing concessionary treatments in relation to certain travel and accommodation expenses.

7.3 The advent of IPSA meant that the tax legislation needed amending. Those amendments were made by Schedule 4 to the Finance (No.2) Act 2010. At the same time past concessionary treatments in relation to tax were formalised or amended.

7.4 The purpose of these Regulations is to align the tax and NICs treatment of MPs' expenses. The Regulations will clarify the position of expenses paid to MPs by IPSA for NICs purposes and codify certain long standing concessionary treatments.

7.5 The Regulations also apply to certain expenses paid to a member of the Scottish Parliament, a member of the National Assembly for Wales, a member of the Welsh Assembly Government, and a member of the Northern Ireland Assembly.

7.6 The nature of the role of an MP, and of a member of one of the devolved administrations, can make it difficult to apply the NICs rules on expenses applicable to all employed earners. These Regulations will put beyond doubt that payments made in respect of certain accommodation and travel expenses are not to be taken into account in the calculation of earnings for NICs purposes.

### Protection of Vulnerable Groups Scheme

7.7 These changes are being made to support the Government's policies on working with children and vulnerable adults. Scotland will be the first of the UK administrations to introduce a statutory scheme for employees undertaking regulated work with vulnerable groups to register. Registration under the PVGS is not mandatory, but it will become a criminal offence for employers to employ a person who is barred from working with vulnerable groups in a post which

involves regulated work. In most circumstances, the only way that employers can be sure of an employee's (or potential employee's) barring status is to check membership under the scheme. This indicates that most of those carrying out regulated work will register under the Scheme.

- 7.8 Normally, where an employer pays or reimburses the registration fee on behalf of the employee there will be a taxable expenses payment or taxable benefit which will be subject to income tax and Class 1 NICs. These regulations introduce a disregard for NICs for the PVGS registration fee – primary legislation introducing a new tax relief will be introduced in the Finance Bill 2011.

### **Consolidation**

There are no immediate plans to consolidate the instrument that is being amended.

## **8. Consultation outcome**

- 8.1 No consultation was carried out in relation to these Regulations.
- 8.2 The new regulation relating to MPs' expenses and expenses of other elected representatives legislate an existing practice and mirror the current tax treatment.
- 8.3 Consultation was not appropriate in relation to the new regulation relating to the PVGS.

## **9 Guidance**

- 9.1 HMRC will update the guidance prepared for use by MPs, a copy of which is provided each year to every MP, to include reference to the effect of this legislation.
- 9.2 The relevant HMRC guidance will be amended in line with the new regulation concerning the PVGS.

## **10. Impact**

- 10.1 An Impact Assessment has not been produced for this instrument as it has a negligible impact on business, charities or voluntary bodies.
- 10.2 No impact on the public sector is foreseen.

## **11. Regulating small business**

- 11.1 The new regulation concerning MPs' expenses and the expenses of other elected representatives does not apply to small business.
- 11.2 The new regulation concerning the PVGS does apply to small business.
- 11.3 A Small Firms Impact Test has not been undertaken because the legislation does not alter the operation of existing procedures.

## 12. Monitoring & review

- 12.1 HMRC will monitor the impact of the Regulations in relation to MPs' expenses and the expense of other representatives, ensuring that they are being correctly applied and will undertake an internal review after 24 months to ensure that the intended outcome has been achieved.
- 12.2 No formal review is planned in relation to the PVGS, as this change is unlikely to create any difficulties for employers or employees.

## 13. Contact

**Jim Fedigan at HMRC** Tel: 0151 703 8585 or email: [jim.fedigan1@hmrc.gsi.gov.uk](mailto:jim.fedigan1@hmrc.gsi.gov.uk) can answer any queries regarding the effect of the instrument on MPs expenses or the expenses of other elected representatives.

**Mrs Su McLean-Tooke** Tel: 020 7147 2665 or email: [susan.mclean-tooke@hmrc.gsi.gov.uk](mailto:susan.mclean-tooke@hmrc.gsi.gov.uk) can answer any queries regarding the effect of the instrument on the PVGS.