

**EXPLANATORY MEMORANDUM TO**  
**THE SOCIAL SECURITY (CONTRIBUTIONS) (RE-RATING) CONSEQUENTIAL**  
**AMENDMENT REGULATIONS 2012**

**2012 No. 867**

1. This explanatory memorandum has been prepared by H.M.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. **Purpose of the instrument**

- 2.1 The purpose of this Statutory Instrument is to make a consequential amendment to the special rate of Class 2 National Insurance Contributions (NICs) payable by share fishermen from 6 April 2012.

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

- 3.1 It is very much regretted that this Statutory Instrument is in breach of the rule requiring laying of an instrument 21 days before its provisions take effect.

- 3.2 The timing of these regulations is dependent on the approval of the Social Security (Contributions) (Re-rating) Order 2012 (“the Re-rating Order”) by both Houses of Parliament. This took place on the 29 February in the House of Commons and 7 March 2012 in the House of Lords. Unfortunately the timing means that it has not been possible to lay the amending Statutory Instrument 21 days before its provisions take effect.

- 3.3 The amendment needs to take effect from the beginning of the 2012-13 tax year and accordingly it is not possible in the circumstances to allow 21 days to elapse between the laying of the instrument and its coming into force.

4. **Legislative Context**

- 4.1 The Re-rating Order, approved by the House of Commons and House of Lords on the 29 February and 7 March 2012 respectively, increased the rate of Class 2 NICs to £2.65 per week. A consequence of this is that the special rate payable by share fishermen is increased from £3.15 to £3.30 per week.

- 4.2 This requires an amendment to regulation 125(c) of the Social Security (Contributions) Regulations 2001 (modification of provisions of the Social Security Contributions and Benefits Act 1992 in relation to share fishermen). These amendments are made under powers contained in sections 117(1) and 175(3) of the Social Security Contributions and Benefits Act 1992, and the corresponding powers for Northern Ireland.

## **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 negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

- *What is being done and why*

7.1 In the Budget on 23 March 2011 it was announced that the basis for indexation of the weekly Class 2 contribution rates would be by reference to the Consumer Price Index (CPI). The September 2011 CPI was 5.2%.

7.2 Share fishermen pay a special rate of Class 2 NICs that entitles them to receive Contribution-based Jobseeker's Allowance for periods of inactivity (normally in the winter months). It is based on the ordinary rate of Class 2 NICs with a loading to cover Contribution-based Jobseeker's Allowance. Payment of ordinary Class 2 NICs does not give entitlement to this. This change is necessary because of the CPI increase to the weekly rate of Class 2 NICs.

- *Consolidation*

7.3 These amendments will make only a small amendment to the Social Security (Contributions) Regulations 2001 which are very large and complex (the printed text ran to around 150 pages in 2001). HM Revenue and Customs has no current plans to consolidate these Regulations. On the last occasion it was a task involving 18 months work and contributions from four different Government departments.

## **8. Consultation outcome**

8.1 No consultation has been undertaken. This instrument relates to routine changes to limits, rates and thresholds as part of the annual NICs re-rating exercise.

## **9. Guidance**

9.1 These consequential Regulations do not impose a new obligation.

9.2 The NICs Rates and Thresholds for 2012-13 were announced on 29 November 2011 in the Autumn Statement and can also be found on HMRC's website.

## **10. Impact**

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 A Tax Information Impact Note was published on 23 March 2011 alongside Budget 2011. This has been updated as a result of the changes to the impacts as a result of this instrument and is available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>.

## **11. Regulating small business**

11.1 The change to the special rate of Class 2 contributions payable by share fishermen apply to small businesses in so far as the proprietor(s) are self employed. These changes have no impact on employees.

## **12. Monitoring & review**

12.1 These Consequential Regulations make changes to the special rate of Class 2 contributions payable by share fishermen and will not be subject to specific monitoring and review.

## **13 Contact**

Hasan Mustafa at H.M. Revenue and Customs, Tel: 020 7147 2508 or e-mail: [hasan.mustafa@hmrc.gsi.gov.uk](mailto:hasan.mustafa@hmrc.gsi.gov.uk) can answer any queries regarding the instrument.