

**EXPLANATORY MEMORANDUM TO**  
**THE SOCIAL SECURITY (CONTRIBUTIONS) (AMENDMENT NO. 2)**  
**REGULATIONS 2013**

**2013 NO. 1142**

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs (HMRC) on behalf of the Treasury 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). It introduces a new National Insurance disregard to cover fees relating to the Disclosure and Barring Service (DBS) in England and Wales.

2.2 The changes introduce a disregard in England and Wales for fees payable for up-dating certificates, and fees for criminal record certificates and enhanced criminal record certificates where the application is made at the same time the employee applies to join the up-date service or where a person already holds a certificate that is subject to up-dating arrangements.

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

3.1 None.

**4. Legislative Context**

4.1 The up-date services being introduced by the DBS will allow any employer or prospective employer to check an individual's status, so where the annual fee for up-dating is paid or reimbursed by the employer, a chargeable benefit arises. Criminal records certificates will also be made available to any employer or prospective employer to check during the period that the up-date service applies, and these fees would also be treated as a chargeable benefit if an employer pays or reimburses the cost. These Regulations remove the liability to National Insurance contributions (NICs).

**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**

- *What is being done and why*

7.1 The Home Office has been reviewing the scope of the criminal records regime and the DBS was launched in England and Wales as part of this on 1 December 2012. An individual can choose to subscribe to the up-date service provided by the DBS for 12 months by paying a fee. Membership of the up-date service allows different employers and potential employers to check the individual's status position during the period of membership. As such, if this fee is paid or reimbursed by the employer, it would be treated as a chargeable benefit. The up-date service is being introduced from 10 June 2013.

7.2 As a consequence, criminal records certificates of all kinds which are applied for at the same time as the application to join the up-date service, or where a person already holds a certificate that is subject to up-dating arrangements, will be accessible by any employer for the remainder of the 12 month period. Where an employer pays or reimburses the cost of fees for criminal records certificates applied for during that period, it would be treated as a chargeable benefit.

7.3 In order to prevent the burden of administrative costs falling on employers who would have to record and report this benefit, the Government has introduced a disregard from NICs for fees paid where an individual has applied or holds an active subscription for the up-date service.

## **8. Consultation outcome**

8.1 These Regulations have not been consulted on – they are wholly relieving.

## **9. Guidance**

9.1 The relevant HMRC guidance will be amended in line with these Regulations.

## **10. Impact**

10.1 No impact on business is foreseen.

10.2 No impact on the public sector is foreseen.

10.3 A Tax Information and Impact Note covering this instrument will be published on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>.

## **11. Regulating small business**

11.1 There will be no impact on small business. HMRC will amend their external guidance to support employers and employees.

## **12. Monitoring and Review**

12.1 This policy will be monitored and assessed alongside other measures in the Government's package of personal tax and benefits changes.

## **13. Contact**

Mrs Su McLean-Tooke at HMRC 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 this instrument.