

The National Insurance Act 2006 received Royal Assent on 30 March 2006. Using regulation making powers in the Act, further draft regulations are published today.

Background

The Act contains measures to support the Government's objectives of fairness and opportunity by ensuring all employers and employees pay the proper amount of tax and National Insurance contributions (NICs) on the rewards of employment.

The Act provides powers to make regulations in respect of NICs that reflect backdated anti-avoidance tax changes that take effect on or after 2 December 2004. The power will allow for NICs liability to be applied to these payments going back to 2 December 2004, if necessary.

Provisions in the Act also allow for consequential changes for the purposes of contributions, contributory benefit and statutory payments where appropriate. Where a NICs liability is backdated, to mirror the start date of anti-avoidance tax measures, any additional earnings on which primary NICs are due up to the Upper Earnings Limit will be allowed to count for the purposes of contributory benefit and occupational pensions. The additional earnings will also count for statutory payments purposes.

The Act also provides a power to extend the avoidance disclosure rules that currently apply to tax to NICs. And it will prevent the use of NIC elections and agreements over securities in avoidance schemes that have been targeted by any backdated NICs regulations so that employers cannot pass on the secondary NICs liability that they have tried to avoid to their employees.

SOCIAL SECURITY OCCUPATIONAL PENSIONS SCHEMES AND STATUTORY PAYMENTS (CONSEQUENTIAL PROVISIONS) REGULATIONS 2006

These draft regulations are made using the powers in National Insurance Contributions Act 2006. Their purpose is to allow payments that are retrospectively treated as earnings to also count for contributory benefit, occupational pension purposes and statutory payment purposes.

THE NATIONAL INSURANCE CONTRIBUTIONS (APPLICATION OF PART 7 OF THE FINANCE ACT 2004) REGULATIONS 2006

These draft regulations provide for extending the income tax avoidance scheme disclosure regime to NICs. They supersede draft regulations published in November 2005 consequent upon changes to the tax disclosure regime that come into force on 1 August 2006.

THE SOCIAL SECURITY CONTRIBUTIONS (CONSEQUENTIAL PROVISIONS) REGULATIONS 2006

These draft regulations set out how employers record retrospective earnings on pay records, how amended earnings are notified to HMRC, and how the additional contributions payable are accounted for. The regulations also set out the extent to which employers can recover additional primary contributions from employees.

THE SOCIAL SECURITY (CONTRIBUTIONS) (AMENDMENT) REGULATIONS 2006

These draft regulations, which supersede the draft published in November 2005, make provisions to apply retrospective National Insurance contributions liability back to 2 December 2004 on employment income from employment-related securities and securities options. They are to be made under the powers contained Sections 1 and 2 of the National Insurance Contributions Act 2006.

The draft regulations propose amendments to the existing National Insurance regulations. The amendments will ensure that a National Insurance contribution liability arises, from 2 December 2004 or later, on the same amount of employment income which is charged to tax by the provisions of Schedule 2 of the Finance Act (No.2) 2005 and section 92 of Finance Act 2006.

Schedule 2, Finance Act (No.2) 2005 and section 92 of Finance Act 2006 added anti-avoidance provisions to Part 7 of ITEPA which provides the tax rules for employment income from employment related shares and securities.

Further information: -

See [draft regulations](#): -

Any comments on all the draft regulations should be sent by 9 November 2006 to:

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Please note that all comments received may be published unless specifically requested otherwise.