

**EXPLANATORY NOTE**

**CLAUSE 59 AND SCHEDULE 12 : PROVISION OF SERVICES THROUGH INTERMEDIARY**

**SUMMARY**

1. **Clause 59 and Schedule 12** introduce new rules concerning the taxation of workers who provide their services to clients through intermediaries, such as personal service companies. Separate Social Security Regulations which introduce the same rules for National Insurance Contributions (NICs) purposes have already been laid before Parliament. The new rules use existing case law to define an employee and determine that, where workers meet that definition in relation to work done for their clients, they will pay broadly the same tax and NICs as an employee, even if they provide their services through an intermediary. The new rules came into effect on 6 April 2000.
2. Prior to 6 April 2000, it was possible for workers to work through intermediaries such as personal service companies to provide services to clients in circumstances where, if it were not for the service company, the worker would be an employee of the client. The use of intermediaries in this way allowed the client to make payments to the personal service company rather than the individual, without deducting PAYE or NICs. The worker could then take money out of the service company in the form of dividends instead of salary. Dividends are not liable to NICs so the worker paid less in NICs than either a conventional employee or a self-employed person. There were also tax advantages to these arrangements.
3. Clause 59 and Schedule 12 of this Bill and The Social Security Contributions (Intermediaries) Regulations 2000 and The Social Security Contributions (Intermediaries) (Northern Ireland) Regulations 2000 (Statutory Instruments numbers 727 and 728 respectively) introduce legislation which will prevent this sort of avoidance and help to deliver the Government's objective of a fair tax system. The genuine entrepreneur will not be affected by the legislation. Moreover, by tackling avoidance activity such as this, the Government will be able to target its support for small businesses more effectively towards those who are creating wealth and employment.

**DETAILS OF THE CLAUSE**

4. **Clause 59** gives effect to Schedule 12 to the Bill.

**DETAILS OF THE SCHEDULE**

5. **Schedule 12** specifies the detailed new tax rules concerning the provision of services through intermediaries.

**PART I**

6. **Paragraph 1** identifies the engagements to which this Schedule applies. The legislation applies to engagements where :
- **Subparagraph 1(1)(a)** a worker provides, or is obliged to provide, his services to a client who is a ‘business’ (services provided to individuals, such as a gardener who works for a householder, will not be affected);
  - **Subparagraph 1(1)(b)** the arrangements for these services are not made directly with the client but through a ‘third party’ (known as the intermediary);
  - **Subparagraph 1(1)(c)** ‘the circumstances’ are such that, if the arrangements had been with the client, and not the intermediary, the worker would have been treated as an employee of the client for tax purposes.
7. **Subparagraph 1(2)(a)** defines ‘business’ as including any activity carried on by a government or local authority in the UK, or elsewhere; and
8. **Subparagraph 1(2)(b)** further defines ‘business’ as including any activity carried on by any company, unincorporated body or partnership.
9. **Subparagraph 1(3)** defines ‘third party’ as including any partnership or unincorporated body of which the worker is a member.
10. **Subparagraph 1(4)** defines ‘the circumstances’ as including the terms on which the services are provided, all or part of which may be included in written contracts.
11. **Subparagraph 1(5)** explains that this Schedule may still apply, even if the worker already holds an office, such as a directorship, with the client.
12. **Paragraph 2** states that an engagement to which this Schedule applies is referred to as a ‘relevant engagement’.

It explains that, where there is a relevant engagement in any tax year, then the intermediary will be deemed to have made to the worker (and the worker will be deemed to have received from the intermediary) a payment which is chargeable to tax under Schedule E if the following circumstances apply :

- Subparagraph 2(1)(a) the intermediary meets the criteria contained in Paragraphs 3, 4 or 5 of this Schedule; and
- Subparagraph 2(1)(b)(i) the worker (or an associate of the worker) receives, directly or indirectly, a payment or other benefit from the intermediary which is not subject to tax under Schedule E (such as a dividend); or
- Subparagraph 2(1)(b)(ii) the worker (or an associate of the worker) is entitled to, or has rights entitling him to receive any such payment or benefit, directly or indirectly.

The payment deemed to have been made in these circumstance is known as ‘the deemed Schedule E payment’.

13. Subparagraph 2(2) states that the deemed Schedule E payment is treated as made on the last day of the tax year (or earlier in situations covered by Paragraph 12 of this Schedule).
14. Subparagraph 2(3) determines that only one deemed Schedule E payment is treated as made in any tax year, even if there have been multiple relevant engagements during that year.
15. **Paragraph 3** sets out the criteria which identify company intermediaries to which the rules apply.
16. Subparagraph 3(1) states that the Schedule will apply where the intermediary is not an ‘associated company’ of the client that falls within Subparagraph 3(2), and either :
  - Subparagraph 3(1)(a) the worker has a ‘material interest’ in the intermediary; or
  - Subparagraph 3(1)(b)(i) the worker does not have a ‘material interest’, but receives a payment or benefit directly from the intermediary which is not salary; and
  - Subparagraph 3(1)(b)(ii) that payment or benefit can reasonably be taken to represent his earnings from a relevant engagement.

17. Subparagraph 3(2) states that an intermediary is associated with the client if both it and the client are controlled by :
- Subparagraph 3(2)(a) the worker; or
  - Subparagraph 3(2)(b) the worker and someone else.
18. Subparagraph 3(3) explains that a worker has a ‘material interest’ in the intermediary if :
- Subparagraph 3(3)(a) he has a ‘material interest’ on his own, or with one or more of his ‘associates’; or
  - Subparagraph 3(3)(b) if any ‘associates’ of the worker have a ‘material interest’ either together, or individually.
19. Subparagraph 3(4) defines ‘material interest’ as :
- Subparagraph 3(4)(a) the beneficial ownership of, or the ability to control (directly or indirectly) more than 5% of the ordinary share capital of the intermediary; or
  - Subparagraph 3(4)(b) the right to receive more than 5% of any distributions (such as dividends) made by the intermediary, or the entitlement to acquire any such right; or
  - Subparagraph 3(4)(c) (where the intermediary is a close company) the right to receive more than 5% of any assets available for distribution to the ‘participators’ in any circumstances, including the intermediary being wound up, or the entitlement to acquire any such right.
20. Subparagraph 3(5) states that the definition of ‘participator’ can be found in Section 417(1) of the Income tax, Corporation Tax and Capital gains tax Acts (ICTA) 1988.

**Paragraph 4**

21. Paragraph 4(1) introduces the criteria which identify partnership intermediaries to which the rules apply.
22. Subparagraph 4(2) states that the Schedule will apply to payments or benefits received (or receivable) by the worker as a member of the partnership if, during a tax year:

- Subparagraph 4(2)(a) the worker (on his own or with one or more of his ‘relatives’) is entitled to 60% or more of the profits of the partnership; or
  - Subparagraph 4(2)(b) most of the profits of the partnership come from relevant engagements for work for :
    - Subparagraph 4(2)(b)(i) a single client; or
    - Subparagraph 4(2)(b)(ii) a single client plus that client’s ‘associates’; or
  - Subparagraph 4(2)(c) the partnership’s profit sharing arrangements mean that a partner’s income from the partnership is based on the income he or she generates personally from relevant engagements.
23. ‘Relative’ is defined as husband or wife, parent or remoter forebear, child or remoter issue, or brother or sister. It includes a partner who is living with the worker as husband or wife (see Subparagraph 21(4) of this Schedule).
24. Subparagraph 4(3) determines that the Schedule will also apply to payments or benefits received (or receivable) by the worker in some other capacity than as a member of the partnership if :
- Subparagraph 4(3)(a) the payment or benefit is received (or receivable) directly from the partnership; and
  - Subparagraph 4(3)(b) the payment or benefit can reasonably be taken to represent the worker’s earnings from a relevant engagement.
25. **Paragraph 5** sets out the criteria which identify intermediaries who are individuals to which the rules apply. The Schedule will apply where :
- Subparagraph 5(a) the payment or benefit is received (or receivable) directly from the intermediary; and
  - Subparagraph 5(b) the payment or benefit can reasonably be taken to represent the worker’s earnings from a relevant engagement.
26. **Paragraph 6** determines that this Schedule will not apply to any payments to foreign entertainers and sportsmen visiting the UK which are already subject to tax under section 555 ICTA 1988.

**PART II**

27. **Paragraph 7** sets out a nine step method for calculating the deemed Schedule E payment for a tax year. A worked example is included with this note.
28. *Step One:* determines that the starting point for the calculation is the total amount received by the intermediary during the tax year from relevant engagements. This figure will include any benefits in kind provided to the intermediary in respect of those engagements. This total amount is then reduced by 5%, which is an allowance for the running costs of the intermediary.
29. *Step Two:* adds in any payments or benefits in kind received by the worker or his family in respect of any relevant engagements from anyone other than the intermediary, which are not otherwise taxable under Schedule E, but which would have been taxable under Schedule E if the worker had been employed by the client.
30. *Step Three:* deducts any amounts spent by the intermediary, which could have been claimed as expenses against income tax if the worker had been an employee of the client and met them himself.
31. *Step Four:* allows a deduction for any capital allowances that could have been claimed by the worker if he had been an employee of the client.
32. *Step Five:* deducts any contributions paid by the intermediary to an approved pension scheme for the benefit of the worker.
33. *Step Six:* deducts any employer's NICs (Class 1 and Class 1A) paid by the intermediary in respect of salary or benefits in kind provided to the worker during the year.
34. *Step Seven:* deducts any amount of salary and benefits in kind provided by the intermediary to the worker during the year, which has already been subject to Schedule E tax and Class 1 and 1A NICs (excluding any amounts which have already been deducted at *Step Three*).

35. The Schedule determines that if, after *Step Seven*, the result is nil or a negative amount, there is no deemed Schedule E payment and no further tax or NICs will be payable. However, if the result is positive, then a deemed Schedule E payment must be calculated in accordance with *Steps Eight and Nine*.
36. *Step Eight*: allows for a deduction of the employer's NICs payable on the deemed payment. So *Step Eight* requires the calculation of the amount which, together with the employer's NICs due on it, equals the result of *Step Seven*.
37. *Step Nine*: states that the result after *Step Eight* is the amount of the deemed Schedule E payment.
38. **Paragraph 8** determines that, if the worker is within the Construction Industry Scheme (at section 559 ICTA 1988), then it is the amount before deduction of tax under that scheme that must be brought in at *Step One* of the calculation.
39. **Paragraph 9** explains that in calculating a deemed Schedule E payment any just and reasonable apportionment can be made where a single payment is received by the intermediary in respect of:
- Subparagraph 9(a) the services of more than one worker; or
  - Subparagraph 9(b) the services of a worker, together with something else (such as provision of materials).

**Paragraph 10**

40. Subparagraph 10(1) introduces some specific provisions which apply when calculating the deemed Schedule E payment.
41. Subparagraph 10(2) defines 'payment or other benefit' as including anything which, if received by an employee because of his employment would be :
- Subparagraph 10(2)(a) salary or a benefit in kind ; or
  - Subparagraph 10(2)(b) taxable as salary or a benefit in kind.
42. Subparagraph 10(3) determines that the amount of any payment or benefit is:
- Subparagraph 10(3)(a) if cash, the amount received; and
  - Subparagraph 10(3)(b) if a non-cash benefit, the 'cash equivalent' of that benefit.

43. Subparagraph 10(4) defines ‘cash equivalent’ as meaning the greater of :
- Subparagraph 10(4)(a) the amount that would be chargeable under Section 19(1) ICTA 1988, if the benefit arose in the course of an ordinary employment ; and
  - Subparagraph 10(4)(b) the amount determined by Section 596B ICTA 1988.
44. Paragraph 10(5) determines that a payment or benefit is treated as received:
- Subparagraph 10(5)(a) if cash, when a payment is made of, or on account of, the payment or benefit;
  - Subparagraph 10(5)(b) if a non-cash benefit, when that benefit is used or enjoyed.
45. **Paragraph 11** determines that the rules for identifying and valuing payments and benefits in kind are the same as in the legislation which applies to employees.
46. Subparagraph 11(1) applies the provisions of the Income Tax Acts to the deemed Schedule E payment in the following ways :
- Subparagraph 11(2)(a) as if the worker was employed by the intermediary through which he works; and
  - Subparagraph 11(2)(b) as if the relevant engagements were carried out by the worker as part of his employment with the intermediary. (This is significant, for example, in determining the travel expenses that can be deducted.)
47. Subparagraph 11(3) says that a worker is not chargeable to tax on a deemed Schedule E payment if he would not be taxed on the same money if he was an employee of the client because :
- Subparagraph 11(3)(a) he lives (or is domiciled) overseas; and/or
  - Subparagraph 11(3)(b) his client is overseas; and/or
  - Subparagraph 11(3)(c) the work is done overseas.
48. Subparagraph 11(4) ensures that the deemed Schedule E payment counts in the calculation of salary:

- Subparagraph 11(4)(a) for deciding whether the tax rules on benefits in kind relating to higher paid employees included in Chapter II Part V of ICTA 1988 should apply; and
  - Subparagraph 11(4)(b) for deciding what employee expenses can be claimed.
49. Subparagraph 11(5) determines that, where the intermediary is a partnership or an unincorporated association, the deemed Schedule E payment is treated as received by the worker personally, and not by the partnership or unincorporated association.
50. Subparagraph 11(6) states that an intermediary will be treated as having a place of business in the UK, if :
- Subparagraph 11(6)(a) the worker is resident in the UK;
  - Subparagraph 11(6)(b) the work is done in the UK; and
  - Subparagraph 11(6)(c) the client or employer carries on business in the UK.

Subparagraph 11(6) therefore ensures that the intermediary is obliged to operate PAYE in respect of income from relevant engagements carried out in the UK for a UK based client, even if the intermediary is located outside the UK.

51. Subparagraph 11(7) provides for the deemed Schedule E payment to count in the calculation of the amount of pension contributions that can be made by the worker and the intermediary in any year into an approved pension scheme for the worker.

### **PART III**

52. **Paragraph 12** explains that the deemed Schedule E payment is treated as being made before the end of the tax year where :
- Subparagraph 12(1)(a) a deemed Schedule E payment is treated as being made; and
  - Subparagraph 12(1)(b) the connection between the worker and the intermediary comes to an end before the end of the tax year at a 'relevant event'.
53. Where Paragraph 12 applies, the deemed Schedule E payment is treated as having been made immediately before the first of any 'relevant event'(s).

54. Subparagraph 12(2) defines a ‘relevant event’ for a company intermediary as being where:
- Subparagraph 12(2)(a) the worker stops being a member, for example, a shareholder, of the company;
  - Subparagraph 12(2)(b) the worker stops holding an office, for example, a directorship, with the company;
  - Subparagraph 12(2)(c) the worker stops being employed by the company.
55. Subparagraph 12(3) defines a ‘relevant event’ for a partnership intermediary as being where:
- Subparagraph 12(3)(a) the partnership is dissolved, or stops trading, or a partner stops acting as a partner;
  - Subparagraph 12(3)(b) the worker stops being employed by the partnership (where he has previously been employed by the partnership).
56. Subparagraph 12(4) defines a ‘relevant event’ for an intermediary which is an individual as being where the worker ceases to be employed by the individual (where he has previously been employed by the individual).
57. Subparagraph 12 (5) determines that the way in which the deemed Schedule E payment is calculated is not affected by the fact that it might have to be calculated before the end of the tax year.
58. **Paragraph 13** allows for a claim to be made for relief if it is necessary to avoid double taxation where certain conditions are met.
59. Subparagraph 13(1) states that the conditions for making a claim are that :
- Subparagraph 13(1)(a) the intermediary is a company;
  - Subparagraph 13(1)(b) the company is treated as making a deemed Schedule E payment in the tax year; and
  - Subparagraph 13(1)(c) the company has already paid the same amount to the worker or another shareholder as a dividend, during the year, or in a subsequent year.
60. Subparagraph 13(2) requires the intermediary to submit a claim to the Inland Revenue in writing.

61. Subparagraph 13(3) says that if the Inland Revenue are satisfied that relief should be given in order to avoid a double charge to tax, then they will give relief by amendment, discharge, repayment or whatever method appears to be appropriate.
62. Subparagraph 13(4) determines that the relief will be given by treating the amount of any dividend as reduced, rather than by reducing the amount of the deemed Schedule E payment.
63. Subparagraph 13(5) determines that, as far as is practicable, relief is given by setting the amount of a deemed Schedule E payment against :
  - Subparagraph 13(5)(a) relevant dividends of the same tax year, before those of other years;
  - Subparagraph 13(5)(b) relevant dividends received by the worker, before those received by anyone else; and
  - Subparagraph 13(5)(c) relevant dividends of earlier years, before those of later years.
64. Subparagraph 13(6) states that any associated tax credit is also reduced where a dividend is reduced under Paragraph 13.

**Paragraph 14**

65. Subparagraph 14(1) introduces provisions at Paragraphs 15 and 16 which cover the situation where more than one ‘relevant intermediary’ would be treated as making a deemed Schedule E payment in respect of the same relevant engagement.
66. Subparagraph 14(2) defines a ‘relevant intermediary’ as one which meets the conditions set out in Paragraphs 3, 4 or 5.
67. Subparagraph 14(3) applies this Schedule separately to each relevant intermediary, unless an intermediary is excepted under Paragraphs 15 or 16.

**Paragraph 15**

68. Subparagraph 15(1) applies where a payment or other benefit has gone directly or indirectly from one relevant intermediary to another in respect of a relevant engagement.

69. Subparagraph 15(2) determines that, where this has happened, then a reduction is to be allowed in calculating the deemed Schedule E payment to avoid double counting (where, for example, a payment is passed from one intermediary to another, and is counted in the calculation of the deemed payment by both).

### **Paragraph 16**

70. Subject to Subparagraph 16(2), Subparagraph 16(1) makes all intermediaries involved in the same relevant engagement jointly and severally liable for the amount due under PAYE where any one intermediary fails to pay the tax due on a deemed Schedule E payment made by any of them :

- Subparagraph 16(1)(a) in respect of that relevant engagement; or
- Subparagraph 16(1)(b) in respect of that relevant engagement together with any other relevant engagements.

71. Subparagraph 16(2) explains that if an intermediary has not received any payment or benefit in respect of a relevant engagement then that intermediary is excepted from joint and several liability under Subparagraph 16(1).

72. **Paragraph 17** explains how a deemed Schedule E payment is to be treated in the calculation of the profits of the intermediary.

73. Subparagraph 17(1) allows for a deduction in calculating the profits of the intermediary for tax purposes for :

- Subparagraph 17(1)(a) the deemed Schedule E payment; and
- Subparagraph 17(1)(b) any employer's NICs on the deemed Schedule E payment.

74. Subparagraph 17(2) says that the deduction for the deemed Schedule E payment and associated employer's NICs must be made in the period of account in which the deemed Schedule E payment is treated as made.

75. Subparagraph 17(3) only allows a deduction to be made in the calculation of the profits of the intermediary in the way described in this Paragraph.

### **Paragraph 18**

76. Paragraph 18(1) introduces some additional rules about how the deemed Schedule E payment is to be treated in the calculation of the profits of a partnership intermediary.

77. Subparagraph 18(2) determines that any deduction for a deemed Schedule E payment and associated employer's NICs can only reduce the partnership profits to nil, and cannot create a loss.
78. Subparagraph 18(3) says that no deduction will be allowed in any tax year for expenses incurred by the partnership in connection with any relevant engagements which exceed :
- Subparagraph 18(3)(a) the amounts that would have been deductible under Schedule E, if the worker had been employed by the client and the expenses had been incurred by the worker; plus
  - Subparagraph 18(3)(b) the 5% allowance taken into account in *Step One* of Paragraph 7.

### **Paragraph 19**

79. Subparagraph 19(1) defines 'associate' for the purposes of this Schedule as :
- Subparagraph 19(1)(a) the definition in section 417(3) and (4) ICTA 1988, in relation to individuals (subject to subparagraphs 19(2), (3) and (4));
  - Subparagraph 19(1)(b) the definition in section 839 ICTA 1988, in relation to companies; and
  - Subparagraph 19(1)(c) any associate of a member of the partnership, in relation to partnerships.
80. Subparagraph 19(2) states that if an individual has an interest in shares of a company intermediary as a beneficiary of an 'employee benefit trust', then the trustees are not regarded as associates of his unless, at any time on or after 14 March 1989 :
- Subparagraph 19(3)(a) the individual can control more than 5% of the ordinary share capital of the intermediary (either directly or indirectly) on his own, or with any of his associates; or
  - Subparagraph 19(3)(b) any one or more of the individual's associates can control more than 5% of the ordinary share capital of the intermediary (either directly or indirectly).
81. Subparagraph 19(4) defines 'employee benefit trust' as having the same meaning as that used in Paragraph 7 of Schedule 8 ICTA 1988.

82. Subparagraph 19(5) explains that, where Paragraph 7 of Schedule 8 ICTA 1988 applies to an employee, that same paragraph will apply to an individual for the purposes of this Schedule.
83. Subparagraph 19(6) says that, if the worker only holds shares in the trust, then the trustees of an employee benefit trust are not treated as associates of his.
84. **Paragraph 20** defines ‘Inland Revenue’ as ‘any officer of the Board’ for the purposes of this Schedule.
85. **Paragraph 21** sets out definitions for various terms used in this Schedule.
86. Subparagraph 21(1) highlights the following definitions:
- ‘associate’ - defined in Paragraph 19 of this Schedule;
  - ‘associated company’ - defined by Section 416 ICTA 1988;
  - ‘business’ - defined as any trade, profession or vocation, including a Schedule A business;
  - ‘company’ - defined as a body corporate or unincorporated association, but not including a partnership;
  - ‘employer’s national insurance contributions’ - defined as secondary Class 1 or Class 1A NICs;
  - ‘engagement to which this Schedule applies’ - defined as any engagement falling under Paragraph 1(1) of this Schedule;
  - ‘national insurance contributions’ - defined as contributions under Part I of the Social Security Contributions and Benefits Act 1992 or Part I of the Social Security Contributions and Benefits Northern Ireland) Act 1992;
  - ‘PAYE provisions’ – defined as the provisions at
    - (a) Section 203 ICTA 1988 or regulations under that section, or
    - (b) Sections 203A to 203L ICTA 1988;
  - ‘tax year’ - defined as a year of assessment.
87. Subparagraph 21(2) explains that payments or benefits received (or receivable) from a partnership or unincorporated association include payments or benefits to which a person is (or may be) entitled in his capacity as a member of the partnership or association.
88. Subparagraph 21(3) states that :
- Subparagraph 21(3)(a) anything done by or in relation to an associate of an intermediary is treated as done by or in relation to the intermediary; and
  - Subparagraph 21(3)(b) a payment or other benefit provided to a member of ‘an individual’s family or household’ is treated as provided to the individual.

‘An individual’s family or household’ is as defined in Chapter II of Part V of ICTA 1988.

89. Subparagraph 21(4) states that this Schedule applies to unmarried as well as married partners.

**Paragraph 22**

90. Subparagraph 22(1) determines that only payments and benefits for services performed on or after 6 April 2000 will be affected by this Schedule.

91. Subparagraph 22(2) states that payments or benefits received by intermediaries before 6 April 2000 for services provided on or after 6 April 2000 will be treated as received in the tax year 2000-01.

92. **Paragraph 23** contains some transitional provisions for individual and partnership intermediaries.

93. Subparagraph 23(1) applies where :

- Subparagraph 23(1)(a) an individual or partnership is in business on 6 April 2000; and
- Subparagraph 23(1)(b) that individual or partnership is treated as making a deemed Schedule E payment for 2000/2001.

94. Subparagraph 23(2) states that, where this is the case, the individual or partnership can elect :

- Subparagraph 23(2)(a) to be treated as having stopped trading on 5 April 2000; and
- Subparagraph 23(2)(b) started trading again on 6 April 2000.

95. Subparagraph 23(3) determines that an election under Paragraph 23 will have no effect on the treatment of business losses carried forward.

96. Subparagraph 23(4) requires an individual or partnership to include any election under Paragraph 23 in a ‘return’ on or before the ‘due date’.

97. Subparagraph 23(5) defines :

- Subparagraph 23(5)(a) ‘a return’ for an individual as being a personal tax return under Section 8 of the Taxes Management Act (TMA) 1970; and
- Subparagraph 23(5)(b) the ‘due date’ for that return as being the date specified at Subsection 1(A) TMA 1970.

98. Subparagraph 23(6) defines :

- Subparagraph 23(6)(a) ‘a return’ for a partnership as being a partnership return under Section 12AA(2) or (3) of TMA 1970; and
- Subparagraph 23(6)(b) the ‘due date’ for that return as being the date specified at Subsection (2) or (3) of TMA 1970.

99. **Paragraph 24** explains that this Schedule does not affect the operation of the agency legislation at Section 134 ICTA 1988.

**BACKGROUND**

100. A Budget day 1999 press release (IR35) announced the Chancellor's intention to tackle tax and NICs avoidance through the use of intermediaries such as service companies or partnerships with effect from 6 April 2000. Clause 59 and Schedule 12 of this Finance Bill and The Social Security Contributions (Intermediaries) Regulations 2000 and The Social Security Contributions (Intermediaries) (Northern Ireland) Regulations 2000 (Statutory Instruments No. 727 and 728 respectively) introduce the tax and National Insurance (NICs) legislation which deliver this objective.
101. In order to be able to introduce both tax and NICs provisions at the same time, it was necessary to include an enabling clause for the NICs aspects of the measure in the Welfare Reform and Pensions Bill in 1999. This is because NICs legislation cannot be included in Finance Bills. The NICs provisions have been set out in detail in the Regulations referred to under paragraph 100 (above). These Regulations came into force on 6 April 2000.
102. The draft Finance Bill Clauses and the NICs Regulations were published on 22 February and are available on the Inland Revenue website at [www.inlandrevenue.gov.uk/ir35](http://www.inlandrevenue.gov.uk/ir35), along with all other press releases, background material and guidance about this measure that has been published by the Inland Revenue.
103. It is estimated that the full year yield from this measure will be £350 million.

**EXAMPLE CALCULATION OF THE DEEMED SCHEDULE E PAYMENT**

Mr Worker works through his own limited company. He provides services to Mr Client under a contract which falls within the new rules. Mr Client pays £40,000 to Mr Worker's limited company for the services provided by Mr Worker.

Mr Worker does no other work in the year in question. He pays himself a salary of £20,000 during the course of the year, and operates PAYE and deducts NICs from that salary in the usual way.

The limited company buys Mr Worker a travel card for £500 to allow him to get to Mr Client's business premises. It also pays £4,000 into Mr Worker's pension scheme.

Schedule 12 Paragraph 7 references		£	£
<i>Step One</i>	Total amounts from client (all subject to new rules)		40 000
	<i>deduct</i>		
	5%	2 000	
<i>Step Two</i>	(Not applicable)	-	
<i>Step Three</i>	Schedule E expenses related to contract	500	
<i>Step Four</i>	(Not applicable)	-	
<i>Step Five</i>	Employer's pension contributions to an approved scheme	4 000	
<i>Step Six</i>	Employer's NICs on earnings paid in year	1 905	
<i>Step Seven</i>	Salary paid in year	20 000	
	<i>Total deductions</i>	28 405	28405
	<i>Balance</i>		11 595
<i>Balance not nil or a negative amount, so move to Step Eight/Nine</i>			
<i>Step Eight/Nine</i>	Deemed payment = Balance ÷ (100+12.2)		10 334
	Employer's NICs due on the deemed payment		1 261

(The calculation assumes the NICs contributions rates, thresholds and earnings limits for 2000/01.)