

Summary: Intervention & Options

Department /Agency:
HM Revenue & Customs

Title:
Impact Assessment of amendment of Social Security
(Categorisation of Earners) Regulations 1978 on certain
individuals

Stage: Consultation

Version: 1

Date: 8 October 2009

Related Publications:

<http://www.hmrc.gov.uk/ria/index.htm#partial>

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What is the problem under consideration? Why is government intervention necessary?

Representations have been made to HMRC that there is some uncertainty within the First Aid Training sector about the application of the Social Security (Categorisation of Earners) Regulations 1978. These regulations provide, amongst other things, that lecturers, teachers, instructors or people in a similar capacity who are self-employed, are for National Insurance purposes treated as employed. Since the introduction of the Regulations the way in which training courses are delivered has evolved, and despite recent updates to HMRC guidance, amendments to the Regulations appear necessary.

What are the policy objectives and the intended effects?

HMRC has received a divergence of views on which courses the Regulations apply to. The objective is to remove any perceived ambiguity by amending legislation so that it continues to achieve its original objectives of a) ensuring that those persons to whom the regulations apply receive entitlement to the range of benefits afforded to employed earners, and b) achieving a measure of uniformity amongst workers who, regardless of their employment status are working under broadly similar conditions. The amended legislation should clarify to which education and training activities the Regulations apply.

What policy options have been considered? Please justify any preferred option.

1. Do nothing. 2. Amend the Regulations

The preferred option is number 2. HMRC has revised their guidance in relation to how the Regulations relate to teachers, lecturers and instructors but this has failed to achieve the clarity required, particularly for the First Aid Training sector. Amending the Regulations will clarify their scope and reflect the way education and training is currently delivered.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

HMRC will conduct a review within 3 to 5 years after any changes to the Regulations.

Ministerial Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:



Date: 8 October 2009

Summary: Analysis & Evidence

Policy Option: 1	Description: Do Nothing
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COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' On going costs for businesses in establishing whether the Regulations apply. Cost to HMRC in providing ongoing advice and guidance on the Regulations	
	One-off (Transition)	Yrs		
	£ 0			
	Average Annual Cost (excluding one-off)			
	£ 0		Total Cost (PV)	£ 0
Other key non-monetised costs by 'main affected groups' Disputes between the parties resulting in litigation.				

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' The option would mean keeping the status quo of confusion for some about the application of the Regulations in relation to lecturers, teachers, instructors or those in a similar capacity.	
	One-off	Yrs		
	£ 0			
	Average Annual Benefit (excluding one-off)			
	£ 0		Total Benefit (PV)	£ 0
Other key non-monetised benefits by 'main affected groups' Over the long term there might be unforeseen costs in failing to clarify the Regulations now.				

Key Assumptions/Sensitivities/Risks
In pursuing this option Government would miss an opportunity to clarify the application of the Regulations.

Price Base Year 2009	Time Period Years 5	Net Benefit Range (NPV) £ N/A	NET BENEFIT (NPV Best estimate) £ N/A
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What is the geographic coverage of the policy/option?			United Kingdom		
On what date will the policy be implemented?			N/A		
Which organisation(s) will enforce the policy?			HMRC		
What is the total annual cost of enforcement for these organisations?			£ 0		
Does enforcement comply with Hampton principles?			Yes		
Will implementation go beyond minimum EU requirements?			No		
What is the value of the proposed offsetting measure per year?			£ N/A		
What is the value of changes in greenhouse gas emissions?			£ N/A		
Will the proposal have a significant impact on competition?			No		
Annual cost (£-£) per organisation (excluding one-off)		Micro	Small	Medium	Large
Are any of these organisations exempt?		No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)			(Increase - Decrease)
Increase of	£ 0	Decrease of	£ 0
Net Impact			£ 0

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Summary: Analysis & Evidence

Policy Option: 2

Description: Amend the Social Security (Categorisation of Earners) Regulations in relation to lecturers, teachers, instructors or those similar

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' The majority of educational and training providers will have a PAYE scheme in place. For some there will be a transitional cost as they reevaluate their guidance and consider amending it. The minority of training companies with no PAYE scheme will be required to set one up and operate it annually where the Regulations apply.
	One-off (Transition)	Yrs	
	£ 0.5M		
	Average Annual Cost (excluding one-off)		
	£ 0.5M		
Total Cost (PV)			£ 2.3M
Other key non-monetised costs by 'main affected groups'			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' It is intended that the amended Regulations, together with any additional guidance provided by HMRC will provide the clarity necessary in deciding whether to apply the Regulations.
	One-off	Yrs	
	£ 0		
	Average Annual Benefit (excluding one-off)		
	£ 0		
Total Benefit (PV)			£ 0
Other key non-monetised benefits by 'main affected groups' With the necessary clarity educational and training providers will save on resource in establishing whether the Regulations apply.			

Key Assumptions/Sensitivities/Risks

The costs are an estimation based on the assumption that 90% or more educational and training providers will have a PAYE scheme in place.

Price Base Year 2009	Time Period Years 5	Net Benefit Range (NPV) £ N/A	NET BENEFIT (NPV Best estimate) £ -2.3M
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What is the geographic coverage of the policy/option?				United Kingdom	
On what date will the policy be implemented?				6 April 2010	
Which organisation(s) will enforce the policy?				HMRC	
What is the total annual cost of enforcement for these organisations?				£ 0	
Does enforcement comply with Hampton principles?				Yes	
Will implementation go beyond minimum EU requirements?				N/A	
What is the value of the proposed offsetting measure per year?				£ N/A	
What is the value of changes in greenhouse gas emissions?				£ N/A	
Will the proposal have a significant impact on competition?				No	
Annual cost (£-£) per organisation (excluding one-off)		Micro	Small	Medium	Large
Are any of these organisations exempt?		No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)				(Increase - Decrease)	
Increase of	£ 0.5M	Decrease of	£ 0	Net Impact	£ 0.5M

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Evidence Base (for summary sheets)

Background

A worker's employment status, that is whether they are employed or self-employed, is not a matter of choice. Whether someone is employed or self-employed depends upon the terms and conditions of the relevant engagement. The tax and National Insurance contributions (NICs) rules do, however, contain some special rules that apply to certain categories of worker in certain circumstances. One such rule is The Social Security (Categorisation of Earners) Regulations 1978, which need only be considered where there is a contract for services (self-employment).

The Regulations provide, amongst other things, that certain categories of individual who would normally be self-employed for NICs purposes are treated as being in an employed earner's employment. The Regulations also prescribe who, in these circumstances, is classed as the secondary contributor, liable for payment of the secondary (employer's) NICs.

The purpose of the Regulations is to ensure that those persons receive entitlement to the wider range of benefits afforded to employed earners. The Regulations were also intended to obtain some measure of uniformity amongst workers who, whilst not being employed under a contract of service by an employer, were working under conditions broadly similar.

The Regulations prescribe five categories of individuals who are treated as employed earners and who for each category and other specified employments is treated as the secondary contributor. One such category of individuals is persons employed as a lecturer, teacher, instructor or in any similar capacity.

Rationale for consultation

After receiving various representations that applying the Regulations was causing difficulties, HMRC engaged with representatives of the First Aid Training sector. HMRC was informed that due to the wide range of courses in the sector, and the diverse circumstances under which first aid training is delivered, it has become progressively more difficult to apply the Regulations in a way that the sector believes is consistent and in keeping with what the Regulations were intended to achieve. Furthermore, although HMRC has a clearer understanding about the structure of first aid training provision, some of those in the sector have told HMRC that there remain difficulties in the practical application of the Regulations by that sector. This is despite the fact that HMRC has provided revised guidance.

Policy options

Option 1: Do nothing

HMRC have met with representatives from the First Aid Training sector and revised their guidance. It is clear that simply providing further guidance on the application of the Regulations is unlikely to provide the clarity the First Aid Training sector, and other education and training sectors, need. Equally there is a risk that in seeking to clarify matters for the First Aid Training sector, other sectors will in fact be less clear as to how the Regulations affect their particular sector.

Option 2: amend the Social Security (Categorisation of Earners) Regulations 1978 in relation to lecturers, teachers and instructors or in any similar capacity.

Amend the above-mentioned Regulations in order to provide clarity for the First Aid sector and others regarding the persons to whom, and the circumstances in which, the Regulations apply. Following any amendments to the Regulations HMRC would review their guidance and amend accordingly.

Costs & Benefits

For option 2, our preferred option, educational and training providers will have a transitional cost in that they might review their current guidance and consider amending as appropriate. Where the revised Regulations apply and the provider does not currently operate PAYE they will be required to set up a PAYE scheme in which to operate National Insurance contributions, which will result in an annual additional cost for them. There are approximately 9,700 educational and training providers in the United Kingdom. It is envisaged that the vast majority of them will be businesses operating PAYE, HMRC's estimation of those providers who do not currently operate PAYE is less than 10% of these.

Specific Impact Tests

Competition Assessment

We would not expect either proposal to impact on competition. HMRC has received differing views on what courses the Regulations are applicable to. By amending the Regulations it is intended to make it clear to educational and training providers what educational and training courses the Regulations apply to, ensuring a consistent understanding and application of the Regulations for educational and training providers.

Small Firms Impact Test

Amending the Regulations will provide clarity on whether the Regulations apply to a particular training course. This coupled with any revised guidance will provide small businesses with clarification on the scope of the Regulations to enable businesses to spend less time and money on considering if the Regulations are applicable to their set of circumstances.

Legal Aid

Will the proposal introduce new criminal sanctions or civil penalties? No.

Sustainable Development

Does the proposal comply with Sustainable Development Principles? Yes.

Carbon assessment

Will the proposal lead to change in the emissions of Greenhouse Gases? No.

Other Environment

Air Quality, Water Pollution, Climate Change? No adverse effects.

Health Impact Assessment

The proposal will have no adverse impact on health.

Race Equality

This proposal will have no impact on racial equality.

Disability Equality

This proposal will have no impact on disability equality.

Gender Equality

This proposal will have no impact on gender equality.

Human rights

The policy will not impact on Human Rights.

Rural Proofing

Will the policy have a different impact in rural areas? No.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No