



SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992 (APPLICATION) (AMENDMENT) ORDER 2014

Index

| Article | Page |
|---|------|
| 1 Title | 3 |
| 2 Commencement | 3 |
| 3 Amendment of the Social Security Contributions and Benefits Act 1992 (Application) Order 1994 | 3 |
| 4 Amendment of the Social Security Legislation (Contributions) (Application) (Miscellaneous Amendments) Order 2012 | 5 |

Statutory Document No. 2014/0057



Social Security Act 2000

SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992 (APPLICATION) (AMENDMENT) ORDER 2014

Approved by Tynwald: 18 March 2014
Coming into Operation: 6 April 2014

The Treasury makes the following Order under section 1(1A) of the Social Security Act 2000.

1 Title

This Order is the Social Security Contributions and Benefits Act 1992 (Application) (Amendment) Order 2014.

2 Commencement

If approved by Tynwald, this Order comes into operation on 6 April 2014.

3 Amendment of the Social Security Contributions and Benefits Act 1992 (Application) Order 1994

- (1) The Schedule to the Social Security Contributions and Benefits Act 1992 (Application) Order 1994¹ (which sets out the text of the Social Security Contributions and Benefits Act 1992 (of Parliament) as applied to the Island) is amended as follows.
- (2) For the entry relating to section 4A substitute —

4A Deemed employment

- (1) If Part 2 of the *Income Tax (Instalment Payments) Act 1974* (deemed employment) (“Part 2 of ITIPA”) applies to an individual who is the worker for the purposes of Part 2 of ITIPA —
 - (a) the worker is to be treated as employed in employed earner’s employment by the client and not by a third party;

¹ SD 505/94

- (b) the worker's earnings (computed in accordance with Part 2 of ITIPA) are to be treated as remuneration or earnings derived from that employed earner's employment;
 - (c) despite section 7 of the Act, the client is to be treated as the secondary contributor in respect of those earnings; and
 - (d) for the purposes of calculating earnings periods —
 - (i) section 4(5) (earnings periods: regulations as to the treatment of directors' earnings); and
 - (ii) regulations under that subsection;
 the worker is to be treated as if he were a director of the client (whether or not the client is a company).
- (2) Contributions which ought to be paid under this section but are unpaid are subject to interest at the prescribed rate applying to unpaid income tax under section 111A of the *Income Tax Act 1970*.
Nothing in this subsection limits the Assessor's power to remit interest.
- (3) In a case falling within subsection (2) interest —
- (a) accrues from the date on which the contribution falls due for payment until the date on which it is paid; and
 - (b) is the liability only of the secondary contributor.
- (4) No separate appeal lies under section 11 of the Social Security Contributions (Transfer of Functions, etc) Act 1999 (an Act of Parliament) as it applies in the Island in respect of a liability which arises under this section, but any decision of the Income Tax Commissioners in relation to the earnings arising from the deemed employment applies (*mutatis mutandis*) for the purpose of determining a liability which arises under this section.
- (5) In this section —
- (a) "ITIPA" means the Income Tax (Instalment Payments) Act 1974; and
 - (b) terms which are defined for the purposes of Part 2 of ITIPA have the same meanings in this section as they have in that Part. **22**.
- (3) In section 9A —
- (a) after subsection (2) insert —
 - 23**(2A) The employed earner must not be in deemed employment with the secondary contributor under section 4A. **22**; and
 - (b) in subsection (3) for "or provided services to —" substitute —

☐ have been deemed (under section 4A) to have been employed by, or have provided services to — ☐.

4 Amendment of the Social Security Legislation (Contributions) (Application) (Miscellaneous Amendments) Order 2012

In article 2(1) of the Social Security Legislation (Contributions) (Application) (Miscellaneous Amendments) Order 2012² omit the words following “6 April 2012”.

MADE 19th February 2014

W E TEARE
Minister for the Treasury

² SD 56/12

EXPLANATORY NOTE

(This note is not part of the Order)

This Order further modifies the Social Security Contributions and Benefits Act 1992 (an Act of Parliament) (“the 1992 Act”) as it is applied to the Island by the Social Security Contributions and Benefits Act 1992 (Application) Order 1994 (SD 505/94).

Section 13 of the *Income Tax (Amendment) Act 2014* makes fresh provision about the income tax treatment of remuneration arising under deemed employment arrangements, inserting a new Part 2 into the Income Tax (Instalment Payments) Act 1974 (“the 1974 Act”).

Articles 1 and 2 deal with citation and commencement.

Article 3 amends the Schedule to the Application Order (and in consequence further modifies the 1992 Act as it is applied to the Island) to replace the existing section 4A. The previous version of this section dealt with the treatment of remuneration routed through managed service companies. It is superseded by provision which mirrors, for the purposes of National Insurance Contributions, the provision made for income tax purposes by the new Part 2 of the 1974 Act by virtue of that Act’s amendment by the *Income Tax (Amendment) Act 2014*. The Article also amends section 9A to prevent a person who is the client in relation to a deemed employment under section 4A from taking advantage of the excepted earnings regime in section 9A (commonly referred to as “the NICs holiday scheme”). Article 4 makes a minor amendment to the Social Security Legislation (Contributions) (Application) (Miscellaneous Amendments) Order 2012 to ensure that the NICs holiday scheme will continue until 5 April 2015.