



SOCIAL SECURITY ACT 2000

SOCIAL SECURITY LEGISLATION (CONTRIBUTIONS) (APPLICATION) (MISCELLANEOUS AMENDMENTS) ORDER 2012

Approved by Tynwald *22 February 2012*

Coming into operation in accordance with article 2

The Treasury makes this Order under section 1¹ of the Social Security Act 2000².

1 Title

This Order is the Social Security Legislation (Contributions) (Application) (Miscellaneous Amendments) Order 2012.

2 Commencement, duration and effect

- (1) Subject to approval by Tynwald³, this Order comes into operation on 6 April 2012, and ceases to have effect on 5 April 2014.
- (2) Articles 3 to 6 amend the Social Security Contributions and Benefits Act 1992⁴.
- (3) Article 7 amends the Social Security (Contributions) Regulations 2001⁵.

3 Social Security Contributions and Benefits Act 1992 (as applied) further modified

¹ Section 1 was amended by paragraph 1(1)(b) of B of Schedule 7 to the Transfer of Functions (New Departments) (No. 2) Order 2010 (SD 155/10)

² 2000 c.5

³ As required by section 2 of that Act.

⁴ 1992 c.4 as applied to the Island by SD 505/94

⁵ S.I. 2001/1004 as applied to the Island by SD 374/02

Price £1.15

The Social Security Contributions and Benefits Act 1992 as applied to the Island by the Social Security Contributions and Benefits Act 1992 (Application) Order 1994 is further modified in accordance with articles 4, 5 and 6, and in those articles a reference to a section is a reference to the section of that Act as it applies as part of the law of the Island by virtue of that Order.

4 Section 6 amended

In section 6(1)(b) (liability for secondary Class 1 contributions) for "section 9" substitute "sections 9, 9A and 9B".

5 Section 9 amended

For section 9(2) (secondary percentage) substitute —

- "(2) For the purposes of this Act the secondary percentage —
- (a) except in relation to excepted earnings is 12.8%; and
 - (b) in relation to excepted earnings is nil."

6 Sections 9A and 9B inserted

After section 9 insert —

"9A Secondary Class 1 contributions: excepted earnings

- (1) For the purposes of section 9(2)(b) earnings are excepted from liability for secondary Class 1 contributions ("excepted earnings") if all the conditions in subsections (2) to (14) are satisfied.
- (2) The employed earner's employment in respect of which the earnings are paid (the "relevant employment") must not be employment —
 - (a) with an office of the Government of the Island;
 - (b) with a Department or a Statutory Board;
 - (c) with the Civil Service Commission;
 - (d) with a local authority;
 - (e) with a joint committee of two or more local authorities;
 - (f) with a joint board being a body corporate established under an enactment and consisting of members appointed —
 - (i) by 2 or more local authorities; or
 - (ii) by the Department of Infrastructure and one or more local authorities;
 - (g) with the Manx Museum and National Trust;
 - (h) with Laxey Glen Flour Mills Ltd; or
 - (i) as a constable.
- (3) The employed earner must not have been employed by, or provided services under a contract for services to —
 - (a) the secondary contributor; or
 - (b) any person connected with the secondary contributor,at any time within the 2 years before the start of the relevant

employment.

- (4) The secondary contributor must have a place of business on the Island and satisfy the conditions in regulation 145(1)(b) of the Social Security (Contributions) Regulations 2001.
- (5) The relevant employment must be undertaken in the Island.
- (6) The relevant employment must begin on or after 6th April 2012.
- (7) The total number of employed earners employed by the secondary contributor in employment undertaken in the Island must be greater on the day the relevant employment begins than it was at any time in the tax year preceding that in which it begins.
- (8) The relevant employment must be expected, on the day it begins, to last –
 - (a) for at least 12 months; and
 - (b) until 5th April 2014.
- (9) The relevant employment must be one in which the employed earner is required to work a minimum of 30 hours per week.
- (10) The earnings must be paid during the period when this section is in operation.
- (11) The secondary contributor must make a claim for an employment to be treated as a relevant employment not later than 30 days after it begins.
- (12) The claim must contain such information, and be made in such manner and form as the Treasury specify.
- (13) The secondary contributor must pay within the prescribed time any contributions which the contributor is liable to pay to the Assessor.
- (14) The Assessor must be satisfied that the secondary contributor's primary purpose in offering the relevant employment is not avoiding or reducing his liability (or that of any connected person) for contributions.
- (15) For the purposes of this section –
 - (a) whether a person is connected with another is to be determined in accordance with section 119C of the Income Tax Act 1970; and
 - (b) the Social Security (United Kingdom) Order 1977⁶ shall be disregarded.
- (16) Section 9B provides for administration in connection with excepted earnings and is to be read as one with this section.
- (17) This section and section 9B cease to have effect on 5th April 2014.

9B Secondary Class 1 contributions: excepted earnings - administration

- (1) Where the Treasury considers that an employment in respect of which a claim is made by a secondary contributor under section 9A(11) is a relevant employment, the Treasury will issue a certificate to the secondary contributor stating that secondary Class 1 contributions are

⁶ GC 47/78

not due in respect of that employment until the date given in section 9A(17) provided the conditions in section 9A continue to be satisfied.

- (2) If at any time the secondary contributor ceases to satisfy the condition in section 9A(13) the Assessor may give the secondary contributor notice in writing to that effect, and the employment shall thereupon cease to be relevant employment.
- (3) If subsection (2) has applied and the secondary contributor subsequently satisfies the Assessor that the condition in section 9A(13) is then satisfied, and all other conditions in that section continue to be satisfied, the Assessor shall issue a further certificate under subsection (1) of this section.

For the purpose of this subsection the reference in section 9A(11) to the beginning of the employment is to be read as the date on which the Assessor issues the further certificate.

- (4) The issue of a further certificate by the Assessor by virtue of subsection (3) does not affect the secondary contributor's liability for Class 1 contributions in respect of earnings paid during the period beginning with the issue of the notice under subsection (2) and ending with the issue of the further certificate under subsection (3).
- (5) The secondary contributor must submit with his annual employer's return such information as the Assessor may require in order to demonstrate that (so far as is the case) the conditions in section 9A have been satisfied.
- (6) The secondary contributor must retain any certificate issued under subsection (1) or subsection (3) for a period of three years following the date in section 9A(17).
- (7) The secondary contributor must notify the Treasury immediately if any of the conditions required for earnings to qualify as excepted earnings is no longer satisfied.

7 Amendment of the Social Security (Contributions) Regulations 2001 as they are applied to the Island

- (1) The Social Security (Contributions) Regulations 2001, as they are applied to the Island by the Social Security Legislation (Application) (No. 8) Order 2002 are amended as follows.
- (2) In paragraph 7(13) of Schedule 4 to the Regulations (calculation of deduction) in (b)(iv), after "the sum of the primary Class 1 contributions and secondary Class 1 contributions payable on all the employee's earnings" insert "including the amount (if any) of any secondary contributions which would have been paid but for the issue of a certificate under section 9B(1) or 9B(3) of the Act".
- (3) In paragraph 22 of Schedule 4 to the Regulations (return by employer at end of year) in each of paragraphs (2)(b) and (2)(bb), after the words

“that year” insert “including the amount (if any) of any secondary contributions which would have been paid but for the issue of a certificate under section 9B(1) or 9B(3) of the Act”.

Made

6th February 2012



Minister for the Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Social Security Contributions and Benefits Act 1992 (“the Act”) as it applies to the Island to provide that no secondary Class 1 contributions are payable if certain conditions, set out in the new sections 9A and 9B of the Act, are met.

Articles 1 and 2 deal with citation, commencement, duration and effect. The Order and the amendments made by it will cease to have effect on 5th April 2014.

Article 3 introduces the amendments to the Act.

Article 4 amends section 6 (liability for secondary Class 1 contributions) in consequence of the creation of the concept of excepted earnings.

Article 5 makes a consequential amendment to section 9 (which contains the general rule about quantum of secondary Class 1 contributions).

Article 6 sets out the conditions which must be met for earnings to be classified as excepted earnings and provides details of the administrative practice to be followed.

The Order also amends the Social Security (Contributions) Regulations 2001 as they are applied to the Island to provide for the recording of excepted earnings (*Article 7*).