HM Revenue & Customs

CA44

National Insurance Contributions Series

National Insurance for Company Directors

This manual gives detailed information about paying National Insurance contributions for company directors

It also tells you about special or unusual cases

Use from
6 April 2008

Help and further guidance

Help and further guidance about tax and National Insurance contributions (NICs) is available from the following sources.

The Internet

Go to our website at **www.hmrc.gov.uk/employers**

Your Employer CD-ROM

Your Employer CD-ROM has most of the forms and guidance you will need to run your payroll throughout the year.

The CD-ROM has:

- a P11 calculator that will work out and record your employees' tax, NICs and Student Loan deductions every pay day with a linked P32 record of deductions that works out what you need to pay us.
- a range of other Calculators that work out car and car fuel benefit, Statutory Payments and Student Loan deductions.
- a P45 checker that tells you what gross pay and tax to date figures to enter on the P11 for a new employee.

There is also:

- a Learning Zone to help you understand payroll topics such as Statutory Payments, Student Loan deductions and PAYE Online.
- a Payroll Basics section for new and less experienced employers explaining what to do when employing someone for the first time.

Employer Helpbooks

Our Employer Helpbooks are designed to help you understand and operate PAYE, NICs and other payroll related matters.

The Helpbooks are for guidance only, they are not comprehensive and have no legal force.

We also have many other leaflets and booklets that give further guidance, for example

- CWG2(2008) *Employer Further Guide to PAYE and NICs*
- CWG5(2008) *Class1A NICs on benefits in kind*
- 480(2008) *Expenses and Benefits - a tax guide*
- 490(2008) *Employee travel - A tax and NICs guide for employers*.

You can view, download and print the full range of Helpbooks, booklets and other forms and guidance from our website at **www.hmrc.gov.uk/employers** or your Employer CD-ROM.

Or you can order copies from the Employer Orderline:

– from our website at
– **www.hmrc.gov.uk/employers/emp-form.htm**

– by phone **08457 646 646**

– by fax **08702 406 406**

Forms and guidance in Braille, large print and audio

For details of employer forms and guidance in Braille, larger print or audio call the Employer Orderline on **08457 646 646** and ask to speak to the Customer Service Team.

Yr Iaith Gymraeg

Ffoniwch 0845 302 1489 i dderbyn fersiynau Cymraeg o ffurflenni a chanllawiau.

By phone - Employer Helplines

(We may record calls for quality and training purposes.)

New employers and employers with less than 3 years payroll experience	**New Employer Helpline** **0845 60 70 143** Monday to Friday 08:00 - 20:00 Saturday and Sunday 08:00 - 17:00
Employers with more than 3 years payroll experience	**Employer Helpline** **08457 143 143** Monday to Friday 08:00 - 20:00 Saturday and Sunday 08:00 - 17:00
If you have a hearing or speech impairment, and use a textphone	**0845 602 1380** (only people with specialised equipment such as Mincom are able to use this service.)

A list of Helplines and opening hours is available

- on our website at **www.hmrc.gov.uk/contactus/helplines.htm**
- on your CD-ROM, and
- in your Employer Bulletin.

Your HM Revenue & Customs office

Your own HM Revenue & Customs office can also help you. All our office contact details are on our website at **www.hmrc.gov.uk/local/employers/index.htm**

Please tell us your Employer reference which is on correspondence from your HM Revenue & Customs office.

In Person

We can offer you education and support on all aspects of your payroll explaining

- what you need to do
- the deadlines you need to meet
- the forms you need to fill in
- the records you need to keep.

We also have a range of workshops which are free of charge on many payroll topics.

You can get further information about the workshops from our website at **www.hmrc.gov.uk/bst**, or you can call the

- New Employer Helpline on **0845 60 70 143**
- Employer Helpline on **08457 143 143**

Online Services

For information about our online services

- **go to www.hmrc.gov.uk/online/index.htm**

For help and assistance using our online services contact the Online Services Helpdesk.

- E mail **helpdesk@ir-efile.gov.uk**
- telephone **0845 60 55 999**

  open 7 days a week 08:00 -20:00.

Contents

Introduction

1 About this manual

This manual

- replaces the April 2007 edition of CA44 *National Insurance for Company Directors*.
- gives detailed information about the different National Insurance contribution (NIC) rules for company directors
- can also be used for employees who have annual or pro-rata annual earnings periods.

The normal rules about NICs are in the

- Employer Helpbooks
- CWG2 *Employer Further Guide to PAYE and NICs*.

More about this manual

This manual is for guidance only, and should not be regarded as a complete and authoritative statement of the law.

All the examples in this manual

- use the 2008-09 NICs rates and limits, and
- are for illustration purposes only.

2 If you are unhappy with our service

If you are unhappy with any aspect of the service you have received from HM Revenue & Customs, you should complain to the manager at the office you have been dealing with.

The rules for company directors

3 Introduction

This section describes what you need to know to work out NICs for company directors.

4 Company directors

Who is a company director?

For NI purposes, *Regulation 1 of the Social Security (Contributions) Regulations 2001* defines a company director as

- a member of a board, or similar body where the company is managed by a board or similar body
- a single person where the company is managed by an individual, or
- if a director as defined in either of the above is accustomed to acting under the instructions of another person, that person will be a director. This additional rule will not apply if the other person's instructions are limited to professional advice, for example, the advice given by a solicitor.

Directors of Building Societies which have not de-mutualised are not normally company directors for NI purposes.

What is a company director liable for?

For NI purposes, a company director is classified as an office holder.

Under Section 2(1) of the Social Security Contributions and Benefits Act 1992, (In Northern Ireland, Section 2(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992) an office holder is liable for Class 1 NICs, provided the earnings received from that office are chargeable to income tax under employment income.

5 What you should do

To assess NICs for company directors

- use an annual, or pro-rata annual, earnings period to calculate NICs
- calculate NICs on the total earnings paid to the director each time a payment of earnings is made
- deduct the NICs already paid, if any, to arrive at the amount of NICs now due
- include all the director's earnings when calculating NICs, including fees and bonuses
- record NIC information on one form P11 *Deductions Working Sheet*, and one form P14 *End of Year Summary*, unless this manual tells you otherwise
- you can adapt the NIC tables to calculate NICs, (see paragraph 40 page 14).
- you can use the exact percentage method to calculate NICs (see paragraph 39 page 14).

Alternatively:

- you can apply the arrangements for the assessment and payment of directors' NICs outlined in paragraphs 6-9, see pages 4-7.

6 How it works

Since 6 April 1999 HM Revenue & Customs has operated alternative arrangements for the assessment and payment of NICs for company directors.

Under ***Regulation 8 of the Social Security (Contributions) Regulations 2001***, the earnings period for the assessment of directors' NICs remains an annual one but, subject to the qualifying conditions in paragraph 9, you can, if you wish, make payments on account of directors' NICs during the tax year based on the actual intervals of payment - usually weekly or monthly - in the same way as for other employees.

If you do choose to pay NICs in this way, you should apply the normal rules for assessing NICs, as set out in the CWG2 *Employer Further Guide to PAYE and NICs*, and the Employer Helpbooks.

7 Last payment of earnings in tax year (or directorship)

Normally you should assess NICs using the shorter earnings period throughout the year until the last payment of earnings in the tax year (or directorship) is being made (but see paragraph 8 page 7).

When the final payment of the director's earnings in the tax year (or directorship) is being made, you must

- reassess the NICs due on the director's total earnings for the tax year on the basis of an annual, or pro-rata annual, earnings period, as appropriate
- either deduct the amount of primary contributions then due from the payment or, if the earnings are insufficient to cover the primary contributions then due, pay the balance yourself
- adjust the final (or, if the director leaves, or dies, during the year, the next) remittance in the tax year to HM Revenue & Customs to take into account the reassessment
- fill in the director's form P14 *End of Year Summary* to reflect the NICs due for the year based on the reassessment.

Remember, even if you use the weekly or monthly rates and limits to calculate NICs throughout the year, because directors have an annual earnings period you must still reflect the annual, or pro-rata annual, Lower Earnings Limit (LEL), Earnings Threshold (ET) and Upper Earnings Limit (UEL) figures on form P14 at the final reassessment.

Under this particular arrangement, regardless of the method used to calculate NICs during the year, you can use either the exact percentage method or adapt the NIC tables to calculate the NICs at the final reassessment.

Example for the 2008-09 tax year

Mr Armstrong is in not contracted-out employment and receives a regular monthly salary of £1,558. An annual earnings period would normally apply for the assessment of NICs. However, as he is paid monthly, a monthly earnings period can be used to assess NICs during the tax year.

NICs due

Monthly LEL = £ 390

Monthly ET = £ 453

Monthly UEL = £ 3,337

Month 1

Earnings	Director's NICs	Company's NICs
£1,558	**£121.55**	**£141.44**

Record the NIC details on form P11 but do not record in columns 1a - 1c the earnings on which employee's contributions are payable.

By month 11,

NICs paid are:

NIC table letter	Earnings	Director's NICs	Company's NICs	Total NICs
A	£17,138	£1,337.05	£1,555.84	£2892.89

On the final payment of earnings in the tax year, reassess NICs on the total earnings received by reference to an annual earnings period and adjust the final remittance to HM Revenue & Customs accordingly.

Month 12

Earnings: £1,558

Total earnings from the directorship in the tax year (12 x £1,558) = £18,696

Based on an annual earnings period NICs due on £18,696 are:

NIC table letter	Earnings	Director's NICs	Company's NICs	Total NICs
A	£18,696	£1,458.71	£1,697.41	£3,156.12

In month 12 of form P11, you must record the total earnings in columns 1a - 1c and NICs figures for the year following the reassessment (not what falls to be due just for month 12). Record these figures on *End of Year Summary* form P14.

NICs actually payable in month 12:

Director's NICs	Company's NICs
£121.66 **(£1,458.71 - £1,337.05)**	**£141.57** **(£1,697.41 - £1,555.84)**

Mr Armstrong's form P14 would show:

National Insurance contributions in this employment *(Note: LEL = Lower Earnings Limit, ET = Earnings Threshold, UEL = Upper Earnings Limit)*

NIC table letter	Earnings at the LEL (where earnings are equal to or exceed the LEL) *(whole £s only)* *From col.1a on P11* 1a £	Earnings above the LEL, up to and including the ET *(whole £s only)* *From col.1b on P11* 1b £	Earnings above the ET, up to and including the UEL *(whole £s only)* *From col.1c on P11* 1c £	Total of employee's and employer's contributions *From col.1d on P11* 1d £ p	*If amount in col.1d is a minus amount, enter 'R' here*	Employee's contributions due on all earnings above the ET *From col.1e on P11* 1e £ p
A	4680	755	13261	3156.12		1458.71

Example for the 2008-09 tax year

Mr Morris is in not contracted-out employment and receives a regular monthly salary of £1,058. In addition, he is voted a bonus at the AGM on 4 June 2008 of £10,000 to be paid with his regular June salary. An annual earnings period would normally apply for the assessment of NICs. However, as he is paid monthly, a monthly earnings period can be used to assess NICs during the tax year.

NICs due

Monthly LEL = £ 390

Monthly ET = £ 453

Monthly UEL = £ 3,337

Month 1

Earnings	Director's NICs	Company's NICs
£1,058	**£66.55**	**£77.44**

Record the NIC details on form P11 but do not record in columns 1a - 1c the earnings on which employee's contributions are payable.

Month 3

The £10,000 bonus should be included with the salary of £1,058.

Earnings	Director's NICs	Company's NICs
£11,058	**£394.45**	**£1,357.44**

Record the NIC details on form P11 but do not record in columns 1a - 1c the earnings on which employee's contributions are payable.

By Month 11

NICs paid are:

NIC table letter	Earnings	Director's NICs	Company's NICs	Total NICs
A	**£21,638**	**£1,059.95**	**£2,131.84**	**£3,191.79**

On the final payment of earnings in the tax year, reassess NICs on the total earnings by reference to an annual earnings period and adjust the final remittance to HM Revenue & Customs accordingly.

Month 12

Earnings: £1,058

Total earnings from the directorship in the tax year (12 x £1,058 + £10,000) = £22,696

Based on an annual earnings period, NICs due on £22,696 are:

NIC table letter	Earnings	Director's NICs	Company's NICs	Total NICs
A	**£22,696**	**£1,898.71**	**£2,209.41**	**£4,108.12**

In month 12 on form P11, you must record the total earnings in columns 1a - 1c and NICs figures for the year following the reassessment (not what falls to be due just for month 12). Record these figures on *End of Year Summary* form P14.

NICs payable in month 12:

Director's NICs	Company's NICs
£838.76	**£77.57**
(£1,898.71 - £1,059.95)	**(£2,209.41 - £2,131.84)**

Mr Morris's form P14 would show:

National Insurance contributions in this employment *(Note: LEL = Lower Earnings Limit, ET = Earnings Threshold, UEL = Upper Earnings Limit)*

NIC table letter	Earnings at the LEL (where earnings are equal to or exceed the LEL) *(whole £s only)* ***From col.1a on P11*** 1a £	Earnings above the LEL, up to and including the ET *(whole £s only)* ***From col.1b on P11*** 1b £	Earnings above the ET, up to and including the UEL *(whole £s only)* ***From col.1c on P11*** 1c £	Total of employee's and employer's contributions ***From col.1d on P11*** 1d £ p	*If amount in col.1d is a minus amount, enter 'R' here*	Employee's contributions due on all earnings above the ET ***From col.1e on P11*** 1e £ p
A	4,680	755	17,261	4,108.12		1,898.71

8 What to do if the director receives a bonus or the category of contribution payable changes during the year

In many cases, directors will receive a bonus during the year. Waiting until the final payment of earnings to carry out the reassessment could lead to a disproportionate amount of primary NICs being payable at the year end.

Similarly, directors changing from not contracted-out to contracted-out employment, for example, during the year may mean that any refund of NICs due will not be paid until the reassessment takes place at the end of the year.

In these circumstances, you can, if you wish, carry out the reassessment at the time of the change. However, you must then continue to use the appropriate annual, or pro-rata annual, earnings period rules, as described in this manual, for the rest of that tax year.

9 Qualifying conditions for the alternative arrangements

You will be able to take advantage of this arrangement if

- the director agrees to NICs being assessed in this way, and
- the director normally receives his earnings in a payment pattern for which a regular earnings period can be established for the assessment of NICs, and
- those payments normally exceed the LEL for the pay period concerned.

Applying the annual (or pro-rata annual) earnings period rules

10 Earnings limits and Earnings Threshold

Both the company and the director are liable for Class 1, that is, employed-earners, NICs when the director's total earnings reach the Lower Earnings Limit (LEL). But the director and the company only pay NICs if the director's total earnings exceed the Earnings Threshold (ET).

If the director's total earnings reach or exceed the Upper Earnings Limit (UEL), the director pays NICs only at a rate of 1% on any earnings which exceed the UEL. The company pays NICs at the appropriate contracted-out or not contracted-out percentage rate on all earnings above the ET, including those which exceed the UEL.

The annual earnings limits and threshold are the same as for other employees and are in the National Insurance Contributions Tables CA37 - CA43.

11 Lower Earnings Limit

If the director has

- an annual earnings period, do not record the earnings details for NICs purposes until the director's total earnings for the tax year reach or exceed the annual LEL
- a pro-rata annual earnings period, do not record the earnings details for NICs purposes until the total earnings paid to the director since the date of appointment reach or exceed the pro-rata annual LEL.

See paragraph 24 page 9 for details of how to work out pro-rata annual earnings limits and threshold.

12 Earnings Threshold

If the director has

- an annual earnings period, no NICs are due from the director and the company until the director's total earnings for the tax year exceed the annual ET
- a pro-rata annual earnings period, no NICs are due from the director and the company until the total earnings paid to the director since the date of appointment exceed the pro-rata annual ET.

See paragraph 24 page 9 for details of how to work out pro-rata annual earnings limits and threshold.

13 When total earnings exceed Earnings Threshold

When the total earnings in the tax year or pro-rata period exceed the ET, the director and the company pay NICs on those earnings which exceed the ET.

14 Upper Earnings Limit

The director pays NICs on all earnings above the ET up to and including the employee's annual or pro-rata annual UEL, but only at a rate of 1% on those earnings which exceed the UEL.

The company pays NICs at the appropriate contracted-out or not contracted-out percentage rate on all earnings above the ET, up to and including the UEL, then at the not-contracted percentage rate on those earnings which exceed the UEL.

See paragraph 24 page 9 for details of how to work out pro-rata annual earnings limits and threshold.

15 National Insurance contribution rates

The percentage rates you use to calculate director's NICs depend on a number of factors.

The director's NICs, if any, depend on

- the director's age
- whether the director has a married woman's or widow's election
- whether the director is a member of the company's contracted-out occupational pension scheme.

The company's NICs depend if the director is a member of the company's contracted-out occupational pension scheme.

The NIC rates are the same as for other employees and are in the National Insurance Contributions Tables CA37 - CA43.

16 Directors paying standard rate NICs

If the director pays NICs at the standard rate, the director's NICs are paid at a single percentage rate on all earnings above the annual, or pro-rata annual, ET up to and including the annual, or pro-rata annual, UEL, then at a rate of 1% on those earnings which exceed the UEL.

The percentage rate due on the earnings between the ET and UEL depends if the director's employment is

- not contracted-out
- contracted-out.

17 Directors paying reduced rate NICs

If the director is a married woman or widow who is entitled to pay reduced rate NICs and wishes to continue paying at a reduced rate, she pays NICs at the reduced rate on all earnings above the annual, or pro-rata annual, ET up to and including the annual, or pro-rata annual, UEL. But she still pays at a rate of 1% on these earnings which exceed the UEL. You **must** hold a valid form CA4139 or form CF383, *Certificate of Election*, or form CF380A, *Certificate of Reduced Liability*, for these directors.

18 Directors over pension age

If earnings are paid or are due to be paid on or after pension age, currently 60 for women and 65 for men, the director pays no NICs. You **must** hold a valid CA4140 or form CF384, *Certificate of Age Exception*, for these directors or have seen the birth certificate or passport to confirm that the director has actually reached pension age.

19 Company's NICs

The percentage which you use to calculate the company's NICs depends if the director's employment is

- not contracted-out, that is, the director belongs to the State Second Pension, previously known as the State Earnings Related Pension Scheme (SERPS) or has an Appropriate Personal Pension or Appropriate Personal Pension Stakeholder Pension, or
- contracted-out, that is, the director belongs to the company's Contracted-out Salary Related or Contracted-out Money Purchase or Contracted-out Money Purchase Stakeholder Pension Scheme.

If the director pays reduced rate NICs, the company pays NICs as normal at the appropriate not contracted-out or contracted-out rate(s).

If the director is over pension age, the company pays NICs at the appropriate not contracted-out percentage rate even if the director was contracted-out before pension age.

20 Earnings periods

The interval at which employees are paid is usually the earnings period but directors are different.

Even if the directors are paid weekly or monthly, their earnings period is

- annual, or
- pro-rata annual.

21 Annual earnings period

A person who is a director at the beginning of the tax year, 6 April, has an annual earnings period for that tax year even if they cease to be a director before the tax year ends, 5 April.

The annual earnings period runs from 6 April to 5 April.

22 Pro-rata annual earnings period

Directors first appointed during the tax year have a pro-rata annual earnings period for the remainder of that tax year.

You need to work out the

- number of weeks in the pro-rata period
- pro-rata annual LEL
- pro-rata annual ET
- pro-rata annual UEL.

See the 'Quick Guide to pro-rata annual earnings periods' on page 40.

23 Number of weeks in the pro-rata annual earnings period

The number of weeks in the pro-rata annual earnings period is

- the tax week of appointment, and
- the remaining tax weeks in the tax year.

There are 53 weeks in the tax year, but use 52 weeks when working out the pro-rata period. Ignore 5 April, or 4 and 5 April in a leap year, which is week 53. But if someone is appointed in week 53, the pro-rata period is 1 week.

See the 'Quick Guide to pro-rata annual earnings periods' on page 40.

24 Working out the pro-rata limits and Earnings Threshold

To work out the

- LEL, multiply the weekly LEL by the number of tax weeks in the pro-rata earnings period
- ET, divide the annual ET by 52, multiply the answer by the number of tax weeks in the pro-rata earnings period and round up to the next whole pound
- UEL, multiply the weekly UEL by the number of tax weeks in the pro-rata earnings period.

See the 'Quick Guide to pro-rata annual earnings periods' on page 40.

25 Director resigns during tax year

If a director resigns during the tax year, the earnings period does not change.

26 Director resigns and is re-appointed

If the director resigns during the tax year and is re-appointed by the same company

- in the same tax year, the earnings period is the one which applied before resignation
- at the beginning of a later tax year, the earnings period is annual for the later tax year
- during a later tax year, the earnings period is pro-rata annual for the later tax year.

27 What is included

CWG2 *Employer Further Guide to PAYE and NICs* gives details of what is and what is not included in gross pay when calculating NICs. Leaflet CWG5 *Class 1A NICs on benefits in kind* gives details of what taxable benefits in kind attract Class 1A NICs.

The same rules apply to directors as for other employees but there are some additional rules for directors.

28 Fees and bonuses

Normally, when fees and bonuses are voted to directors, the fees or bonuses are added to all other earnings paid in the annual, or pro-rata annual, earnings period and NICs are assessed on the total.

The NIC rates used are normally those which relate to the earnings period.

But there are exceptions to this rule.

29 Advance or anticipatory payments

Payments made in advance or in anticipation of the voting of fees, or bonuses are earnings for NIC purposes.

NICs are due when the payments exceed the annual or pro-rata annual ET which applies when they are made.

Use the NIC rates which relate to that earnings period.

NICs paid on advance or anticipatory payments and fees or bonuses are later voted
If NICs have been paid on advance or anticipatory payments and fees or bonuses are later voted, NICs are due on the fees or bonuses minus the advance or anticipatory payments already made.

Use the NIC rates and the earnings period which relate to when the voting takes place.

NICs not paid on advance or anticipatory payments and fees or bonuses are later voted
If NICs have not been paid on advance or anticipatory payments because they were, in total, less than the ET and fees or bonuses are later voted, NICs are due on the full amount of the fees or bonuses which exceeds the annual or pro-rata annual ET which applies when the voting takes place.

Use the NIC rates which relate to that earnings period.

Fees or bonuses are less than the advance or anticipatory payments
If the fees or bonuses are less than the advance or anticipatory payments, no further NICs are due.

Fees or bonuses waived or refunded.
If the fees or bonuses are waived or refunded to the company, in total or in part, after they have been voted, NICs are still due on

- the advance or anticipatory payments
- any balance of the fees or bonuses.

Director has an account with the company
If the director has an account, for example, 'loan' or 'current', with the company, NICs are

- due when fees or bonuses are voted and the account credited. Use the NIC rates and the earnings period which apply when the voting takes place
- not due when the director draws money out of the account if the account remains in credit.

Director's account is overdrawn
If the director draws money out of the account and it becomes overdrawn, or there is an increase in the amount by which it is overdrawn, there is

- liability for NICs on the overdrawn amount, or the increase in the overdrawn amount, if the withdrawal is made in anticipation of an earnings payment, for example, fees or bonuses. Use the NIC rates and the earnings period which apply when the withdrawal is made
- no liability for NICs on the overdrawn amount, or the increase in the overdrawn amount, if the withdrawal is made in anticipation of an introduction of funds which are not earnings, for example, dividends, matured insurance policies or other personal income. But there could be a liability for Class 1A NICs. See CWG5 *Class A NICs on benefits in kind*.

Payment of a director's personal bills through an account with the company
Directors who have an account with their company may arrange for the company to settle their personal bills and then charge the amount to their account. If you meet a director's personal debt in this way and then debit the amount to the account, there is liability for NICs when

- the account becomes overdrawn or there is an increase in the amount by which it is overdrawn, and
- the debiting is made in anticipation of an earnings payment, for example, fees or bonuses.

NICs are due on the overdrawn amount, or the increase in the overdrawn amount. Use the NIC rates and the earnings period which apply when the account is debited.

There is no liability for NICs if

- the account becomes overdrawn or there is an increase in the amount by which it is overdrawn, and
- the debit is made in anticipation of an introduction of funds which are not earnings, for example dividends, matured insurance policies or other personal income.

30 No advance or anticipatory payments

If the director draws money out of the account and it becomes overdrawn or there is an increase in the amount by which it is overdrawn and the director does not normally receive advance or anticipatory payments, the amount overdrawn is not earnings unless the company authorises payment of the amount(s) overdrawn.

The amount overdrawn can be authorised

- in writing, or
- by the other directors agreeing verbally that they know about the situation.

When the amount(s) overdrawn are properly authorised, NICs are due on the overdrawn amount(s). Use the NIC rates and the earnings period which apply when the authority is given.

Fees voted for a future period

If fees are voted for a future period, NICs are due if the payments exceed the annual, or pro-rata annual, earnings threshold which applies when the fees are actually made available to the director.

Use the NIC rates which relate to that earnings period.

31 Payments under the Employment Rights Act 1996 (in Northern Ireland, Employment Rights (Northern Ireland) Order 1996)

If the director receives payments under the ***Employment Rights Act 1996***

- add these payments to the director's other earnings for the tax year in which the payment is made
- use the percentage rates and earnings limits which apply at the time of payment.

32 Earnings paid for a period before appointment

Earnings paid to a person **before** the date on which he or she was appointed as a director, which relate, for example, to when they were employees of your company, **are not** included with the earnings paid after that date when the director's NICs are assessed.

Earnings paid to a person **after** the date on which he or she was appointed as a director, which relate, for example, to when they were employees of your company, **are** included with the other earnings paid after that date when the director's NICs are assessed. Use the director's earnings period, annual or pro-rata annual.

33 Earnings paid in same tax year after appointment ends

If earnings for the directorship are paid to a former director in the same tax year as their appointment ends

- add these earnings to the total earnings already paid
- calculate NICs on the total earnings using the director's earnings period.

This applies even if the director becomes an employee of the company. For the rest of the tax year any earnings paid, including those paid as an employee, should be assessed for NICs using the **annual** or, if the director was appointed after the beginning of the tax year, the pro-rata annual earnings period.

If the former director was in contracted-out employment and the payment of earnings is made more than six weeks after the appointment ends, work out NICs using the equivalent not contracted-out rate. See 'Change in category of contribution payable', paragraph 58 page 23 onwards.

34 Earnings paid in a later tax year after appointment ends

If earnings for the directorship are paid to a former director in a tax year which starts after their appointment ends

- do not add these earnings to any other earnings paid in that tax year
- calculate NICs using an annual earnings period
- use the percentage rates and earnings limits in force for the tax year in which the payment is made.

If the former director is working as an employee, separately calculate the NICs due on their earnings as an employee using the appropriate earnings period.

If the former director was in contracted-out employment and the payment of earnings is made more than six weeks after the appointment ends, work out NICs using the equivalent not contracted-out rate. See 'Change in category of contribution payable', paragraph 58 page 23 onwards.

35 Repayment of loans

If a director lends money to the company

- any repayment of that loan is not earnings for NIC purposes
- NICs are not due on the repayments.

36 Company pensions

If a director receives a company pension

- the pension is not earnings for NIC purposes
- NICs are not due on the pension payments.

NICs **are** due on any fees or bonuses or salary payments which are paid after the director has retired from the company. If the director is over pension age

- no director's NICs are due
- NICs are due from the company at the not contracted-out rate.

Calculating NICs

37 Introduction

Directors' NICs are calculated on a cumulative basis unlike other employees whose NICs are calculated each week or each month.

NICs must, therefore, be calculated each time a payment of earnings is made to a director.

To work out how much you must pay

- calculate the NICs on the total earnings paid to date in the tax year, or pro-rata period
- deduct the NICs already paid, if any.

This gives the NICs now due.

38 Methods of calculating NICs

You can calculate NICs

- using the exact percentage method, or
- by adapting the NIC tables.

You can only use one of these methods for a director in a tax year, or pro-rata period.

39 Exact percentage method

If you use the exact percentage method to calculate directors' NICs, wait until the total earnings to date reach or exceed the annual, or pro-rata annual, LEL.

To work out a director's standard rate NICs, multiply those earnings which exceed the annual, or pro-rata annual, ET, up to and including the annual, or pro-rata annual, UEL by the appropriate not contracted-out or contracted-out percentage rate. Round to the nearest penny, rounding down exact amounts of 0.5p. Deduct any employee's contracted-out NIC rebate to which the director is entitled. Multiply those earnings which exceed the annual, or pro-rata annual, UEL by 1%. Round to the nearest penny, rounding down exact amounts of 0.5p. Add the totals together.

This gives the NICs now due.

To work out a director's reduced rate NICs, multiply those earnings which exceed the annual, or pro-rata annual, ET, up to and including the annual, or pro-rata annual, UEL by the reduced percentage rate. Round to the nearest penny, rounding down exact amounts of 0.5p. Multiply those earnings which exceed the annual, or pro-rata annual, UEL by 1%. Round to the nearest penny, rounding down exact amounts of 0.5p. Add the totals together.

This gives the NICs now due.

To work out the company's NICs, multiply those earnings which exceed the ET by the appropriate not contracted-out or contracted-out percentage rate. Round to the nearest penny, rounding down exact amounts of 0.5p.

Deduct any employer's and, if appropriate, any employee's contracted-out NIC rebate to which the company is entitled.

This gives the NICs now due.

To work out how much you must pay if further payments of earnings are made in the tax year, or pro-rata period

- calculate the NICs due on the total earnings to date. Round to the nearest penny, rounding down exact amounts of 0.5p
- deduct the amount of NICs already paid.

  This gives the NICs now due.

40 Adapting the NIC tables

You can adapt the NIC tables to calculate NICs.

You must **not** use the NIC tables at 'face value' because the figures shown relate to weekly or monthly earnings periods.

41 Adapting the monthly tables

If the director has an annual earnings period, you can adapt the monthly tables to work out the NICs due each time earnings, including fees and bonuses, are paid.

- Divide the total earnings to date by 12.
  This gives the average monthly earnings to date.
- Look at the relevant monthly table for the average monthly earnings.
- If the average monthly earnings are
  - less than or equal to the monthly ET, no NICs are due
  - more than the monthly ET, multiply the NICs in the table by 12. This gives the NICs due to date.
- Deduct NICs already paid, if any. This gives the NICs now payable.

42 Adapting the weekly tables, annual earnings period

If the director has an annual earnings period, you can adapt the weekly tables instead of the monthly tables, but

- divide the total earnings by 52, not 12
- calculate NICs on the average weekly earnings
- multiply the weekly NICs by 52, not 12.

43 Adapting the weekly tables, pro-rata annual earnings period

If the director has a pro-rata annual earnings period, you can adapt the weekly tables to work out the NICs due each time earnings, including fees and bonuses, are paid.

- Work out the total number of tax weeks in the pro-rata annual earnings period.
- Divide the total earnings paid to the director since the appointment began by the number of tax weeks in the pro-rata annual earnings period. This gives the average weekly earnings to date.
- Look at the relevant weekly table for the average weekly earnings.
- If the average weekly earnings are
  - less than or equal to the weekly ET, no NICs are due
  - more than the weekly ET, multiply the NICs on the table by the number of tax weeks in the pro-rata period. This gives the NICs due to date
- deduct any NICs already paid. This gives the NICs now payable.

Paying NICs on account

44 Introduction

As directors have an annual or pro-rata annual earnings period, NICs will only become due from the director and the company when the total earnings exceed the ET.

You can, if you wish, pay NICs 'on account' before the total earnings reach the annual, or pro-rata annual, ET but you need the director's agreement to do this.

45 Paying the director's and company's NICs on account

If you expect the director's earnings to exceed the ET and the director agrees, you can pay NICs before the total earnings exceed the annual, or pro-rata annual, ET. Calculate the director's and the company's NICs at the appropriate percentage rates.

46 What to do when NICs have been paid on account

If NICs have been paid on account as in paragraph 45 (see above)

- pay those NICs to your Accounts Office in the normal way
- do not record the earnings details in columns 1a - 1c of form P11 until the actual earnings exceed the ET.

47 What to do if earnings do not reach expected level

If the total earnings do not reach the ET, see paragraph 63 page 32.

More than one job

48 Introduction

CWG2 *See Employer Further Guide to PAYE and NICs* for the basic rules if the director

- has more than one job with entirely different employers
- is both employed and self-employed
- wants to know more about refunds of NICs paid in excess of the prescribed annual maximum
- wants to know about deferment of payment of Class 1 or Class 2 and 4 NICs.

This section describes the additional rules for directors.

49 More than one job with the same company

If the director is also an employee of your company

- add all the earnings together
- calculate NICs on the total earnings using the director's earnings period
- complete one form P11 and one form P14.

If the earnings from each job are separately calculated, you do not have to add them together if it is not reasonably practicable to do so. If this is the case

- calculate the NICs separately
- use the annual, or pro-rata annual, earnings period for the earnings as a director
- use the employee's earnings period for the earnings as an employee
- complete two forms P11 and two forms P14.

50 Companies carrying on business in association

Companies are considered to be carrying on business in association with each other if the companies have some degree of common purpose substantiated by the sharing of things such as facilities, personnel, accommodation, customers, etc.

If two or more companies are carrying on business in association with each other

- add all the earnings together
- calculate NICs on the total earnings using the longer, or longest earnings period, that is, the pro-rata or annual earnings period
- complete one form P11 and one form P14.

But see paragraph 53 page 18 if any of the jobs are contracted-out.

Share the company's NICs due, as agreed between yourselves. If there is no agreement, share them in the same proportion as the earnings paid by each company.

If the earnings cannot be added together because the earnings are paid through different pay points

- calculate the NICs separately
- use the appropriate earnings period for each job
- complete separate forms P11 and P14 for each job.

51 Single service contracts

Directors may be appointed to a group of companies under a single service contract, or single service agreement.

This usually means that the directors of the parent company are also directors of one, or more of the subsidiary companies. They are engaged under a single contract of service to perform duties for each of the companies as requested.

If one payment of earnings is made for all the duties, usually the parent company

- pays the NICs
- completes one form P11 and one form P14.

If earnings are paid by more than one of the companies, the companies involved must decide which company will

- add all the earnings together
- calculate NICs on the total earnings using the longer, or longest earnings period; that is, the pro-rata or annual earnings period
- complete one form P11 and one form P14.

But see paragraph 53 page 18 if any of the jobs are contracted-out.

If the earnings cannot be added together because the earnings are paid through different pay points

- calculate the NICs separately
- use the appropriate earnings period for each job
- complete separate forms P11 and forms P14 for each job.

52 One payment of earnings covering more than one job

Consider first if the companies are carrying on business in association with each other when a director gets paid by only one company but is a director of

- more than one company, or
- one company and an employee of another company.

If the companies are carrying on business in association with each other, the company which pays the earnings

- pays the NICs
- completes one form P11 and one form P14.

But see paragraph 53 if any of the jobs are contracted-out.

If the companies are not carrying on business in association with each other

- split or 'apportion' the single payment of earnings into the payment due for each job
- and any of the separate payments reach or exceed the appropriate LEL for the earnings period for that job, record the earnings details and if the payments exceed the ET, calculate NICs on them
- complete a separate form P11 for each job.

At the end of the tax year, put

- 'X' in the NIC table letter box on any forms P11 and P14 when the payment for the tax year does not reach the LEL
- the appropriate NIC table letter in the NIC table letter boxes on any other forms P11 and P14.

53 Earnings from contracted-out and not contracted-out jobs added together

If earnings from more than one job are added together, or apportioned, use the longer or longest earnings period.

The order in which to calculate reduced rate NICs is

- first on earnings on which NICs are payable under table letter G if the director belongs to the company's Contracted-out Money Purchase Scheme or Contracted-out Money Purchase Stakeholder Pension Scheme
- then on earnings on which NICs are payable under table letter E if the director belongs to the company's Contracted-out Salary Related Scheme
- finally on earnings on which NICs are payable under table letter B if the director is in a not contracted-out employment.

The order in which to calculate standard rate NICs is

- first on earnings on which NICs are payable under table letter A if the director has an Appropriate Personal Pension or Appropriate Personal Pension Stakeholder Pension
- then on earnings on which NICs are payable under table letter F if the director belongs to the company's Contracted-out Money Purchase Scheme or Contracted-out Money Purchase Stakeholder Pension Scheme
- then on earnings on which NICs are payable under table letter D if the director belongs to the company's Contracted-out Salary Related scheme
- finally on earnings on which NICs are payable under table letter A if the director does not have an Appropriate Personal Pension or Appropriate Personal Pension Stakeholder Pension.

For more information, see CWG2 *See Employer Further Guide to PAYE and NICs* under 'Employees with more than one job'.

Example for the 2008-09 tax year

Three companies, Allsorts Ltd, Sortsall Ltd and Rotsalls Ltd, carry on business in association with each other. Mrs Trollass has been

1 a director of Allsorts Ltd, a job with a Contracted-out Money Purchase Scheme, since 15 August 1986. She receives a monthly salary of £582.50 from this job

2 a director of Sortsall Ltd, a not contracted-out, no Appropriate Personal Pension, job since 18 May 1989. She receives fees of £26,290 from this job on 31 March 2009, but draws a regular weekly wage of £120 from the company

Annual LEL = £ 4,680
Annual ET = £ 5,435
Annual UEL = £ 40,040

3 a part-time employee of Rotsalls Ltd, a contracted-out job, same scheme as Allsorts, since 15 August 1986. She receives a monthly salary of £150

Priority should be given to the total category F earnings of £8,790, then to the total category A earnings of £32,530, as follows

NIC table letter	**Earnings**	**Director's NICs**	**Company's NICs**
F	**£4,680 (earnings up to LEL)**	**NIL**	**NIL**
	£755 (balance of earnings between LEL and ET)	**@ 0% = NIL**	**@ 0% = NIL**
	£3,355 (balance of earnings between ET and UEL)	**@ 9.4% = £315.37**	**@ 11.4% = £382.47**
	Less rebates on £755	**@ 1.6% = £12.08**	**@ 1.4% = £10.57**
	Total category F NICs payable	**= £303.29**	**= £371.90**
A	**£31,250 (balance of earnings up to UEL)**	**@ 11% = £3,437.50**	**@ 12.8% = £4,000.00**
	£1,280 (earnings over UEL)	**@ 1.0% = £12.80**	**@ 12.8% = £163.84**

Mr Trollass's form P14 would show:

National Insurance contributions in this employment *(Note: LEL = Lower Earnings Limit, ET = Earnings Threshold, UEL = Upper Earnings Limit)*

NIC table letter	Earnings at the LEL (where earnings are equal to or exceed the LEL) *(whole £s only)* ***From col.1a on P11*** 1a £	Earnings above the LEL, up to and including the ET *(whole £s only)* ***From col.1b on P11*** 1b £	Earnings above the ET, up to and including the UEL *(whole £s only)* ***From col.1c on P11*** 1c £	Total of employee's and employer's contributions ***From col.1d on P11*** 1d £ p	*If amount in col.1d is a minus amount, enter 'R' here*	Employee's contributions due on all earnings above the ET ***From col.1e on P11*** 1e £ p
F	4,680	755	3,355	675.19		303.29
A	0	0	31,250	7,614.14		3,450.30

54 Professional advisers

Some directors have more than one job because they are

- partners in firms carrying on a profession, for example accountancy
- also directors of Limited Companies providing a service to that company.

Payments made for the service to the Limited Company are not included in the director's earnings if

- the nature of the payment satisfies certain tests, see 'The tests' below, and
- the nature of the work satisfies certain conditions, see 'The conditions' outlined below.

The tests

To be excluded from the director's earnings, the payment must be a payment

- by a company
- to or for the benefit of a director of that company, and
- for Class 1, that is, employed-earners, employment of that director with that company.

The conditions

To be excluded from the director's earnings, all these conditions must be satisfied.

- The director must also be a partner in a firm carrying on a profession.
- Being a director of a company must be a common practice of membership of that profession and of that firm.
- Under the terms of the partnership, the director must account to the firm for the payment.
- The payment must form an insubstantial part of the gross returns of the firm.

55 HM Revenue & Customs Extra Statutory Concession (ESC) A37

Alternatively, if HM Revenue & Customs have applied ESC A37 to certain payments for income tax purposes, those payments can also be excluded from earnings for the purposes of assessing the director's Class 1 NICs.

56 Nominee directors

Some directors have more than one job because they are nominated to serve on the boards of other companies as 'nominee directors'.

Payments made by the companies employing 'nominee directors' are not included in directors' earnings if

- the nature of the payment satisfies certain tests, see 'The nature of payment tests' below, and
- one of two sets of conditions are satisfied, see 'Set of conditions 1' or 'Set of conditions 2' on the next page.

In the sets of conditions

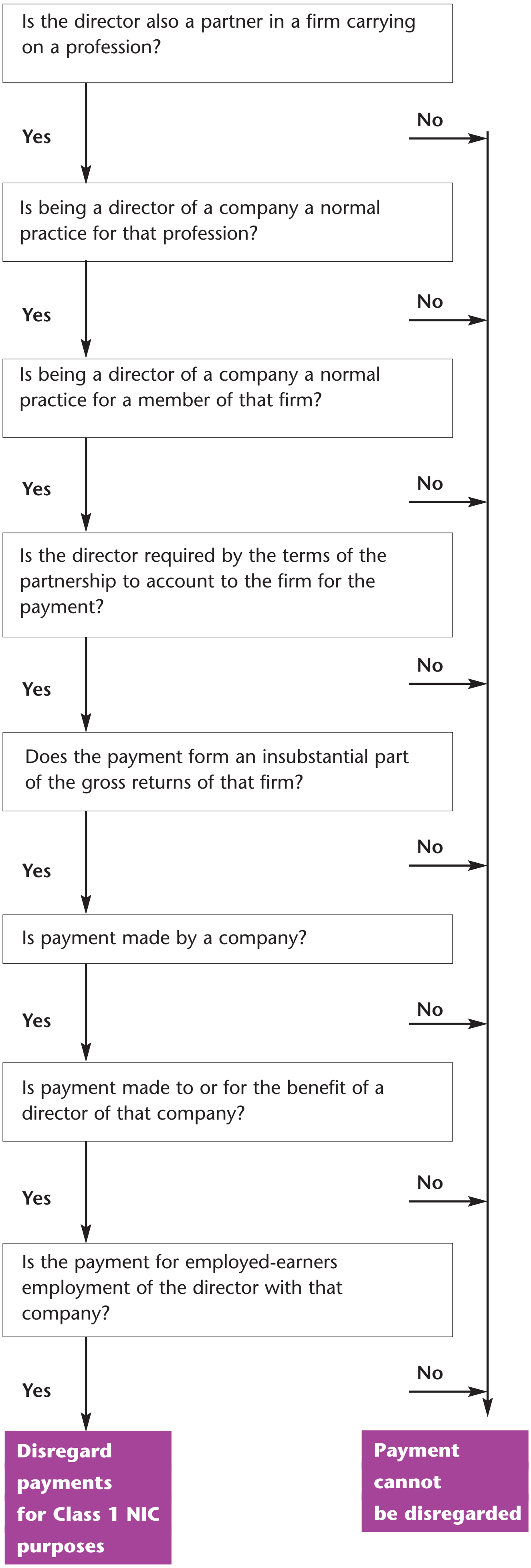
- Company 1 is the company which makes the nomination
- Company 2 is the company to which the director is appointed as a nominee.

The nature of payment tests.

To be excluded from the director's earnings for NIC purposes, the payment must be a payment

- by a company
- to or for the benefit of a director of that company, and
- for Class 1, that is, employed-earners, employment of that director with that company.

Professional advisers' flowchart



Set of conditions 1

All these conditions must be satisfied

- Company 1 has the right to appoint the director of Company 2 because
  - of its shareholding in Company 2, or
  - there is an agreement between Companies 1 and 2.

The director must account for the payment made by Company 2 to Company 1.

- The payments from Company 2 form part of the profits of Company 1 and are charged to
  - corporation tax, or
  - income tax.

See Nominee director's flow chart 1 on page 22.

Set of conditions 2

All these conditions must be satisfied.

- The director was appointed to Company 2 by Company 1.
- The director is required to account for the payment made by Company 2 to Company 1.
- The payment forms part of the profits of Company 1 and is charged to corporation tax.
- The director has no control over Company 1.
- The director's family have no control over Company 1.
- The director and their family together have no control over Company 1.

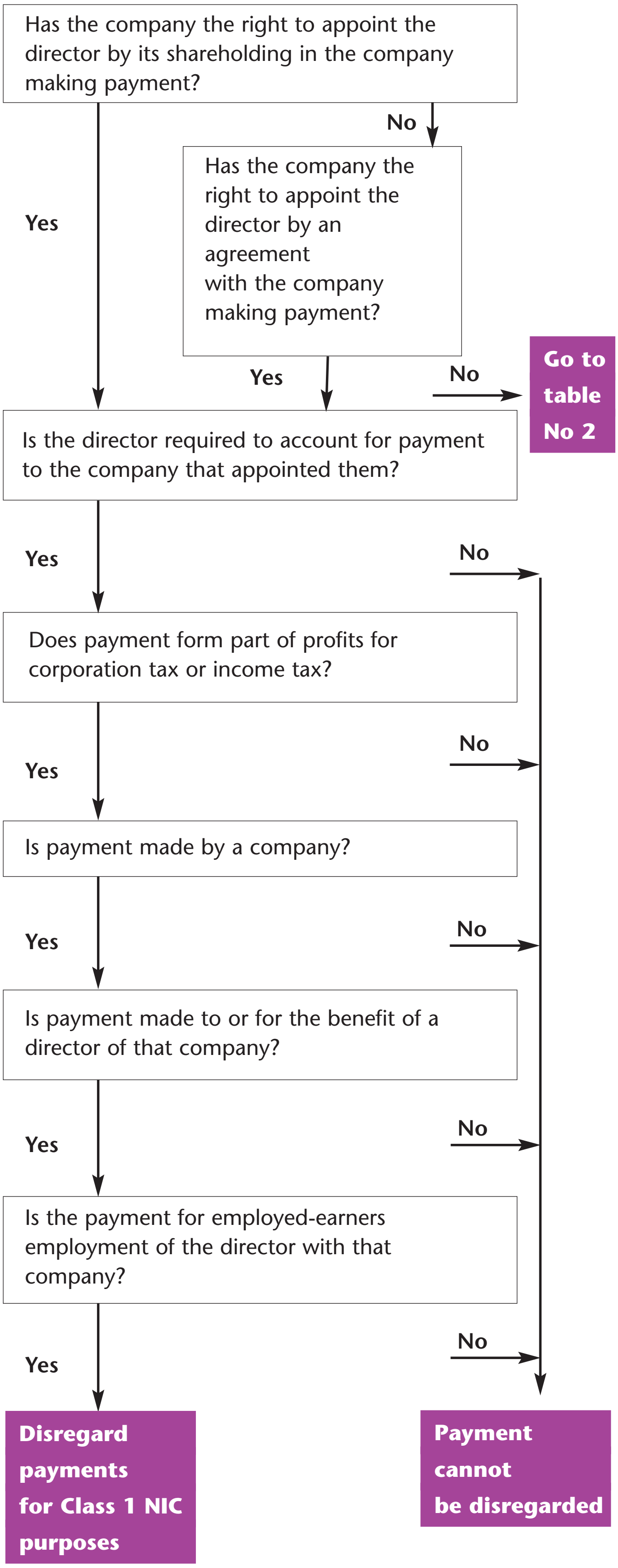
'Family' means spouse, civil partner, parent, child, son-in-law or daughter-in-law.

See Nominee director's flow chart 2 on page 22.

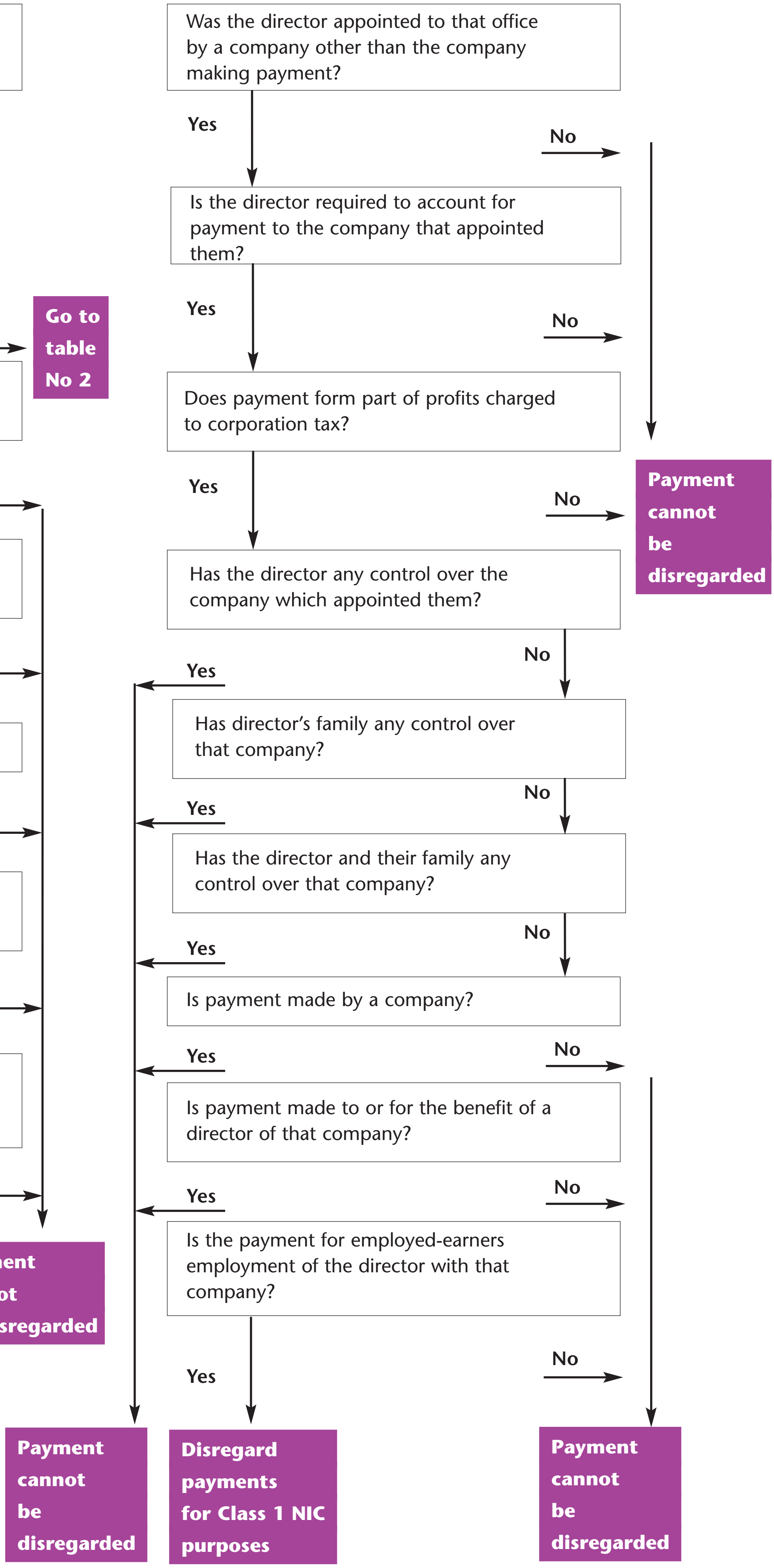
57 HM Revenue & Customs Extra Statutory Concession (ESC) A37

Alternatively, if HM Revenue & Customs have applied ESC A37 to certain payments for income tax purposes, those payments can also be excluded from the director's earnings for NICs purposes.

Nominee director's flowchart 1



Nominee director's flowchart 2



Change in category of contribution payable

58 Introduction

Category of contribution means the NIC table letter under which NICs are payable.
The category of contribution payable may change during directors' earnings periods if they

- reach pension age
- revoke or lose the right to pay reduced rate NICs
- leave the company's contracted-out occupational pension scheme
- join the company's contracted-out occupational pension scheme, or
- take out an Appropriate Personal Pension or Appropriate Personal Pension Stakeholder Pension.

If the category of contribution payable changes during a director's earnings period, there are some general rules which must be applied.

Earnings paid before and after the change are added together to calculate NICs due.

To ensure that NICs are payable by directors on the total of their earnings which exceeds the annual, or pro-rata annual, ET, the exact percentage method must be used to calculate all the NICs due for the tax year, or pro-rata period, in which the category of contribution changes.

The order in which to calculate NICs is

- first on earnings on which reduced rate NICs are payable in a contracted-out employment under table letter G where the director belongs to the company's Contracted-out Money Purchase Scheme or Contracted-out Money Purchase Stakeholder Pension Scheme
- then on earnings on which reduced rate NICs are payable in a contracted-out employment under table letter E where the director belongs to the company's Contracted-out Salary Related Scheme
- then on earnings on which reduced rate NICs are payable in a not contracted-out employment under table letter B
- then on earnings on which standard rate NICs are payable in a not contracted-out employment under table letter A where the director has an Appropriate Personal Pension or Appropriate Personal Pension Stakeholder Pension
- then on earnings on which standard rate NICs are payable in a contracted-out employment under table letter F where the director belongs to the company's Contracted-out Money Purchase Scheme or Contracted-out Money Purchase Stakeholder Pension Scheme.
- then on earnings on which standard rate NICs are payable in a contracted-out employment under table letter D where the director belongs to the company's Contracted-out Salary Related Scheme
- finally on earnings on which standard rate NICs are payable in a not contracted-out employment under table letter A if the director does not have an Appropriate Personal Pension or Appropriate Personal Pension Stakeholder Pension.

59 Director reaches pension age

If the director reaches pension age, currently 60 for women and 65 for men, during the tax year, or pro-rata period

- the category of contribution payable will change to table letter C, not contracted-out
- the director pays
  - NICs as normal on earnings paid or due to be paid before pension age
  - no NICs on earnings paid or due to be paid on or after pension age
- the company pays NICs on earnings paid or due to be paid
  - before pension age at the appropriate percentage rate(s), either not contracted-out or contracted-out
  - on, or after pension age at the not contracted-out percentage rate.

Example for the 2008-09 tax year

Mr Roberts was appointed a director of Heltwyll Bay on 1 June 1980

He is 65 on 13 August 2008

Total earnings for the 2008-09 tax year = £9,690

£6,690 was paid before 13 August 2008

He was contracted-out before 13 August 2008 in a Contracted-out Salary Related Scheme.

Annual LEL = £ 4,680
Annual ET = £ 5,435
Annual UEL = £ 40,040

Priority should be given to the total category D earnings of £6,690, then to the total category C earnings of £3,000, as follows

NIC table letter	Earnings	Director's NICs	Company's NICs
D	£4,680 (earnings up to LEL)	NIL	NIL
	£755 (balance of earnings between LEL and ET)	@ 0% = NIL	@ 0% = NIL
	£1255 (balance of earnings between ET and UEL)	@ 9.4% = £117.97	@ 9.1% = £114.20
	Less rebates on £755	@ 1.6% = £12.08	@ 3.7% = £27.93
	Total category D NICs payable	= £105.89	= £86.27
C	£3,000 (balance of earnings between ET and UEL)	NIL	@ 12.8% = £384.00

Mr Roberts's form P14 would show:

National Insurance contributions in this employment *(Note: LEL = Lower Earnings Limit, ET = Earnings Threshold, UEL = Upper Earnings Limit)*

NIC table letter	Earnings at the LEL (where earnings are equal to or exceed the LEL) *(whole £s only)* *From col.1a on P11* 1a £	Earnings above the LEL, up to and including the ET *(whole £s only)* *From col.1b on P11* 1b £	Earnings above the ET, up to and including the UEL *(whole £s only)* *From col.1c on P11* 1c £	Total of employee's and employer's contributions *From col.1d on P11* 1d £ p	*If amount in col.1d is a minus amount, enter 'R' here*	Employee's contributions due on all earnings above the ET *From col.1e on P11* 1e £ p
D	4,680	755	1,255	192.16		105.89
C	0	0	3,000	384.00		0.00

60 Married woman or widow's reduced rate authority ends

Married women and widows who have the right to pay reduced rate NICs, that is, they have a valid certificate of election, pay their NICs at the reduced rate on all those earnings which exceed the annual, or pro-rata annual, ET up to and including the annual, or pro-rata annual, UEL, then at a rate of 1% on those earnings which exceed the UEL.

If the authority to pay reduced rate NICs ends, for example because the woman is divorced, or she revokes the election, the category of contribution payable will change from B, G or E to A, F or D.

If the total earnings paid, both before and after the change, are less than the annual, or pro-rata annual, ET, no NICs are due.

If the total earnings reach the annual, or pro-rata annual, UEL before the change

- the director pays NICs at the reduced percentage rate on all those earnings which exceed the annual, or pro-rata annual, ET up to and including the UEL, then at a rate of 1% on any earnings which exceed the UEL.
- the company pays NICs at the appropriate not contracted-out or contracted-out percentage rate on all those earnings which exceed the annual, or pro-rata annual, ET.

Example for the 2008-09 tax year

Mrs Brown, a director since 12 July 1988, revokes her election on 14 January 2009. She earns £40,040 before the change and £8,000 afterwards. The employment becomes contracted-out on 14 January 2009 in a Contracted-out Salary Related Scheme.

Annual LEL = £ 4,680
Annual ET = £ 5,435
Annual UEL = £ 40,040

Priority should be given to the total category B earnings of £ 40,040, then to the total category D earnings of £8,000, as follows

NIC table letter	Earnings	Director's NICs	Company's NICs
B	£4,680 (earnings up to LEL)	NIL	NIL
	£755 (balance of earnings between LEL and ET)	@ 0% = NIL	@ 0% = NIL
	£34,605 (balance of earnings between ET and UEL)	@4.85% = £1,678.34	@ 12.8% = £4,429.44
D	£8,000 (earnings over UEL	@ 1.0% = £80.00	@ 12.8% = £1,024.00

Mrs Brown's form P14 would show:

National Insurance contributions in this employment *(Note: LEL = Lower Earnings Limit, ET = Earnings Threshold, UEL = Upper Earnings Limit)*

NIC table letter	Earnings at the LEL (where earnings are equal to or exceed the LEL)*(whole £s only)* *From col.1a on P11* 1a £	Earnings above the LEL, up to and including the ET *(whole £s only)* *From col.1b on P11* 1b £	Earnings above the ET, up to and including the UEL *(whole £s only)* *From col.1c on P11* 1c £	Total of employee's and employer's contributions *From col.1d on P11* 1d £ p	*If amount in col.1d is a minus amount, enter 'R' here*	Employee's contributions due on all earnings above the ET *From col.1e on P11* 1e £ p
B	4680	755	34605	7211.78		1758.34

The NICs under table letter D are included in the contributions under table letter B. A separate table letter D entry is not required.

If the total earnings exceed the annual, or pro-rata annual, ET before the change, but they do not reach the UEL, the director pays NICs at the

- reduced percentage rate on those earnings which exceed the annual, or pro-rata annual, ET paid, or due to be paid before the change
- standard percentage rate, not contracted-out or contracted-out as appropriate, on the balance of earnings up to and including the annual, or pro-rata annual, UEL
- rate of 1% on any earnings which exceed the UEL.

The company pays NICs at the appropriate not contracted-out or contracted-out percentage rate on all those earnings which exceed the annual, or pro-rata annual, ET paid before and after the change.

If the total earnings are less than the annual, or pro-rata annual, ET before the change, but the total earnings for the tax year or pro-rata period exceed the ET, the director pays NICs at the standard percentage rate, not contracted-out or contracted-out as appropriate, on those earnings which exceed the annual, or pro-rata annual, ET up to and including the annual, or pro-rata annual, UEL, then at a rate of 1% on any earnings which exceed the UEL.

The company pays NICs at the appropriate not contracted-out or contracted-out percentage rate on all those earnings which exceed the annual, or pro-rata annual, ET.

Example for the 2008-09 tax year
Mrs Cross's marriage ends in divorce on 8 August 2008. The employment is contracted-out in a Contracted-Out Money Purchase Scheme. She earns £9,690 in the 2008-09 tax year, £5,690 paid before 8 August 2008.

Annual LEL = £ 4,680
Annual ET = £ 5,435
Annual UEL = £ 40,040

Priority should be given to the total category G earnings of £5,690, then to the total category F earnings of £4,000, as follows

NIC table letter	Earnings	Director's NICs	Company's NICs
G	£4,680 (earnings up to LEL)	NIL	NIL
	£755 (balance of earnings between LEL and ET)	@ 0% = NIL	@ 0% = NIL
	£255 (balance of earnings between ET and UEL)	@ 4.85% = £12.37	@ 11.4% = £29.07
	Less rebates on £755		@ 1.4% = £10.57
	Total category G NICs payable	= £12.37	= £18.50
F	£4,000 (balance of earnings between ET and UEL)	@ 9.4% = £376.00	@ 11.4% = £456.00

Mrs Cross's form P14 would show:

National Insurance contributions in this employment *(Note: LEL = Lower Earnings Limit, ET = Earnings Threshold, UEL = Upper Earnings Limit)*

NIC table letter	Earnings at the LEL (where earnings are equal to or exceed the LEL) *(whole £s only)* *From col.1a on P11* 1a £	Earnings above the LEL, up to and including the ET *(whole £s only)* *From col.1b on P11* 1b £	Earnings above the ET, up to and including the UEL *(whole £s only)* *From col.1c on P11* 1c £	Total of employee's and employer's contributions *From col.1d on P11* 1d £ p	*If amount in col.1d is a minus amount, enter 'R' here*	Employee's contributions due on all earnings above the ET *From col.1e on P11* 1e £ p
G	4680	755	255	30.87		12.37
F	0	0	4000	832.00		376.00

Example for the 2008-09 tax year
Mrs Davies revokes her election on 16 May 2008. The employment is contracted-out in a Contracted-Out Salary Related Scheme. She earns £2,680 before the change and £24,078 after.

Annual LEL = £ 4,680
Annual ET = £ 5,435
Annual UEL = £ 40,040

Priority should be given to the total category E earnings of £2,680, then to the total category D earnings of £24,078, as follows

NIC table letter	Earnings	Director's NICs	Company's NICs
E	£2,680 (earnings up to LEL)	NIL	NIL
D	£2,000 (balance of earnings up to LEL)	NIL	NIL
	£755 (balance of earnings between LEL and ET)	@ 0% = NIL	@ 0% = NIL
	£21,323 (balance of earnings between ET and UEL)	@ 9.4% = £2,004.36	@ 9.1% = £1,940.39
	Less rebates on £755	@ 1.6% = £12.08	@ 3.7% = £27.93
	Total category D NICs payable	= £1,992.28	= £1,912.46

Mrs Davies's form P14 would show:

National Insurance contributions in this employment *(Note: LEL = Lower Earnings Limit, ET = Earnings Threshold, UEL = Upper Earnings Limit)*

NIC table letter	Earnings at the LEL (where earnings are equal to or exceed the LEL) *(whole £s only)* *From col.1a on P11* 1a £	Earnings above the LEL, up to and including the ET *(whole £s only)* *From col.1b on P11* 1b £	Earnings above the ET, up to and including the UEL *(whole £s only)* *From col.1c on P11* 1c £	Total of employee's and employer's contributions *From col.1d on P11* 1d £ p	*If amount in col.1d is a minus amount, enter 'R' here*	Employee's contributions due on all earnings above the ET *From col.1e on P11* 1e £ p
D	4680	755	21323	3904.74		1992.28

61 Joining or leaving a contracted-out pension scheme

The rules you must apply are exactly the same if the director's category of contribution payable changes from

- contracted-out to not contracted-out; that is, from F or D to A
- not contracted-out to contracted-out; that is, from A to F or D.

If the total earnings paid both before and after the change are less than the annual, or pro-rata annual, ET, no NICs are payable.

No Appropriate Personal Pension or Appropriate Personal Pension Stakeholder Pension

The contracted-out earnings take priority over the not contracted-out earnings.

If the earnings from the contracted-out employment reach or exceed the annual, or pro-rata annual, UEL the director pays NICs at the appropriate contracted-out percentage rate on those earnings which exceed the annual, or pro-rata annual, ET up to and including the annual, or pro-rata annual, UEL, then at a rate of 1% on any earnings which exceed the UEL.

The company pays NICs at the

- appropriate contracted-out percentage rate on all those earnings which exceed the annual, or pro rata annual, ET up to and including the annual, or pro-rata annual, UEL
- appropriate not contracted-out percentage rate on the remainder of the total earnings.

Example for the 2008-09 tax year

Mr Evans is appointed a director of A N Other and Company Limited on 14 May 2008.

He joins the company's Contracted-out Money Purchase Scheme on 1 August 2008. Earnings paid before the change are £5,000 and earnings paid after the change £36,225.

Pro-rata annual LEL = £ 4,230
Pro-rata annual ET = £ 4,913
Pro-rata annual UEL = £ 36,190

Priority should be given to the total category F earnings of £36,225, then to the total category A earnings of £5,000, as follows

NIC table letter	Earnings	Director's NICs	Company's NICs
F	£4,230 (earnings up to LEL)	NIL	NIL
	£683 (balance of earnings between LEL and ET)	@ 0% = NIL	@ 0% = NIL
	£31,277 (balance of earnings between ET and UEL)	@ 9.4% = £2,940.04	@ 11.4% = £3,565.58
	Less rebates on £683	@ 1.6% = £10.93	@ 1.4% = £9.56
	Category F NICs payable on earnings between ET and UEL	= £2,929.11	= £3,556.02
	(£35 earnings over UEL to be included with category A earnings)		
A	£5,035 (earnings over UEL, including £35 category F earnings)	@ 1% = £50.35	@ 12.8% = £644.48

Mr Evans's form P14 would show:

National Insurance contributions in this employment *(Note: LEL = Lower Earnings Limit, ET = Earnings Threshold, UEL = Upper Earnings Limit)*

NIC table letter	Earnings at the LEL (where earnings are equal to or exceed the LEL) *(whole £s only)* *From col.1a on P11* 1a £	Earnings above the LEL, up to and including the ET *(whole £s only)* *From col.1b on P11* 1b £	Earnings above the ET, up to and including the UEL *(whole £s only)* *From col.1c on P11* 1c £	Total of employee's and employer's contributions *From col.1d on P11* 1d £ p	*If amount in col.1d is a minus amount, enter 'R' here*	Employee's contributions due on all earnings above the ET *From col.1e on P11* 1e £ p
F	4230	683	31277	7179.96		2979.46

The NICs under table letter A are included in the contributions under table letter F. A separate table letter A entry is not required.

If the earnings from the contracted-out employment are less than the annual, or pro-rata annual, ET but the total earnings exceed the ET

- the director pays NICs at the appropriate not contracted-out percentage rate on those earnings which exceed the annual, or pro-rata annual, ET up to and including the UEL, then at a rate of 1% on any earnings which exceed the UEL
- the company pays NICs at the appropriate not contracted-out percentage rate on those earnings which exceed the annual, or pro-rata annual, ET.

Example for the 2008-09 tax year
Mr Francis, a director of Spratt's Fat Ltd since 6 April 1975, leaves his company's Contracted-Out Salary Related pension scheme in 2008-09. Earnings paid before the change are £1,520 and earnings paid after the change are £15,300.

Annual LEL = £ 4,680
Annual ET = £ 5,435
Annual UEL = £ 40,040

Priority should be given to the total category D earnings of £1,520, then to the total category A earnings of £15,300, as follows

NIC table letter	Earnings	Director's NICs	Company's NICs
D	£1,520 (earnings up to LEL)	NIL	NIL
A	£3,160 (balance of earnings up to LEL)	NIL	NIL
	£755 (balance of earnings between LEL and ET)	@ 0% = NIL	@ 0% = NIL
	£11,385 (balance of earnings between ET and UEL)	@ 11% = £1,252.35	@ 12.8% = £1,457.28

Mr Francis's form P14 would show:

National Insurance contributions in this employment *(Note: LEL = Lower Earnings Limit, ET = Earnings Threshold, UEL = Upper Earnings Limit)*

NIC table letter	Earnings at the LEL (where earnings are equal to or exceed the LEL) *(whole £s only)* ***From col.1a on P11*** 1a £	Earnings above the LEL, up to and including the ET *(whole £s only)* ***From col.1b on P11*** 1b £	Earnings above the ET, up to and including the UEL *(whole £s only)* ***From col.1c on P11*** 1c £	Total of employee's and employer's contributions ***From col.1d on P11*** 1d £ p	*If amount in col.1d is a minus amount, enter 'R' here*	Employee's contributions due on all earnings above the ET ***From col.1e on P11*** 1e £ p
A	4680	755	11385	2709.63		1252.35

If the earnings from the contracted-out employment are between the annual, or pro-rata annual, ET and the UEL the director pays NICs at the

- appropriate contracted-out percentage rate on those contracted-out earnings which exceed the annual, or pro-rata annual, ET, and
- appropriate not contracted-out percentage rate on the not contracted-out earnings until the total earnings reach the UEL, then
- rate of 1% on any earnings which exceed the UEL.

The company pays NICs at the

- appropriate contracted-out percentage rate on those contracted-out earnings which exceed the annual, or pro-rata annual, ET, and
- appropriate not contracted-out percentage rate on the not contracted-out earnings.

Director has Appropriate Personal Pension or Appropriate Personal Pension Stakeholder Pension

If the director has an Appropriate Personal Pension or Appropriate Personal Pension Stakeholder Pension under table letter A, the Appropriate Personal Pension or Appropriate Personal Pension Stakeholder Pension earnings take priority over the contracted-out earnings.

Example for the 2008-09 tax year

Mr Griffiths, a director of CHIPS plc since 30 November 1990, joins his company's Contracted-out Money Purchase pension scheme on 1 May 2008. Earnings paid before the change are £300 and earnings paid after the change are £8,690. He resigns on 1 October 2008 but is reappointed on 1 December 2008 and gets a bonus of £10,000 but he does not rejoin the company's contracted-out pension scheme.

Annual LEL = £ 4,680
Annual ET = £ 5,435
Annual UEL = £ 40,040

Priority should be given to the total category F earnings of £8,690, then to the total category A earnings of £10,300, as follows

NIC table letter	Earnings	Director's NICs	Company's NICs
F	£4,680 (earnings up to LEL)	NIL	NIL
	£755 (balance of earnings between LEL and ET)	@ 0% = NIL	@ 0% = NIL
	£3,255 (balance of earnings between ET and UEL)	@ 9.4% = £305.97	@ 11.4% = £371.07
	Less rebates on £755	@ 1.6% = £12.08	@ 1.4% = £10.57
	Total category F NICs payable	= £293.89	= £360.50
A	£10,300 (balance of earnings between ET and UEL)	@ 11% = £1,133.00	@ 12.8% = £1,318.40

Mr Griffiths's form P14 would show:

National Insurance contributions in this employment *(Note: LEL = Lower Earnings Limit, ET = Earnings Threshold, UEL = Upper Earnings Limit)*

NIC table letter	Earnings at the LEL (where earnings are equal to or exceed the LEL) *(whole £s only)* ***From col.1a on P11*** 1a £	Earnings above the LEL, up to and including the ET *(whole £s only)* ***From col.1b on P11*** 1b £	Earnings above the ET, up to and including the UEL *(whole £s only)* ***From col.1c on P11*** 1c £	Total of employee's and employer's contributions ***From col.1d on P11*** 1d £ p	*If amount in col.1d is a minus amount, enter 'R' here*	Employee's contributions due on all earnings above the ET ***From col.1e on P11*** 1e £ p
F	4680	755	3255	654.39		293.89
A	0	0	10300	2451.40		1133.00

Example for the 2008-09 tax year

If Mr Evans (see page 28) has an Appropriate Personal Pension, priority should be given to the total category A earnings of £5,000, then to the total category F earnings of £36,225, as follows

NIC table letter	Earnings	Director's NICs	Company's NICs
A	£4,230 (earnings up to LEL)	NIL	NIL
	£683 (balance of earnings between LEL and ET)	@ 0% = NIL	@ 0% = NIL
	£87 (balance of earnings between ET and UEL)	@11% = £9.57	@ 12.8% = £11.14
F	£31,190 (balance of earnings between ET and UEL)	@ 9.4% = £2,931.86	@ 11.4% = £3,555.66
	£5,035 (earnings over UEL)	@ 1.0% = £50.35	@12.8% = £644.48

Mr Evans's form P14 would show:

National Insurance contributions in this employment *(Note: LEL = Lower Earnings Limit, ET = Earnings Threshold, UEL = Upper Earnings Limit)*

NIC table letter	Earnings at the LEL (where earnings are equal to or exceed the LEL) *(whole £s only)* ***From col.1a on P11*** 1a £	Earnings above the LEL, up to and including the ET *(whole £s only)* ***From col.1b on P11*** 1b £	Earnings above the ET, up to and including the UEL *(whole £s only)* ***From col.1c on P11*** 1c £	Total of employee's and employer's contributions ***From col.1d on P11*** 1d £ p	*If amount in col.1d is a minus amount, enter 'R' here*	Employee's contributions due on all earnings above the ET ***From col.1e on P11*** 1e £ p
A	4,230	683	87	20.71		9.57
F	0	0	31,190	7,182.35		2,982.21

Example for the 2008-09 tax year

If Mr Griffiths (see page 30) has an Appropriate Personal Pension, priority should be given to the total category A earnings of £10,300, then to the total category F earnings of £8,690, as follows

NIC table letter	Earnings	Director's NICs	Company's NICs
A	£4,680 (earnings up to LEL)	NIL	NIL
	£755 (balance of earnings between LEL and ET)	@ 0% = NIL	@ 0% = NIL
	£4,865 (balance of earnings between ET and UEL)	@11% = £535.15	@ 12.8% = £622.72
F	£8,690 (balance of earnings between ET and UEL)	@ 9.4% = £816.86	@ 11.4% = £990.66

Mr Griffiths's form P14 would show:

National Insurance contributions in this employment *(Note: LEL = Lower Earnings Limit, ET = Earnings Threshold, UEL = Upper Earnings Limit)*

NIC table letter	Earnings at the LEL (where earnings are equal to or exceed the LEL) *(whole £s only)* ***From col.1a on P11*** 1a £	Earnings above the LEL, up to and including the ET *(whole £s only)* ***From col.1b on P11*** 1b £	Earnings above the ET, up to and including the UEL *(whole £s only)* ***From col.1c on P11*** 1c £	Total of employee's and employer's contributions ***From col.1d on P11*** 1d £ p	*If amount in col.1d is a minus amount, enter 'R' here*	Employee's contributions due on all earnings above the ET ***From col.1e on P11*** 1e £ p
A	4,680	755	4,865	1,157.87		535.15
F	0	0	8,690	1,807.52		816.86

Recording NIC information

62 Introduction

The normal rules about recording NIC information are in the Employer Helpbooks.

63 If you have paid NICs before earnings exceed Earnings Threshold

If NICs are paid on account before the total earnings exceed the annual, or pro-rata annual, ET

- record the NICs paid on form P11
- leave columns 1a - 1c of form P11 blank.

When the total earnings exceed the annual, or pro-rata annual, ET, put the earnings details in columns 1a - 1c.

If you adjust the NICs later because the earnings do not exceed the annual, or pro-rata annual, ET

- amend the final entry on form P11
- if form P14 has been completed, destroy it and prepare another form P14
- adjust the final payment to your Accounts Office
- refund the NICs paid to the director.

64 If you pay NICs at the time they are due

You can use one of two methods to record director's NIC information on form P11.

Payment by payment method
If you use the payment by payment method to record NIC information, record on form P11

- the actual NICs due each time a payment of earnings is made
- the actual earnings details in columns 1a - 1c, as appropriate, each time a payment of earnings is made
- all other NIC information.

In a contracted-out employment, depending on the level of the director's earnings and the NIC rebates due, it is possible for the amount of the company's NICs to be a negative figure. Under this particular method, if a further payment of earnings is subsequently made, adjust the company's NICs figure to reflect the actual amount now due after taking into account any previously 'over-recovered' rebate.

At the end of the tax year

- add up the figures on form P11 as normal
- put the totals in the appropriate boxes on forms P11 and P14.

See the example of a completed form P11 on page 38.

Cumulative method
If you use the cumulative method to record NIC information, record on form P11

- the cumulative NICs due each time a payment of earnings is made
- the cumulative earnings details in columns 1a - 1c, as appropriate, each time a payment of earnings is made
- all other cumulative NIC information. At the end of the tax year, record the cumulative totals in the appropriate boxes on form P11.

Cumulative records can easily be converted to a payment by payment record by deducting the previous NIC information from the current NIC information.

See the example of a completed form P11 on page 39.

65 Earnings added together or change in category of contribution payable

The examples in this manual show how to record the earnings details in columns 1a - 1c of forms P11 and P14. See 'Change in category of contribution payable', paragraph 58 page 23 onwards.

Remember to record the other NIC and tax information on forms P11 and P14.

66 If you use a computerised payroll system

Please make sure the total earnings have been accumulated in the data areas corresponding with columns 1a - 1c, as appropriate, of form P14.

If you use the cumulative method to record NIC information, your system must be capable of

- holding all the cumulative data
- producing printouts giving the NIC information on a payment by payment basis.

The examples in this manual show how to record the earnings details in columns 1a - 1c of forms P11 and P14. See 'Change in category of contribution payable', paragraph 58 page 23 onwards.

If columns 1a - 1c on form P14 should be left blank, record zeros in these data areas.

67 Online Services

PAYE Online for Employers

Using online services speeds up processing, provides a secure method of transmission and can cut down on storage space, post and administration.

Doing it online can also bring benefits for your employees such as reduced waiting times for the right tax code and quicker updates to pension and benefits records at the end of the tax year. You can send and receive forms and returns online using:

- Internet - you can choose either
  - our free 'Online Return and Forms - PAYE' product (recommended for up to 50 employees), or
  - third party payroll software
- Electronic Data Interchange (EDI) - this option is more suitable for larger employers with a high number of employees, typically in the thousands.

Alternatively, an agent or payroll bureau can file online on your behalf using our PAYE Online for Agents service.

Find all the information you need to do it online at **www.hmrc.gov.uk/ebu/paye_online.htm**

Sending in-year information online

From April 2009, if you have 50 or more employees, you will have to send employee starting and leaving details and some pension information online, or you may face penalties.

And every employer - regardless of how many employees you have - will have to do the same from April 2011.

For more information about sending in-year information online go to **www.hmrc.gov.uk/inyear**

Online filing - Employer Annual Returns (P14s and P35)

If you have more than 50 employees you must file your Employer Annual Returns (P14s and P35) online either directly or through an intermediary.

If you have fewer than 50 employees, you do not have to file your Employer Annual Returns (P14s and P35) online until 2010, but you can get money back tax-free from us if you file online early:

- file online for 2007-08 (return due by 19 May 2008) and get £100
- file online for 2008-09 (return due by 19 May 2009) and get £75.

For more information about online filing and the tax-free payments offered go to **www.hmrc.gov.uk/payeonline**

68 Employer Annual Returns (P14s and P35) by magnetic media

Returns made on magnetic media (CD-ROM, disk, and cartridges) will not be treated as online filing. You should also note that we cannot guarantee to accept your Returns on magnetic media indefinitely.

69 Directors living and/or working abroad

This section provides brief guidelines relating to Class 1 NICs for directors living and/or working abroad.

The rules governing Class 1 NICs depend on where the director lives and works.

There are different rules if the director lives and/or works

- in a European Economic Area country or a country which has a Reciprocal Agreement with the United Kingdom, or
- outside of the European Economic Area and Reciprocal Agreement countries.

European Economic Area countries

Austria

Belgium

Bulgaria

Cyprus*

Czech Republic*

Denmark

Estonia*

Finland

France

Germany

Greece

Hungary*

Iceland

Italy

Latvia*

Liechtenstein

Lithuania*

Luxembourg

Malta*

Netherlands

Norway

Poland*

Portugal

Republic of Ireland

Romania

Slovakia*

Slovenia*

Spain

Sweden

Switzerland+

United Kingdom, including Gibraltar for European Economic Area purposes.

The United Kingdom includes England, Scotland, Wales and Northern Ireland but **not** the Channel Islands or the Isle of Man.

+Switzerland is not a member of the European Economic Area but, as a result of an agreement with the European Union that came into force on 1 June 2006, the European Union rules on Social Security will also largely cover Switzerland. However, the European Union rules do not apply to you if you are a Swiss national going to or coming from Iceland, Liechtenstein or Norway, or you are a national of one of these countries going to or from Switzerland.

*The agreement between Switzerland and the European Union has not yet been extended to the ten new member states listed aside.

Reciprocal Agreement countries

The countries with which the United Kingdom has a Reciprocal Agreement are

Barbados

Bermuda

Canada (Double Contributions Convention)*

Israel

Jamaica

Japan (Double Contributions Convention)*

Jersey and Guernsey

Korea (Double Contributions Convention)*

Mauritius

New Zealand

Philippines

Turkey

USA

Yugoslavia, including all former Republics (except Slovenia).

**a Double Contributions Convention covers only social security contribution liability and does not include benefit provisions.*

Director living or working in a European Economic Area or Reciprocal Agreement country

Write for advice to HM Revenue & Customs, Charity, Assets & Residence, Residency, Room BP1301 Benton Park View, Newcastle upon Tyne NE98 1ZZ, if the director

- is a United Kingdom (UK) national working in the European Economic Area
- is a European Economic Area national or Swiss national working in the UK
- lives in a country with which the UK has a Reciprocal Agreement and works in the UK, or
- lives and works in the UK but also works in another European Economic Area or Reciprocal Agreement country.

Director living and/or working in a country outside the European Economic Area with which there is no Reciprocal Agreement

For countries outside the European Economic Area, if the UK does not have a Reciprocal Agreement with the other country, an employer is not normally liable to pay Class 1 NICs for the director unless the director is

- resident or present in the UK immediately before going abroad and
- ordinarily resident in the UK.

It is important to distinguish between directors who usually live

- abroad, but occasionally work in the UK
- in the UK but go abroad to work in which case they may have to pay NICs for the first 52 weeks abroad.

Whether a director is 'ordinarily resident' in the UK or is 'resident or present' at a particular time depends on all the circumstances.

If there is any doubt if Class 1 NICs should be paid, ask your nearest HM Revenue & Customs office for advice.

Directors coming to the UK from Reciprocal Agreement countries and countries outside the European Economic Area with which there are no Reciprocal Agreements

At present, when a director is neither resident nor ordinarily resident in the UK, HM Revenue & Customs does not seek payment of Class 1 NICs for employment in the UK as a director if

- the only work they do in the UK is to attend the board meetings, and
- either
    - they attend no more than 10 board meetings in a tax year and each visit in which the board meeting takes place lasts no more than two days, or
    - there is only one board meeting in a tax year and the visit in which that board meeting takes place does not last more than two weeks.

70 Joint employment of spouses or civil partners

A spouse or civil partner may get a joint payment of earnings as

- two directors, or
- a director and an employee.

Earnings can be apportioned
If the earnings are divided or apportioned for income tax under employment income, divide or apportion the earnings for NIC purposes in the same way.

Earnings cannot be apportioned
If the earnings cannot be divided or apportioned, for example because there is no employment income tax scheme or the split is considered unreasonable, or doubtful, contact your nearest HM Revenue & Customs office for advice.

71 Director supplying services through a limited company

Legislation, commonly known as 'IR 35' legislation, came into effect on 6 April 2000 which affects directors who use a limited company to provide their service or services of others to clients. Under the legislation a worker who would have been classed as an employee of the client if it were not for the service company, is required to pay NICs on the amounts earned by the company from the client (less certain deductions) even if the director draws those earnings from the service company as a dividend.

A company director is treated as a worker for the purposes of the legislation if he/she has

- beneficial ownership of, or the ability to control, more than 5% of the ordinary share capital of the company, or
- possession of, or entitlement to acquire rights entitling him to receive, more than 5% of any distributions made by the company, or
- receives, or could receive, payments or benefits from the company which are not salary but could reasonably be taken to represent payment for the services he provides to clients.

The company is able to make certain deductions before working out the amount which is liable for NICs as the director's earnings. The company must work out at the end of the tax year, 5 April, just how much income received from contracts with clients has not been subjected to NICs and make the deductions then. This is known as the worker's attributable earnings for the year.

The rules for determining whether a company director is subject to the legislation rely upon the existing factors used to determine a person's employment status. These factors, which have been established by the courts, determine whether an individual should be treated as employed or self-employed.

The factors which most people would recognise, include whether the individual risks his capital, provides substantial equipment and materials, whether he/she works a fixed number of hours, on the client's premises, under the direction of a manager, etc. No single factor is conclusive, each engagement has to be looked at in the light of all the facts.

Full details of the rules are given on the HM Revenue & Customs website at **www.hmrc.gov.uk** which also explains how to account on forms P11 and P14 for any additional NICs payable under the legislation.

72 Managed Service Companies

Legislation, commonly known as Managed Service Company Legislation, came into effect on 6 April 2007. The legislation affects workers who provide their services through Managed Service Companies.

A Managed Service Company is a form of intermediary company through which workers provide their services to end clients. In essence, a scheme provider promotes the use of these companies and provides the structure to workers. The worker (although a shareholder) does not exercise control over the company.

The legislation does not apply to directors working through Personal Service Companies; however, these companies must consider IR35.

The Managed Service Company Legislation takes precedence over IR35 for Managed Service Companies. From 6 April 2007 a Managed Service Company must treat all payments received by the person providing their services through such companies as earnings from employment. The effect of this will be that

- income tax (PAYE) will be due on all payments received by individuals providing their services through such companies
- for the purpose of calculating travel expenses the individual is treated as if they are working for the client. This means that travel expenses to the individual's place of work are not allowable tax free
- Class 1 NICs will also be due on all payments received by individuals in such companies.

Under the legislation, where a Managed Service Company incurs a PAYE or NICs debt that cannot be recovered from the company, HMRC may transfer the debt to the Managed Service Company director personally, or to the person who provided the company to the worker.

For more information go to **www.hmrc.gov.uk/employment-status/msc.htm**

Statutory Payments

73 Introduction

Directors of limited companies are treated like other employees for Statutory Payment purposes. The important difference for directors is that, when calculating the average weekly earnings, it depends on whether or not they are paid on a contractual basis.

For general information on how to operate the schemes, with check sheets for calculating the average weekly earnings, see the Helpbooks:

- E14 *What to do if your employee is sick*
- E15 *Pay and time off work for parents*
- E16 *Pay and time off work for adoptive parents*.

Examples of PAYE form P11

Forms P11 showing the payment by payment method of recording NICs. In the following example, the director is paid a monthly salary of £1200 in a Contracted-out Salary Related Scheme and you use the exact percentage method to calculate the NICs due.

on ***0845 7 646 646****. For further assistance go to* ***www.hmrc.gov.uk*** *or phone the Employer Helpline on* ***0845 7 143 143****.*

the Table letter may change as well used and enter separate totals for e

National Insurance contributions *Note: LEL = Lower Earnings Limit; ET = Earnings Threshold; UEL = Upper Earnings Limit*

Month number	Week number	*For Employer's use*	Earnings details: Earnings at the LEL (where earnings are equal to or exceed the LEL) 1a £	Earnings above the LEL, up to and including the ET 1b £	p	Earnings above the ET, up to and including the UEL 1c £	p	Contribution details: Total of employee's and employer's contributions - *mark minus amounts 'R'* 1d £	p	Employee's contributions due on all earnings above the ET 1e £	p
	1										
	2										
	3										
1	4										
	5										
	6										
	7										
2	8										
	9										
	10										
	11										
	12										
3	13										
	14										
	15										
	16										
4	17	4800	4680	120	00			R6	36	0	00
	18										
	19										
	20										
5	21	6000		635	00	565	00	70	87	41	03
	22										
	23										
	24										
	25	7200				1200	00	222	00	112	80
6	26										
	27										
	28										
	29	8400				1200	00	222	00	112	80
7	30										
			Total c/fwd	Total c/fwd		Total c/fwd		Total c/fwd		Total c/fwd	

If the contribution Table letter changed during this part of the tax year, please see Note 2 above.

If more than one contribution Table letter has been used during this employment, steps (1) to (4) should be applied separately to each Table letter.

(1) Add all amounts of NICs ***not*** *marked 'R'.*
(2) Add all amounts of NICs marked 'R'.
(3) Take away (2) from (1).
(4) If (3) is a minus amount, mark the amount 'R' and carry forward to page 2.

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National Insurance contributions *Note: LEL = Lower Earnings Limit; ET = Earnings Threshold; UEL = Upper Earnings Limit*

Month number	Week number	*For Employer's use*	Earnings details: Earnings at the LEL (where earnings are equal to or exceed the LEL) 1a £	Earnings above the LEL, up to and including the ET 1b £	p	Earnings above the ET, up to and including the UEL 1c £	p	Contribution details: Total of employee's and employer's contributions - *mark minus amounts 'R'* 1d £	p	Employee's contributions due on all earnings above the ET 1e £	p
Bt/fwd Mth 7	Bt/fwd Wk 30		Bt/fwd	Bt/fwd		Bt/fwd		Bt/fwd		Bt/fwd	
	31										
	32										
	33										
	34										
8	35	9600				1200	00	222	00	112	80
	36										
	37										
	38										
9	39	10800				1200	00	222	00	112	80
	40										
	41										
	42										
10	43	12000				1200	00	222	00	112	80
	44										
	45										
	46										
11	47	13200				1200	00	222	00	112	80
	48										
	49										
	50										
	51										
12	52	14400				1200	00	222	00	112	80
	§										

§ Complete this line if pay day falls on 5 April (in leap years 4 and 5 April)

End of Year Summary

Round down the annual total of the earnings recorded in columns 1b and 1c to the nearest whole pound

(1) Add all amounts of NICs ***not*** *marked 'R'.*
(2) Add all amounts of NICs marked 'R'.
(3) Take away (2) from (1).
(4) Enter (3) in column 1d below - if this is a minus amount mark the entry as 'R'.
If more than one contribution Table letter has been used during this employment, steps (1) to (4) should be applied separately to each Table letter.

Enter NI Contribution Table letter here (see Note 2 overleaf)

	1a £	1b £	1c £	1d £	p	1e £	p
D	4680	755	8965	1618	51	830	63

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Form P11 showing the cumulative method of recording NICs. In the following example, the director is paid a monthly salary of £1500 in a not contracted-out employment and you adapt the monthly NIC tables to calculate the NICs due.

*on **0845 7 646 646**. For further assistance go to **www.hmrc.gov.uk** or phone the Employer Helpline on **0845 7 143 143**.*

the Table letter may change as well used and enter separate totals for e

National Insurance contributions *Note: LEL = Lower Earnings Limit; ET = Earnings Threshold; UEL = Upper Earnings Limit*

Month number	Week number	*For Employer's use*	**Earnings** details: Earnings at the LEL (where earnings are equal to or exceed the LEL) 1a £	Earnings above the LEL, up to and including the ET 1b £	1b p	Earnings above the ET, up to and including the UEL 1c £	1c p	**Contribution** details: Total of employee's and employer's contributions - *mark minus amounts 'R'* 1d £	1d p	Employee's contributions due on all earnings above the ET 1e £	1e p
	1										
	2										
	3										
1	4										
	5										
	6										
	7										
2	8										
	9										
	10										
	11										
	12										
3	13										
	14										
	15										
	16										
4	17	6000	4680	755	00	565	00	134	28	62	04
	18										
	19										
	20										
5	21	7500	4680	755	00	2065	00	488	40	225	72
	22										
	23										
	24										
	25	9000	4680	755	00	3565	00	853	92	394	68
6	26										
	27										
	28										
	29	10500	4680	755	00	5065	00	1208	04	558	36
7	30										
			Total c/fwd	Total c/fwd		Total c/fwd		Total c/fwd		Total c/fwd	

If the contribution Table letter changed during this part of the tax year, please see Note 2 above.

If more than one contribution Table letter has been used during this employment, steps (1) to (4) should be applied separately to each Table letter.

(1) Add all amounts of NICs not marked 'R'.
(2) Add all amounts of NICs marked 'R'.
(3) Take away (2) from (1).
(4) If (3) is a minus amount, mark the amount 'R' and carry forward to page 2.

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National Insurance contributions *Note: LEL = Lower Earnings Limit; ET = Earnings Threshold; UEL = Upper Earnings Limit*

Month number	Week number	*For Employer's use*	**Earnings** details: Earnings at the LEL (where earnings are equal to or exceed the LEL) 1a £	Earnings above the LEL, up to and including the ET 1b £	1b p	Earnings above the ET, up to and including the UEL 1c £	1c p	**Contribution** details: Total of employee's and employer's contributions - *mark minus amounts 'R'* 1d £	1d p	Employee's contributions due on all earnings above the ET 1e £	1e p
Bt/fwd Mth 7	Bt/fwd Wk 30		Bt/fwd	Bt/fwd		Bt/fwd		Bt/fwd		Bt/fwd	
	31										
	32										
	33										
	34										
8	35	12000	4680	755	00	6565	00	1562	28	722	04
	36										
	37										
	38										
9	39	13500	4680	755	00	8065	00	1916	40	885	72
	40										
	41										
	42										
10	43	15000	4680	755	00	9565	00	2281	92	1054	68
	44										
	45										
	46										
11	47	16500	4680	755	00	11065	00	2636	04	1218	36
	48										
	49										
	50										
	51										
12	52	18000	4680	755	00	12565	00	2990	28	1382	04
	§										

§ Complete this line if pay day falls on 5 April (in leap years 4 and 5 April)

End of Year Summary

Round down the annual total of the earnings recorded in columns 1b and 1c to the nearest whole pound

(1) Add all amounts of NICs not marked 'R'.
(2) Add all amounts of NICs marked 'R'.
(3) Take away (2) from (1).
(4) Enter (3) in column 1d below - if this is a minus amount mark the entry as 'R'.
If more than one contribution Table letter has been used during this employment, steps (1) to (4) should be applied separately to each Table letter.

Enter NI Contribution Table letter here *(see Note 2 overleaf)*

Table letter	1a £	1b £	1c £	1d £	1d p	1e £	1e p
A	4680	755	12565	2990	28	1382	04

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Quick Guide to pro-rata annual earnings periods

	Tax period SU	M	TU	W	TH	F	SA	Appointed in Tax week number	No of weeks in pro-rata period	Pro-rata annual LEL	Pro-rata annual ET	Pro-rata annual UEL
April	6	7	8	9	10	11	12	1	Annual earnings period applies			
	13	14	15	16	17	18	19	2	51	4590	5331	39270
	20	21	22	23	24	25	26	3	50	4500	5226	38500
	27	28	29	30	**1**	**2**	**3**	4	49	4410	5122	37730
	4	**5**	**6**	**7**	**8**	**9**	**10**	5	48	4320	5017	36960
May	**11**	**12**	**13**	**14**	**15**	**16**	**17**	6	47	4230	4913	36190
	18	**19**	**20**	**21**	**22**	**23**	**24**	7	46	4140	4808	35420
	25	**26**	**27**	**28**	**29**	**30**	**31**	8	45	4050	4704	34650
	1	2	3	4	5	6	7	9	44	3960	4599	33880
June	8	9	10	11	12	13	14	10	43	3870	4495	33110
	15	16	17	18	19	20	21	11	42	3780	4390	32340
	22	23	24	25	26	27	28	12	41	3690	4286	31570
	29	30	**1**	**2**	**3**	**4**	**5**	13	40	3600	4181	30800
	6	**7**	**8**	**9**	**10**	**11**	**12**	14	39	3510	4077	30030
July	**13**	**14**	**15**	**16**	**17**	**18**	**19**	15	38	3420	3972	29260
	20	**21**	**22**	**23**	**24**	**25**	**26**	16	37	3330	3868	28490
	27	**28**	**29**	**30**	**31**	1	2	17	36	3240	3763	27720
	3	4	5	6	7	8	9	18	35	3150	3659	26950
Aug	10	11	12	13	14	15	16	19	34	3060	3554	26180
	17	18	19	20	21	22	23	20	33	2970	3450	25410
	24	25	26	27	28	29	30	21	32	2880	3345	24640
	31	**1**	**2**	**3**	**4**	**5**	**6**	22	31	2790	3241	23870
	7	**8**	**9**	**10**	**11**	**12**	**13**	23	30	2700	3136	23100
Sept	**14**	**15**	**16**	**17**	**18**	**19**	**20**	24	29	2610	3032	22330
	21	**22**	**23**	**24**	**25**	**26**	**27**	25	28	2520	2927	21560
	28	**29**	**30**	1	2	3	4	26	27	2430	2823	20790
	5	6	7	8	9	10	11	27	26	2340	2718	20020
Oct	12	13	14	15	16	17	18	28	25	2250	2613	19250
	19	20	21	22	23	24	25	29	24	2160	2509	18480
	26	27	28	29	30	31	**1**	30	23	2070	2404	17710
	2	**3**	**4**	**5**	**6**	**7**	**8**	31	22	1980	2300	16940
Nov	**9**	**10**	**11**	**12**	**13**	**14**	**15**	32	21	1890	2195	16170
	16	**17**	**18**	**19**	**20**	**21**	**22**	33	20	1800	2091	15400
	23	**24**	**25**	**26**	**27**	**28**	**29**	34	19	1710	1986	14630
	30	1	2	3	4	5	6	35	18	1620	1882	13860
	7	8	9	10	11	12	13	36	17	1530	1777	13090
	14	15	16	17	18	19	20	37	16	1440	1673	12320
Dec	21	22	23	24	25	26	27	38	15	1350	1568	11550
	28	29	30	31	**1**	**2**	**3**	39	14	1260	1464	10780
	4	**5**	**6**	**7**	**8**	**9**	**10**	40	13	1170	1359	10010
	11	**12**	**13**	**14**	**15**	**16**	**17**	41	12	1080	1255	9240
Jan	**18**	**19**	**20**	**21**	**22**	**23**	**24**	42	11	990	1150	8470
	25	**26**	**27**	**28**	**29**	**30**	**31**	43	10	900	1046	7700
	1	2	3	4	5	6	7	44	9	810	941	6930
Feb	8	9	10	11	12	13	14	45	8	720	837	6160
	15	16	17	18	19	20	21	46	7	630	732	5390
	22	23	24	25	26	27	28	47	6	540	628	4620
	1	**2**	**3**	**4**	**5**	**6**	**7**	48	5	450	523	3850
Mar	**8**	**9**	**10**	**11**	**12**	**13**	**14**	49	4	360	419	3080
	15	**16**	**17**	**18**	**19**	**20**	**21**	50	3	270	314	2310
	22	**23**	**24**	**25**	**26**	**27**	**28**	51	2	180	210	1540
	29	**30**	**31**	1	2	3	4	52	1	90	105	770
	5							53	1	90	105	770

Alphabetical index

Alphabetical index