

EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (CONTRIBUTIONS) (RATES, LIMITS AND THRESHOLDS AMENDMENTS AND NATIONAL INSURANCE FUNDS PAYMENTS) REGULATIONS 2019

2019 No. [XXXX]

1. Introduction

- 1.1 This explanatory memorandum has been prepared by HM Revenue and Customs and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 This instrument gives effect to the annual re-rating of various National Insurance contributions (NICs) rates, limits and thresholds for the purposes of calculating Class 1, Class 2, Class 3 and Class 4 NICs liability (or voluntary payment) for the tax year beginning 6 April 2019.
- 2.2 It also allows for payments of a Treasury Grant not exceeding 5 per cent of the estimated benefit expenditure for the 2019-20 tax year to be paid into the National Insurance Fund, and makes corresponding provision for Northern Ireland.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 This instrument relies on section 105 of the Deregulation Act 2015 (“the Deregulation Act”) to make a single instrument, rather than two separate instruments each making a relatively small number of changes.
- 3.2 Regulations 3 to 5, 9 and 10 are made under order-making powers in various provisions of the Social Security Administration Act 1992 (“the Administration Act”), the Social Security Administration (Northern Ireland) Act 1992 (“the Northern Ireland Administration Act”), the Social Security Act 1993 and the Social Security (Northern Ireland) Order 1993; whereas Regulations 7 and 8 rely on regulation-making powers in the Social Security Contributions and Benefits Act 1992 (“the Contributions Act”) and the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (the “Northern Ireland Contributions Act”).
- 3.3 Section 105 of the Deregulation Act has not been cited in the preamble to the instrument on the basis that it is materially parallel to provisions in the Interpretation Act 1978.
- 3.4 The territorial application of this instrument includes Scotland and Northern Ireland.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.5 Taken together the powers under which this instrument is made cover the entire United Kingdom and the territorial application of this instrument is not limited either by the respective Acts or by this instrument.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the United Kingdom.
4.2 The territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

- 5.1 The Financial Secretary to the Treasury, Mel Stride MP, has made the following statement regarding Human Rights:

“In my view the provisions of the Social Security (Contributions) (Rates, Limits and Thresholds Amendments and National Insurance Funds Payments) Regulations 2019 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 This instrument is being made to effect the annual re-rating of NICs rates, limits and thresholds. It specifies:
- the rate of Class 2 NICs that are payable by the self-employed;
 - the small profits threshold (SPT), which is the level of taxable profits at which the self-employed become liable to pay Class 2 NICs;
 - the amount of a Class 3 contribution, which eligible persons can choose to pay to satisfy the conditions for contributory benefit entitlement;
 - the lower profits limit (LPL), which is the level of profits at which the self-employed begin to pay Class 4 NICs at the main Class 4 percentage rate;
 - the upper profits limit (UPL), which is the level of profits at which the self-employed begin to pay Class 4 NICs at the additional percentage rate;
 - the lower earnings limit (LEL), which is the level of earnings at which employees start to gain access to certain contributory benefits;
 - the upper earnings limit (UEL), which is the level of earnings above which employees begin to pay Class 1 NICs at the additional percentage rate;
 - the primary threshold (PT), which is the level of earnings above which employees begin to pay Class 1 NICs at the main percentage rate;
 - the secondary threshold (ST), which is the level above which employers begin to pay Class 1 NICs in respect of their employees’ earnings;
 - the upper secondary threshold (UST), which is the level of earnings above which employers of employees under the age of 21 are no longer eligible for the age-related secondary percentage of Class 1 NICs, which is 0%;
 - the apprentice upper secondary threshold (AUST), which is the level of earnings above which employers of relevant apprentices under the age of 25

are no longer eligible to pay Class 1 NICs at the zero-rate apprentice-related secondary percentage;

- and the prescribed equivalents of the LEL, UEL, PT, ST, UST and AUST for those earners who are paid otherwise than weekly.

6.2 Each tax year the Treasury is required, by section 141 of the Administration Act, to conduct a review of the general level of earnings in Great Britain, taking into account changes in that level since their last review, with a view to determining whether legislation should be made under that section to determine the rates and thresholds applying to Class 2, 3 or 4 NICs for the following tax year. This statutory instrument satisfies the requirement for such legislation.

6.3 It is a condition precedent to laying legislation under section 141 of the Administration Act that a copy of the report by the Government Actuary, for the Deputy Government Actuary, be laid before Parliament on the effect which, in the Actuary's opinion, the making of the legislation would have on the National Insurance Fund. A copy of the report can be found on the GOV.UK website. If legislation is made under section 141 of the Administration Act, it may also make a corresponding provision for Northern Ireland under section 129 of the Northern Ireland Administration Act.

7. Policy background

What is being done and why?

7.1 It was announced at Budget 2011 that the basis of indexation of most NICs rates, limits and thresholds would be by reference to the Consumer Price Index (CPI). An exception to this was the ST, which was linked to the Retail Price Index until 2015-16, and is now linked to CPI. For the year to September 2018, CPI increased by **2.42%**.

7.2 It was announced at Budget 2007 that the UEL and UPL would be aligned with the income tax higher rate threshold from April 2009. The UST and AUST are also aligned to this level.

7.3 The NICs rates, limits and thresholds were announced at Budget 2018. They can be found on the GOV.UK website at the following link:
<https://www.gov.uk/government/publications/budget-2018-overview-of-tax-legislation-and-rates-outlar>.

Class 2, 3 and 4 contributions

7.4 Self-employed earners pay Class 2 and Class 4 NICs. Class 2 contributions are payable by self-employed earners at a weekly flat rate when profits exceed the SPT. Both the weekly flat rate and the SPT are increased by CPI. The weekly flat rate will be increased from £2.95 to £3.00. The SPT will be increased from £6,205 to £6,365 per year.

7.5 Class 4 NICs are payable by self-employed earners at the main percentage rate (currently 9%) on taxable profits between the LPL and the UPL and at the additional Class 4 percentage rate (currently 2%) on all profits above the UPL.

7.6 The LPL is set at the same level as the PT for Class 1 NICs and will be increased to £8,632 from 6 April 2019 in line with CPI. The UPL is set at the same level as the

UEL for Class 1 NICs and will be increased to £50,000 to maintain alignment both with the UEL and the higher rate threshold for income tax.

- 7.7 Class 3 NICs are voluntary payments paid at a flat rate of £14.65 per week for the tax year 2018-19. These will be increased to £15.00 per week from 6 April 2019.

Class 1 earnings limits and thresholds

- 7.8 Section 5 of the Contributions Act requires earnings limits and thresholds for Class 1 NICs to be specified for Great Britain each tax year. Similarly, section 5 of the Northern Ireland Contributions Act requires there to be earnings limits and thresholds for Class 1 NICs for Northern Ireland.
- 7.9 The LEL is the level of earnings at which employees start to gain access to certain contributory benefits. It was announced at Budget 2011 that the LEL would be increased by reference to CPI. From 6 April 2019 the LEL will be increased from £116 to £118 per week.
- 7.10 Since April 2009 the UEL (the level of earnings up to which employees pay NICs at the main percentage rate of 12% and thereafter the additional percentage rate of 2%) has been aligned with the higher rate threshold for income tax.
- 7.11 At Budget 2018 it was announced that the income tax personal allowance will be £12,500 and the basic rate limit will be £37,500 from 6 April 2019. In line with the existing policy, the UEL will rise in alignment with the higher rate income tax threshold (the sum of the personal allowance and the basic rate limit). From 6 April 2019, this will be £50,000. This corresponds to an increase in the weekly UEL to £962.
- 7.12 Primary Class 1 NICs (known as “employees’ contributions”) are payable at the main primary percentage (currently 12%) on earnings between the PT and the UEL. Secondary Class 1 NICs (known as “employers’ contributions”) are payable by employers on their employees’ earnings above the ST at a single percentage rate (currently 13.8%). There is no upper limit for payment of employers’ contributions.
- 7.13 The UST sets the level of earnings above which employers of employees under the age of 21 are no longer eligible to pay secondary Class 1 contributions at the age related secondary percentage, which is 0%. The UST is set at the same level as the UEL and will be increased from £892 per week to £962 from 6 April 2019.
- 7.14 The AUST sets the level of earnings above which employers of relevant apprentices aged under 25 are no longer eligible to pay secondary Class 1 NICs at 0%. The AUST is set at the same level as the UEL and will be increased from £892 per week to £962 from 6 April 2019.

Class 1 prescribed equivalents and Treasury Grant provision

- 7.15 Sections 5(4) and (5) of the Contributions Act and the Northern Ireland Contributions Act provide that the prescribed equivalents of the LEL, PT, ST, UEL, UST and AUST (as set out above) may be set at an amount which is no greater than £1 above the arithmetical equivalent of the weekly LEL, PT, ST, UEL, UST and AUST. The monthly arithmetical equivalent can be calculated by multiplying each of the weekly limits and thresholds by 4 $\frac{1}{3}$. The annual arithmetical equivalent can be calculated by dividing each of the weekly limits and thresholds by 7 and multiplying each result by 365. The monthly and annual prescribed equivalents of the LEL, PT, ST, UEL, UST

and AUST are all no greater than £1 above the arithmetic equivalent of those limits or thresholds.

- 7.16 These regulations include prescribed equivalents of the UEL, PT, ST, UST and AUST where the earnings period is a month or a year. The monthly and annual equivalents of the UEL are £4,167 and £50,000 respectively. The monthly prescribed equivalent of the PT is £719 and the annual prescribed equivalent of the PT is £8,632. The monthly and annual prescribed equivalents of the ST are £719 and £8,632 respectively. The monthly and annual equivalents of the UST are £4,167 and £50,000. The monthly and annual equivalents of the AUST are £4,167 and £50,000 respectively.
- 7.17 These Regulations also make provision under section 2(2) of the Social Security Act 1993 for payment of a Treasury Grant not exceeding 5 per cent of estimated benefit expenditure for the coming tax year to be paid into the National Insurance Fund, if necessary. They also make corresponding provision in respect of the Northern Ireland National Insurance Fund under article 4(3) of the Social Security (Northern Ireland) Order 1993.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

- 9.1 There are currently no plans to consolidate the regulations or the primary legislation which are amended by this statutory instrument.

10. Consultation outcome

- 10.1 There was no consultation because the instrument relates to routine changes to rates, limits and thresholds as part of the annual NICs re-rating exercise.

11. Guidance

- 11.1 These Regulations do not impose a new obligation.

12. Impact

- 12.1 There is no impact on business, charities or voluntary bodies, except for routine changes in payroll.
- 12.2 There is no impact on the public sector, except for routine changes in payroll.
- 12.3 A Tax Information and Impact Note has not been prepared for this instrument as it gives effect to previously announced policy and it relates to routine changes to rates, limits and thresholds. A Tax Information and Impact Note covering related changes to income tax thresholds is available at:
<https://www.gov.uk/government/publications/income-tax-personal-allowance-and-basic-rate-limit-from-2019-to-2020/income-tax-personal-allowance-and-basic-rate-limit-from-2019-20>.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses due to the changes to the rate of Class 2, LPL, UPL and SPT in so far as the proprietor(s) are self-employed. These small businesses will need to acquaint themselves with the new rate and limits in order to calculate their National Insurance liabilities from 6 April 2019. The changes to Class 1 NICs applies to small businesses with employees.
- 13.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), employers can use HMRC's Basic PAYE Tools to work out their payroll deductions and submit payroll information online. The Basic PAYE Tools work out the tax and NICs for employees every time they are paid and can be used to report this information to HMRC. This free computer package is available to download from <https://www.gov.uk/basic-payee-tools>.
- 13.3 Alternatively, small businesses can find out more information on other HMRC – recognised payroll software to manage RTI payments and deductions from <https://www.gov.uk/payroll-software>.
- 13.4 Small businesses will need to ensure that the new rates, limits and thresholds are used to calculate their National Insurance liabilities from 6 April 2019.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is that these Regulations make changes to existing rates, limits and thresholds and are reviewed annually.

15. Contact

- 15.1 Lowri Barber at HM Revenue and Customs Telephone: 03000 563 479 or email: lowri.barber@hmrc.gsi.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Rachel Nixon, Deputy Director for National Insurance, at HM Revenue and Customs can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Financial Secretary to the Treasury, Mel Stride MP at HM Treasury can confirm that this Explanatory Memorandum meets the required standard.