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STATUTORY INSTRUMENTS

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**2022 No. 1329**

**SOCIAL SECURITY**

**The Social Security (Class 2 National Insurance Contributions Increase of Threshold) Regulations 2022**

*Made* - - - - *13th December 2022*

*Coming into force* - - *14th December 2022*

These Regulations are made by the Treasury in exercise of the powers conferred by sections 3, 4(4) and 5(2) of the National Insurance Contributions (Increase of Thresholds) Act 2022<sup>(1)</sup> (“the Act”) and section 175(3) and (4) of the Social Security Contributions and Benefits Act 1992<sup>(2)</sup>.

A draft of these Regulations was laid before Parliament in accordance with the provisions of section 5(3) of the Act and approved by a resolution of each House of Parliament.

**PART 1**

**General**

**Citation, commencement and effect**

1. These Regulations may be cited as the Social Security (Class 2 National Insurance Contributions Increase of Threshold) Regulations 2022, come into force on the day after the day on which they are made and have effect from 6th April 2022.

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<sup>(1)</sup> 2022 c. 16.

<sup>(2)</sup> 1992 c. 4; section 175(4) was amended by paragraph 29(4) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).

## PART 2

### Thresholds for paying, and being treated as having paid, Class 2 contributions

#### Introduction of lower profits threshold (England, Scotland and Wales)

**2.—**(1) Section 11 of the Social Security Contributions and Benefits Act 1992(3) is amended as follows.

(2) In subsection (2), for “of, or exceeding the small profits threshold” substitute “that exceed the lower profits threshold”.

(3) For subsection (4) substitute—

“(4) For the purposes of this Act—

(a) the “lower profits threshold” is £11,908, and

(b) the “small profits threshold” is £6,725.”

(4) After subsection (5) insert—

“(5A) Subsection (5B) applies to an earner who has, for the relevant tax year, relevant profits of, or exceeding, the small profits threshold but which do not exceed the lower profits threshold.

(5B) An earner to whom this subsection applies is treated, for relevant purposes, as having actually paid a Class 2 contribution under subsection (2) in respect of each week in the relevant tax year that the earner is in the employment.

(5C) “For relevant purposes” means for the purposes of provision made by or under an enactment that—

(a) is provision relating to benefits, or any other entitlement, provided for by or under an enactment, and

(b) applies by reference (however framed) to Class 2 contributions (whether or not the provision refers to contributions treated as paid).”

(5) In subsection (7), after “paid” insert “or treated as paid”.

#### Introduction of lower profits threshold (Northern Ireland)

**3.—**(1) Section 11 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(4) is amended as follows.

(2) In subsection (2), for “of, or exceeding the small profits threshold” substitute “that exceed the lower profits threshold”.

(3) For subsection (4) substitute—

“(4) For the purposes of this Act—

(a) the “lower profits threshold” is £11,908, and

(b) the “small profits threshold” is £6,725.”

(4) After subsection (5) insert—

“(5A) Subsection (5B) applies to an earner who has, for the relevant tax year, relevant profits of, or exceeding, the small profits threshold but which do not exceed the lower profits threshold.

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(3) Section 11 was substituted by paragraph 3 of Schedule 1 to the National Insurance Contributions Act 2015 (c. 5) (“the NICA 2015”). The figures in subsections (2), (4) and (6) were last substituted by regulation 3 of S.I. 2022/232.

(4) 1992 c. 7; section 11 was substituted by paragraph 12 of Schedule 1 to the NICA 2015. The figures in subsections (2), (4) and (6) were last substituted by regulation 3 of S.I. 2022/232.

(5B) An earner to whom this subsection applies is treated, for relevant purposes, as having actually paid a Class 2 contribution under subsection (2) in respect of each week in the relevant tax year that the earner is in the employment.

(5C) “For relevant purposes” means for the purposes of provision made by or under an enactment that—

(a) is provision relating to benefits, or any other entitlement, provided for by or under an enactment, and

(b) applies by reference (however framed) to Class 2 contributions (whether or not the provision refers to contributions treated as paid).”

(5) In subsection (7), after “paid” insert “or treated as paid”.

## PART 3

### Consequential provision

#### References to the lower profits threshold (primary legislation)

4.—(1) In section 141 of the Social Security Administration Act 1992(5), in subsection (4)(b)—

(a) for “figure” substitute “figures”;

(b) after “as” insert “the lower profits threshold and as”.

(2) In section 143 of that Act(6), in subsection (3), for “small profits threshold” substitute “lower profits threshold”.

#### References to the lower profits threshold (secondary legislation)

5.—(1) In each of the following provisions, for “small profits threshold” substitute “lower profits threshold”—

(a) regulation 39(2)(a) of the Income Support (General) Regulations 1987(7);

(b) regulation 39(2)(a) of the Income Support (General) Regulations (Northern Ireland) 1987(8);

(c) regulation 102(3)(a) of the Jobseeker’s Allowance Regulations 1996(9);

(d) regulation 102(3)(a) of the Jobseeker’s Allowance Regulations (Northern Ireland) 1996(10);

(e) regulation 14(2)(a) of the Social Security Benefit (Computation of Earnings) Regulations 1996(11);

(f) in the Housing Benefit Regulations 2006(12)—

(i) regulation 34(c), and

(ii) regulation 39(2)(a);

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(5) 1992 c. 5; section 141(4) was amended by paragraph 16 of Schedule 1 to the National Insurance Contributions Act 2002 (c. 19) and paragraph 20 of Schedule 1 to the NICA 2015.

(6) Section 143(3) was amended by paragraph 46 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) and paragraph 21 of Schedule 1 to the NICA 2015.

(7) S.I. 1987/1967, relevant amending instruments are S.I. 1993/2119, 2015/478.

(8) S.R. 1987 No. 459, relevant amending instruments are S.R. 1993 No. 373, 2015 No. 163.

(9) S.I. 1996/207, relevant amending instruments are S.I. 2013/2536, 2015/478, 2016/233.

(10) S.R. 1996 No. 198, amended by S.R. 2017 No. 116; there are other amending instruments but none is relevant.

(11) S.I. 1996/2745, relevant amending instruments are S.I. 1999/3178, 2015/478.

(12) S.I. 2006/213, relevant amending instruments are S.I. 2014/213, 2015/478.

- (g) in the Housing Benefit Regulations (Northern Ireland) 2006(**13**)—
  - (i) regulation 31(c), and
  - (ii) regulation 36(2)(a);
- (h) in the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(**14**)—
  - (i) regulation 34(c), and
  - (ii) regulation 40(2)(a);
- (i) in the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006(**15**)—
  - (i) regulation 32(c), and
  - (ii) regulation 38(2)(a);
- (j) regulation 99(3)(a) of the Employment and Support Allowance Regulations 2008(**16**);
- (k) regulation 99(3)(a) of the Employment and Support Allowance Regulations (Northern Ireland) 2008(**17**);
- (l) in the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012(**18**)—
  - (i) paragraph 28(c) of Schedule 1, and
  - (ii) paragraph 30(3)(a) of that Schedule;
- (m) regulation 38(2)(a) of the Council Tax Reduction (Scotland) Regulations 2012(**19**);
- (n) regulation 37(2)(a) of the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012(**20**);
- (o) regulation 62(3)(a) of the Jobseeker’s Allowance Regulations 2013(**21**);
- (p) regulation 84(3)(a) of the Employment and Support Allowance Regulations 2013(**22**);
- (q) in the Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2013(**23**)—
  - (i) paragraph 22(c) of Schedule 1, and
  - (ii) paragraph 24(3)(a) of that Schedule;
- (r) in Schedule 6 to those regulations—
  - (i) paragraph 23(c), and
  - (ii) paragraph 25(3)(a);
- (s) in the Council Tax Reduction Schemes (Default Scheme) (Wales) Regulations 2013(**24**)—
  - (i) paragraph 57(c) of the Schedule, and
  - (ii) paragraph 59(3)(a) of that Schedule;

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(13) S.R. 2006 No. 405, relevant amending instruments are S.R. 2015 No. 163, 2016 No. 230.

(14) S.I. 2006/214, relevant amending instruments are S.I. 2014/213, 2015/478.

(15) S.R. 2006 No. 406, relevant amending instruments are S.R. 2015 No. 163, 2016 No. 230.

(16) S.I. 2008/794, amended by S.I. 2015/478; there are other amending instruments but none is relevant.

(17) S.R. 2008 No. 280, amended by S.R. 2015 No. 163; there are other amending instruments but none is relevant.

(18) S.I. 2012/2885, relevant amending instruments are S.I. 2014/3312, 2015/2041.

(19) S.S.I. 2012/303, amended by S.S.I. 2016/81; there are other amending instruments but none is relevant.

(20) S.S.I. 2012/319, amended by S.S.I. 2016/81; there are other amending instruments but none is relevant.

(21) S.I. 2013/378, relevant amending instruments are S.I. 2015/478, 2016/233.

(22) S.I. 2013/379, amended by S.I. 2015/478; there are other amending instruments but none is relevant.

(23) S.I. 2013/3029 (W. 301), amended by S.I. 2016/50 (W. 21); there are other amending instruments but none is relevant.

(24) S.I. 2013/3035 (W. 303), amended by S.I. 2016/50 (W. 21); there are other amending instruments but none is relevant.

- (t) regulation 62(3)(a) of the Jobseeker’s Allowance Regulations (Northern Ireland) 2016(25);
  - (u) regulation 84(3)(a) of the Employment and Support Allowance Regulations (Northern Ireland) 2016(26).
- (2) In—
- (a) each of those provisions, other than a provision mentioned in paragraph (i) of any of sub-paragraphs (f) to (i), (l) and (q) to (s) of paragraph (1), and
  - (b) regulation 14(2)(a) of the Social Security Benefit (Computation of Earnings) Regulations (Northern Ireland) 1996(27),
- after “income is” insert “equal to or”.
- (3) In—
- (a) each of the provisions mentioned in paragraph (1) other than a provision amended by paragraph (4) or (5),
  - (b) regulation 163(4)(d) of the Jobseeker’s Allowance Regulations 1996,
  - (c) regulation 163(4)(e) of the Jobseeker’s Allowance Regulations (Northern Ireland) 1996,
  - (d) regulation 14(2)(a) of the Social Security Benefit (Computation of Earnings) Regulations (Northern Ireland) 1996,
  - (e) regulation 73(4)(d) of the Jobseeker’s Allowance Regulations 2013, and
  - (f) regulation 73(4)(d) of the Jobseeker’s Allowance Regulations (Northern Ireland) 2016,
- for “section 11(4)” substitute “section 11(4)(a)”.
- (4) In regulation 99(3)(a) of the Employment and Support Allowance Regulations (Northern Ireland) 2008, for “subsection (4)” substitute “subsection (4)(a)”.
- (5) In regulation 84(3)(a) of the Employment and Support Allowance Regulations (Northern Ireland) 2016, for “sub-section (4)” substitute “subsection (4)(a)”.

**Provision where references to the small profits threshold is to be retained**

- 6.—(1) In the Social Security (Credits) Regulations 1975(28)—
- (a) in regulation 7B(2)(b)—
    - (i) for “section 11(4)” substitute “section 11(4)(b)”, and
    - (ii) after “pay” insert “, or would be treated as having actually paid,” and
  - (b) in regulation 7C(1)(b)(i)—
    - (i) for “section 11(4)” substitute “section 11(4)(b)”, and
    - (ii) after “pay” insert “, or would be treated as having actually paid,”.
- (2) In the Social Security (Credits) Regulations (Northern Ireland) 1975(29)—
- (a) in regulation 7B(2)(b)—
    - (i) for “section 11(4)” substitute “section 11(4)(b)”, and
    - (ii) after “pay” insert “, or would be treated as having actually paid,” and
  - (b) in regulation 7C(1)(b)(i)—

(25) S.R. 2016 No. 218, amended by S.R. 2017 No. 116; there are other amending instruments but none is relevant.

(26) S.R. 2016 No. 219, to which there are amendments not relevant to these Regulations.

(27) S.R. 1996 No. 520, relevant amending instruments are S.R. 1999 No. 472 and S.I. 2015/478.

(28) S.I. 1975/556, relevant amending instruments are S.I. 1991/2772, 1995/2558, 2016/1145.

(29) S.R. 1975 No. 113, relevant amending instruments are S.R. 1991 No. 528, 2003 No. 195, 2016 No. 409.

- (i) for “section 11(4)” substitute “section 11(4)(b)”, and
  - (ii) after “pay” insert “, or would be treated as having actually paid,”.
- (3) In the State Pension Regulations 2015<sup>(30)</sup>—
- (a) in regulation 30(1)(b)—
    - (i) for “section 11(4)” substitute “section 11(4)(b)”, and
    - (ii) after “pay” insert “, or would be treated as having actually paid,”, and
  - (b) in regulation 32(4)(a)—
    - (i) after “pay” insert “, or would be treated as having actually paid,”, and
    - (ii) for “section 11(4)” substitute “section 11(4)(b)”.
- (4) In the State Pension Regulations (Northern Ireland) 2015<sup>(31)</sup>—
- (a) in regulation 30(1)(b)—
    - (i) for “section 11(4)” substitute “section 11(4)(b)”, and
    - (ii) after “pay” insert “, or would be treated as having actually paid,”, and
  - (b) in regulation 32(4)(a)—
    - (i) after “pay” insert “, or would be treated as having actually paid,”, and
    - (ii) for “section 11(4)” substitute “section 11(4)(b)”.

**Maternity allowance etc: provision for making voluntary payment where later treated as paid**

7.—(1) Regulation 90ZA of the Social Security (Contributions) Regulations 2001<sup>(32)</sup> is amended as follows.

(2) In paragraph (2), in the words before subparagraph (a), after “contribution”, in the first place it occurs, insert “, or is or will be treated for relevant purposes as having actually paid a Class 2 contribution as a result of section 11(5B) of the Act,”.

(3) In paragraph (3)(b)(i) after “contribution”, in the first place it occurs, insert “, or is treated for relevant purposes as having actually paid a Class 2 contribution as a result of section 11(5B) of the Act,”.

(4) After paragraph (3) insert—

“(4) Where a person—

- (a) has paid a contribution in accordance with paragraph (2) in respect of a week in a tax year, and
- (b) is treated for relevant purposes as having actually paid a Class 2 contribution in respect of that week as a result of section 11(5B) of the Act,

the person may make an application to HMRC for the return of the contribution that was paid.

(5) An application under paragraph (4) must be made—

- (a) in such form and manner as HMRC may require, and
- (b) on or before 31st January next following the end of the tax year.

(6) On the making of an application under paragraph (4) HMRC must return the contribution that was paid.

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<sup>(30)</sup> S.I. 2015/173, amended by S.I. 2016/240; there are other amending instruments but none is relevant.

<sup>(31)</sup> S.R. 2015 No. 315, amended by S.R. 2016 No. 100; there are other amending instruments but none is relevant.

<sup>(32)</sup> S.I. 2001/1004, amended by S.I. 2015/478; there are other amending instruments but none is relevant.

(7) In this regulation “for relevant purposes” has the meaning given by section 11(5C) of the Act.”

### **Maternity allowance etc: further amendments**

**8.—(1)** In regulation 3 of the Social Security and Child Support (Decisions and Appeals) Regulations 1999(**33**), after paragraph (8K) insert—

“(8L) A decision made under section 8 or 10(**34**) in relation to maternity allowance may be revised at any time where, by virtue of regulation 7(1) of the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations 2001(**35**) (treatment for the purpose of any contributory benefit of contributions paid under certain provisions relating to the payment and collection of contributions), a contribution is treated as paid on a date which falls on or before the date on which the decision was made.”

(2) In regulation 3 of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(**36**), after paragraph (8J) insert—

“(8K) A decision made under Article 9 or 11 in relation to maternity allowance may be revised at any time where, by virtue of regulation 7(1) of the Crediting and Treatment of Contributions etc. Regulations(**37**) (treatment for the purpose of any contributory benefit of contributions paid under certain provisions relating to the payment and collection of contributions), a contribution is treated as paid on a date which falls on or before the date on which the decision was made.”

(3) In regulation 7 of the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations 2001, in paragraph (1)(b), after “contribution” insert “or (in the case of a contribution treated as paid as a result of section 11(5B) of the Act) the first day on which the contribution would otherwise be treated as having been paid,”.

(4) In regulation 7 of the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) (Northern Ireland) Regulations 2001, in paragraph (1)(b), after “contribution” insert “or (in the case of a contribution treated as paid as a result of section 11(5B) of the Act) the first day on which the contribution would otherwise be treated as having been paid,”.

### **Share fishermen**

**9.** In regulation 125(c) of the Social Security (Contributions) Regulations 2001(**38**), after “payable” insert “, or which is treated as having actually been paid under section 11(5B) of the Act (Class 2 contributions treated as paid),”.

### **Internationally mobile earners**

**10.—(1)** Regulation 148C of the Social Security (Contributions) Regulations 2001(**39**) is amended as follows.

(2) In paragraph (1)(a), after “contributions” insert “or is treated, as a result of section 11(5B) of the Act, as having actually paid one or more Class 2 contributions,”.

(3) After paragraph (5) insert—

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(33) S.I. 1999/991, amended by S.I. 2016/1145; there are other amending instruments but none is relevant.

(34) These are sections of the Social Security Act 1998 (c. 14) which provide for the Secretary of State to decide claims for maternity allowance (amongst other benefits).

(35) S.I. 2001/769, amended by S.I. 2016/1145; there are other amending instruments but none is relevant.

(36) S.R. 1999 No. 162, amended by S.R. 2016 No. 409; there are other amending instruments but none is relevant.

(37) S.R. 2001 No. 10, amended by S.R. 2016 No. 409; there are other amending instruments but none is relevant.

(38) Regulation 125 was amended by paragraph 33 of Schedule 1 to the NICA 2015, S.I. 2015/478 and 2022/306.

(39) Regulation 148C was inserted by S.I. 2015/478.

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“(5A) If P is treated (as a result of section 11(5B) of the Act) as having actually paid a Class 2 contribution, P must, no later than 31st January next following the end of the relevant tax year, make a return in such form as may be approved by HMRC.”

(4) In paragraph (6)(b), after “contribution,” insert “or entitlement to be treated as having actually paid such a contribution,”.

13th December 2022

*Steve Double*  
*Andrew Stephenson*  
Two of the Lords Commissioners of His  
Majesty’s Treasury



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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend section 11 of the Social Security Contributions and Benefits Act 1992 (c. 4) and of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) (“the Acts”) to introduce a new threshold for profits of self-employed individuals above which Class 2 National Insurance contributions (“NICs”) become payable (“the lower profits threshold”). Self-employed individuals with profits at or above the existing small profits threshold and which do not exceed the lower profits threshold are treated as having paid Class 2 NICs. Consequential amendments are made to secondary legislation for Great Britain (“GB”) and Northern Ireland (“NI”) so that those treated as having paid are eligible for benefits as if they had actually paid.

Regulation 1 provides for citation, commencement and effect. These Regulations have effect from 6th April 2022. Authority for the retrospective effect is given by sections 3(2)(b) and 4(4) of the National Insurance Contributions (Increase of Thresholds) Act 2022 (c. 16).

Part 2 introduces the lower profits threshold, the new threshold at which liability to pay Class 2 NICs begins. It is set at a level equivalent to the threshold at which Class 4 NICs become payable. Part 2 also treats self-employed individuals as having actually paid Class 2 NICs where their profits are at or above the small profits threshold and do not exceed the lower profits threshold. Regulation 2 makes provision for GB and regulation 3 makes provision for NI.

Part 3 makes consequential amendments. Regulation 4 amends the powers in section 141 and 143 of the Social Security Administration Act 1992 (c. 5): it introduces a new power to amend the lower profits threshold in the annual re-rating of NICs rates and thresholds; it maintains the functioning of the power to alter the threshold at which liability to pay Class 2 NICs begins for the purposes of adjusting the level of the National Insurance Fund (by replacing the reference to the small profits threshold with a reference to the lower profits threshold). Section 129 of the Social Security Administration (Northern Ireland) Act 1992 (c. 8) applies sections 141 and 143 for NI so no corresponding amendment is needed.

Regulations 5 and 6 amend provisions in secondary legislation relating to eligibility for benefits to which Class 2 NICs payment gives rise. Regulation 5 maintains references to the threshold at which liability to pay Class 2 NICs begins by replacing references to the small profits threshold with references to the lower profits threshold. It also replaces references to section 11(4) of the Acts with references to section 11(4)(a). Regulation 6 ensures that treating Class 2 NICs as paid where profits are at or above the small profits threshold but do not exceed the lower profits threshold gives rise to eligibility in the same way that having actually paid does. It also replaces references to section 11(4) of the Acts with references to section 11(4)(b).

Regulations 7 and 8 make consequential amendments to secondary legislation relating to maternity allowance (“MA”) and how the rate of MA is calculated where Class 2 NICs are treated as paid. Provision is made for the circumstances in which individuals may make voluntary Class 2 NICs payments to qualify for MA at the standard rate and for those contributions to be refunded where their relevant profits are later assessed to be at or above the small profits threshold but not exceeding the lower profits threshold.

Regulation 9 makes specific provision for share fishermen and how Class 2 NICs treated as paid give rise to eligibility for benefits.

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Regulation 10 makes specific provision for allowing internationally mobile self-employed earners with profits above the small profits threshold but not exceeding the lower profits threshold to be treated as having actually paid Class 2 NICs.

A Tax Information and Impact Note covering the wider NICs thresholds changes, including those contained within this instrument, was published on 23 March 2022 and is available on the website at <https://www.gov.uk/government/publications/national-insurance-primary-threshold-and-the-lower-profits-limit-increase-and-associated-class-2-changes-in-2022-to-2023-tax-year>. It remains an accurate summary of the impacts that apply to this instrument.