

EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY CONTRIBUTIONS (DISREGARDED PAYMENTS)
(CORONAVIRUS) (ENGLAND) REGULATIONS 2020

2020 No. 1065

1. Introduction

- 1.1 This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs (HMRC) on behalf of Her Majesty's Treasury and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 This instrument disregards payments made under the Test and Trace Support Payment Scheme in England to employees who are on a low income and have been asked to self-isolate by NHS Test and Trace (NHSTT) so that payments made under the scheme will not be liable to employer or employee Class 1 National Insurance contributions (NICs). Employers will also not be liable to Class 1A NICs in respect of the payments.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

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)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is Great Britain.
4.2 The territorial application of this instrument is England.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 The receipt of payments under the Test and Trace Support Payment Scheme would ordinarily constitute earnings from an employment under section 3 of the Social Security Contributions and Benefits Act 1992 (SSCBA), and therefore both the employer and employee would be liable to pay Class 1 NICs under section 6 SSCBA. For the purposes of income tax these payments are treated as a cash benefit-in-kind and are charged to tax under Chapters 2 to 10 of Part 3 of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA 2003).

- 6.2 Where a payment is disregarded from liability to Class 1 NICs a Class 1A NICs liability may arise. Employer only Class 1A NICs arise where payments are chargeable to income tax on amounts of “general earnings” which are left out of account as earnings for the purposes of Class 1 NICs. Section 7(3) ITEPA 2003 defines “general earnings” as any amount treated as earnings under section 7(5)(b) ITEPA 2003 which treats as earnings amounts under Chapters 2 to 10 of Part 3 ITEPA 2003.
- 6.3 The Secretary of State for Work and Pensions has concurred with the making of the final text of this instrument.

7. Policy background

What is being done and why?

- 7.1 On 27 August 2020, the Secretary of State for Health and Social Care announced a scheme that would introduce a new payment for people on low incomes in areas with high rates of COVID-19. The scheme was piloted in Blackburn with Darwen, Pendle and Oldham from 1 September 2020. It made payments of up to £182 to people who were on low incomes and had been instructed to self-isolate by NHSTT because they had tested positive for COVID-19 or recently been in close contact with someone who had. The payment covered the period of self-isolation and was designed to support people on low-incomes who could not work from home.
- 7.2 On 20 September 2020, the government announced that from 28 September 2020 the pilot would be adapted and rolled out across England. People on low incomes who have been instructed by NHSTT to self-isolate because they have tested positive for COVID-19 or have recently been in close contact with someone who has, that cannot work from home and have lost income as a result would be supported by a Test and Trace Support payment or discretionary payment of £500. This lump sum payment aims to provide additional financial support to those on low incomes so they can self-isolate and help stop the spread of the coronavirus.
- 7.3 Payments made under the scheme are earnings and liable to employee and employer Class 1 NICs. This means that local authorities would have to account for and potentially deduct the value of employee NICs from any payments made. Additionally, the employer would have to deduct Class 1 NICs on the gross value of the payment received by their employees under the scheme. This would result in a cost burden on local authorities who administer the scheme and on employers.
- 7.4 The regulations are being introduced to ensure that these payments are not subject to NICs to prevent these administrative costs from arising.

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 None.

10. Consultation outcome

- 10.1 These regulations have been prepared to support the implementation of the Test and Trace Support Payment scheme. As the scheme is an urgent government response to the coronavirus outbreak, there has been no time to consult widely on the proposals although the Department of Health and Social Security have been consulted. These regulations have been introduced to minimise the administrative and cost burdens on local authorities and employers who would otherwise have had to account for NICs on these payments.

11. Guidance

- 11.1 Guidance will be updated to reflect the changes made by this instrument. It will be available to view on [GOV.UK](https://www.gov.uk).

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A Tax Information and Impact Note covering this instrument will be published on the website at [https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins#coronavirus-\(covid-19\)](https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins#coronavirus-(covid-19)).

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 No specific action is proposed to minimise regulatory burdens on small business.
- 13.3 The basis for the final decision on what action to take to assist small businesses is that the legislation does not impose new requirements on small businesses. It was therefore considered that no mitigating action was required, as it is a wholly relieving measure.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is to monitor and review it within the context of the wider tax framework.
- 14.2 These regulations do not include a statutory review clause because of an exemption for taxes and other charges in section 28(3) of the Small Business, Enterprise and Employment Act 2015.

15. Contact

- 15.1 Ativie Edebiri at the HMRC Telephone: 03000 584748 or email: ativie.edebiri@hmrc.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Rachel Nixon, Deputy Director for National Insurance Contributions Policy, at HMRC can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 The Rt Hon Jesse Norman MP, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.