

**EXPLANATORY MEMORANDUM TO**  
**THE SOCIAL SECURITY CONTRIBUTIONS (DISREGARDED PAYMENTS)**  
**(CORONAVIRUS) (NO. 2) REGULATIONS 2020**

**2020 No. 1523**

**1. Introduction**

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

**2. Purpose of the instrument**

2.1 This instrument provides for a new National Insurance contributions (NICs) disregard on certain payments for part of the 2020-21 tax year. The new disregard ensures that where an employer pays or reimburses an employee for the cost of a relevant coronavirus antigen test, there is no Class 1 NICs liability for either the employer or the employee. It also ensures that there is no Class 1A NICs liability for the employer either.

2.2 To be eligible for the disregard, a relevant coronavirus test is defined as a test which can detect the presence of a viral antigen or viral ribonucleic acid (RNA) specific to severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) and cannot be an antibody test.

**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 the United Kingdom.

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

**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 Currently, payments and reimbursements of the cost of a relevant coronavirus antigen test to an employee are not covered by any existing NICs disregards under Schedule 3 to the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004) or

elsewhere. This means that such payments will be earnings derived from employment for NICs purposes and therefore subject to a Class 1 NICs liability. A Class 1 NICs liability on the payment will therefore arise for both employer and employee under section 6 of the Social Security Contributions and Benefits Act 1992 (SSCBA) (and equivalent Northern Ireland legislation) in this case.

- 6.2 This instrument will provide for a Class 1 NICs disregard for both employers and employees where the employer pays or reimburses their employee for the cost of a relevant coronavirus antigen test on or after 25 January 2021, but on or before 5 April 2021. The disregard will apply whether the coronavirus test is taken by the employed earner before or after 25 January 2021.
- 6.3 Once the employer Class 1 NICs liability has been disregarded, a Class 1A NICs liability may fall on the employer under section 10 of the SSCBA in relation to the same payment. To ensure this does not happen this instrument will also provide for a Class 1A NICs disregard where an employer reimburses an employee for the cost of a relevant coronavirus antigen test during the same period of time.
- 6.4 The new Class 1 and Class 1A NICs disregard will come into effect on 25 January 2021 for tests reimbursed on or after that date.

## **7. Policy background**

### *What is being done and why?*

- 7.1 If an individual is eligible for a coronavirus test through the government testing programme, the tests are provided free of charge and no NICs or tax liability will arise.
- 7.2 This instrument follows changes made by the Income Tax (Exemption of Minor Benefits) (Coronavirus) Regulations 2020 (S.I. 2020/1293), which came into force on 8 December 2020, and which provided for a tax exemption (and automatic corresponding Class 1A NICs disregard) where an employer directly provides a relevant coronavirus antigen test to an employee.
- 7.3 To further minimise the financial and reporting burdens on employees and employers, this instrument introduces a new NICs disregard for both Class 1 and Class 1A NICs where an employer reimburses an employee the cost for a relevant coronavirus antigen test in 2020-21. Neither the employer, nor the employee, will be liable to pay NICs on these payments as a result of this instrument.
- 7.4 The disregard specifically applies to relevant coronavirus antigen tests only and does not extend to coronavirus antibody tests. This is because antibody tests only provide a historic view of whether an individual has previously contracted the coronavirus, and unlike the antigen test, it does not inform whether the individual is currently affected by the coronavirus and needs to self-isolate to prevent spreading the virus to other people.

## **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 no plans to consolidate, as this is a stand-alone instrument.

## **10. Consultation outcome**

10.1 No consultation has been held as this is a minor change which is wholly relieving to the taxpayer.

## **11. Guidance**

11.1 Guidance will be published on the gov.uk website.

## **12. Impact**

12.1 The impact on business, charities or voluntary bodies is expected to be positive as this proposal will ensure that employers no longer need to pay NICs when they reimburse an employee the cost of a relevant coronavirus antigen test. This proposal also ensures that the employee will no longer have to pay employee Class 1 NICs. There will be a one-off cost in the form of familiarisation with the change. There are not expected to be continuing costs. Customer experience is expected to stay broadly the same as this proposal does not significantly change how employers interact with HMRC. There is expected to be no additional impact on civil society organisations.

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 gov.uk website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>.

## **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 businesses.

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 This instrument will be monitored and reviewed as appropriate through communication with affected taxpayer groups.

14.2 The regulation does 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 Lowri Barber at HMRC Telephone: 03000 563 479 or email: [lowri.barber@hmrc.gov.uk](mailto:lowri.barber@hmrc.gov.uk) can be contacted with any queries regarding the instrument.

15.2 Rachel Nixon, Deputy Director for National Insurance Policy, at HMRC can confirm that this Explanatory Memorandum meets the required standard.

15.3 Rt Hon Jesse Norman MP, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.