EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (CONTRIBUTIONS) (AMENDMENT) REGULATIONS 2022

2022 No. 300

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 temporarily modifies the Social Security (Contributions) Regulations (S.I. 2001/1004) (the "Principal Regulations") to reflect changes to the formulae used to calculate the National Insurance contributions (NICs) annual maxima arising as a consequence of the Health and Social Care Levy Act 2021 (the "Act"). This instrument takes effect from 6 April 2022 in relation to contributions paid in respect of the tax year 2022 to 2023.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

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 These regulations modify the Principal Regulations to take account of the temporary changes to NICs rates made by the Act.

6.2 Section 6(5) of the Social Security Contributions and Benefits Act 1992 ("SSCBA 1992") (and the corresponding Northern Ireland provisions) provide that earners who hold two or more employments are required to pay NICs on the earnings they receive from each employment held. However, section 19(1) of the SSCBA 1992 allows regulations to provide that their liability in a particular tax year in respect of prescribed classes of contributions is not to exceed an annual maximum.

6.3 Regulations 21 and 100 of the Principal Regulations provide, in the case of those with more than one employment, for the computation of annual maxima for Class 1 and Class 4 NICs respectively. This instrument ensures that the calculations of the annual maxima to be made after the 2022-23 tax year has ended, in respect of contributions paid for the 2022-23 tax year, take account of temporary changes to the rates of NICs made by the Act.

7. Policy background

What is being done and why?

7.1 There is a maximum amount of NICs that an earner with more than one employment is required to pay at the main primary percentage of Class 1 NICs, or where also self-employed, the main Class 4 percentage, for any tax year. The Principal Regulations include a series of mathematical calculations that are to be made after the relevant tax year has ended to provide the maximum amount due. Where an earner has paid in excess of the maximum amount due, HMRC refunds any excess payment at the end of the tax year by reference to these calculations.

7.2 The Act will levy a 1.25% tax on taxpayers liable to Class 1, Class 1A, Class 1B and Class 4 National Insurance contributions, via a temporary increase to NICs rates in the 2022-23 tax year and a separate Levy from April 2023.

7.3 Following the changes made by the Act, these mathematical calculations need to be updated to reflect the temporary increase in NICs rates introduced by the Act. The Act, which received Royal Assent on 20 October 2021, increased the following rates of NICs for the 2022-23 tax year only:

- the main primary percentage rate of Class 1 NICs and main Class 4 percentage rate of NICs by 1.25 percentage points to 13.25 per cent and 10.25 per cent respectively;
- the additional rates of primary Class 1 and Class 4 NICs by 1.25 percentage points to 3.25 per cent.

8. European Union Withdrawal and Future Relationship

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

9. Consolidation

9.1 Consolidation is not being considered at this time because it is a temporary change for one year.

10. Consultation outcome

10.1 There was no consultation because these changes are consequential on the increases introduced as part of the Act.

11. Guidance

11.1 Existing guidance on calculating the annual maxima will be updated to reflect these new figures ahead of 6 April 2022.

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 was published on 9th September 2021 alongside the Health and Social Care Levy Act and is available on the website at https://www.gov.uk/government/publications/health-and-social-care-levy. It remains an accurate summary of the impacts that apply to this instrument.

13. Regulating small business

13.1 The legislation does not affect 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 this measure does not impact small businesses.

14. Monitoring & review

14.1 This instrument makes minor consequential and temporary changes to existing rates and will not be subject to specific monitoring and review.

14.2 The instrument does not include a statutory review clause because it relates to a tax, duty, levy or other charge and therefore meets the requirements of the exemption set out in section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015.

15. Contact

15.1 Muhammad Chaudhary at HMRC Telephone: 03000 534 629 or email: muhammad.chaudhary@hmrc.gov.uk can be contacted with any queries regarding the instrument.

15.2 Edmund Hair, Deputy Director for National Insurance Policy, International and Student Finance at HMRC, can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Rt Hon Lucy Frazer QC MP, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.