

EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (CONTRIBUTIONS) (RATES, LIMITS AND THRESHOLDS AMENDMENTS AND NATIONAL INSURANCE FUNDS PAYMENTS) REGULATIONS 2021

2021 No. 157

1. Introduction

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

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 2021. It also allows for payments of a Treasury Grant not exceeding 17 per cent of the estimated benefit expenditure for the 2021-22 tax year to be made 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 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 The territorial application of this instrument varies between provisions.
- 3.3 The powers under which this instrument is made cover the entire United Kingdom (see section 177 of the Social Security Contributions and Benefits Act 1992 (“the Contributions Act”), section 173 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (“the Northern Ireland Contributions Act”), section 192 of the Social Security Administration Act 1992 (“the Administration Act”), section 168 of the Social Security Administration (Northern Ireland) Act 1992 (“the Northern Ireland Administration Act”) and section 5 of the Social Security Act 1993) 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, Rt Hon Jesse Norman 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 2021 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 3 contributions, which eligible persons can choose to pay to satisfy the conditions for certain contributory benefits;
- the small profits threshold (SPT), which is the level of taxable profits at which the self-employed become liable to pay Class 2 NICs (while the rate of Class 2 NICs remains unchanged from last year at £3.05);
- 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 (which is 9%);
- 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, (which is 2%);
- the lower earnings limit for primary Class 1 NICs (LEL), which is the level of earnings at which employees start to gain access to certain contributory benefits;
- the primary threshold (PT), which is the level of earnings above which employees begin to pay primary Class 1 NICs (known as “employee contributions”) at the main percentage rate (which is 12%);
- the upper earnings limit (UEL), which is the level of earnings above which employees begin to pay primary Class 1 NICs at the additional percentage rate (which is 2%);
- the secondary threshold (ST), which is the level above which employers begin to pay secondary Class 1 NICs (known as “employer contributions”) in respect of their employees’ earnings at 13.8%;
- 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 for the apprentice-related secondary percentage of Class 1 NICs (which is 0%);
- and the prescribed equivalents of the LEL, PT, UEL, 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 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, or 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. 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 The basis of indexation of most NICs rates, limits and thresholds has been by reference to at least Consumer Price Index (CPI) since 2011. For the year to September 2020, CPI increased by 0.5%.
- 7.2 The PT is increasing in line with CPI to increase the level of earnings at which individuals begin to pay NICs. The LPL will also increase in line with CPI to maintain alignment with the PT.
- 7.3 It was announced at Budget 2007 that the annual UEL and UPL would be aligned with the income tax higher rate threshold (HRT) from April 2009. The UST and AUST are also aligned to this level.
- 7.4 For the previous two tax years, the annual threshold for the UEL was set at £50,000 which was aligned with the income tax HRT. The HRT is set to increase by CPI to £50,270. The UEL and the three other NICs thresholds which are aligned with the UEL, the UST, AUST and UPL will be increased to maintain this alignment.

Class 2, 3 and 4 contributions

- 7.5 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 for Class 2 will be remaining at £3.05 due to the rounding rules, which state the 2020-21 value (£3.05) is uprated by the CPI figure and rounded to the nearest 5 pence, which has resulted in no change occurring in cash terms. The SPT will be increased from £6,475 to £6,515 per year.
- 7.6 Class 4 NICs are payable by self-employed earners at the main percentage rate, 9%, on taxable profits between the LPL and the UPL and at the additional Class 4 percentage rate, 2%, on all profits above the UPL.
- 7.7 The LPL is set at the same level as the PT and will be increased from £9,500 to £9,568 from 6 April 2021 in line with CPI, as explained at paragraph 7.2. The UPL is set at the same level as the HRT and will increase with CPI to £50,270 to maintain this alignment.
- 7.8 Class 3 NICs are voluntary payments paid at a flat rate of £15.30 per week for the tax year 2020-21. These will be increased to £15.40 per week from 6 April 2021, in line with CPI.

Class 1 earnings limits and thresholds

- 7.9 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.

- 7.10 The LEL is the level of earnings at which employees start to gain access to certain contributory benefits. From 6 April 2021 the LEL will be increased in line with CPI. Due to the rounding rules when calculating the LEL, this has resulted in no change occurring in cash terms meaning the LEL will remain at £120 per week, which would benefit those with the lowest earnings as they will continue to be able to build entitlement to contributory benefits such as the State Pension. 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 HRT for income tax.
- 7.11 The annual UEL is set at the same level as the HRT and will increase by CPI to £967 a week to maintain this alignment in 2021-22.
- 7.12 Primary Class 1 NICs (known as “employees’ contributions”) are payable at the main primary percentage (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 increase to £967 a week in 2021-22.
- 7.14 The AUST sets the level of earnings above which employers of relevant apprentices under the age of 25 are no longer eligible to pay secondary Class 1 contributions at the apprentice related secondary percentage, which is 0%. The AUST is set at the same level as the UEL and will increase to £967 per week in 2021-22.

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 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 This instrument includes changes to the 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 £4,189 and £50,270 respectively. The monthly prescribed equivalent of the PT is £797 and the annual prescribed equivalent of the PT is £9,568. The monthly and annual prescribed equivalents of the ST are £737 and £8,840 respectively. The monthly and annual equivalents of the UST are £4,189 and £50,270. The monthly and annual equivalents of the AUST are £4,189 and £50,270 respectively.
- 7.17 This instrument also make provision under section 2(2) of the Social Security Act 1993 for payment of a Treasury Grant not exceeding 17 per cent of estimated benefit

expenditure for the coming tax year to be paid into the National Insurance Fund, if necessary. It also makes 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 legislation which is amended by this 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 Guidance is not required as this instrument does not impose a new obligation.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies, except for routine changes in payroll.

12.2 There is no, or no significant, 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.

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 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 limits in order to calculate their National Insurance liabilities from 6 April 2021. The changes to Class 1 NICs apply 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.

13.3 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>.

13.4 Alternatively, small businesses can find out more information on other HMRC – recognised payroll software to manage Real Time Information payments and deductions from <https://www.gov.uk/payroll-software>. Small businesses will need to ensure that the new rates, limits and thresholds are used to calculate their National Insurance liabilities from 6 April 2021.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is that this instrument makes changes to existing rates, limits and thresholds, which are reviewed annually.

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 Rachel Nixon, Deputy Director for National Insurance, 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.