EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (CLASS 2 NATIONAL INSURANCE CONTRIBUTIONS INCREASE OF THRESHOLD) REGULATIONS 2022

2022 No. [XXXX]

1. Introduction

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

2. Purpose of the instrument

2.1 This instrument amends the Social Security Contributions and Benefits Act 1992 (and its Northern Ireland equivalent), the Social Security (Contributions) Regulations 2001 (SI 2001/1004), and related legislation about benefits to which Class 2 National Insurance Contributions ("NICs") give entitlement.

2.2 These regulations introduce the Lower Profits Threshold ("LPT"), raising the profit level at which self-employed individuals become liable to pay Class 2 NICs to a level equivalent to the Lower Profits Limit at which Class 4 NICs become payable.

2.3 These regulations also treat individuals with profits between the Small Profits Threshold ("SPT") and LPT as having paid Class 2 NICs for the purpose of preserving entitlement to benefits.

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 extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. European Convention on Human Rights

5.1 Victoria Atkins MP, Financial Secretary to the Treasury, has made the following statement regarding Human Rights:

"In my view the provisions of the Social Security (Class 2 National Insurance Contributions Increase of Threshold) Regulations 2022 are compatible with the Convention rights."

6. Legislative Context

6.1 Liability for Class 2 NICs is provided for in section 11 of the Social Security Contributions and Benefits Act 1992 in Great Britain and section 11 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 in Northern Ireland.

6.2 Prior to 2015 liability to Class 2 NICs was automatic for all self-employed individuals, those with low incomes were required to apply for a Self-Employed Exception Certificate. Reform of Class 2 contributions contained in the National Insurance Contributions Act 2015 introduced the SPT from the 2015-16 tax year such that only those individuals with profits of, or exceeding, that threshold are liable to pay Class 2 NICs.

6.3 Changes to the threshold of both Class 1 NICs and Class 4 NICs have been introduced by the National Insurance Contributions (Increase of Thresholds) Act 2022 ("the 2022 Act").

6.4 This instrument is the first use of the powers in the 2022 Act.

7. Policy background

What is being done and why?

7.1 At Spring Statement 2022, the Chancellor of the Exchequer announced that from July 2022 the point at which employed and self-employed people begin to pay NICs will align with the Personal Allowance for Income Tax. The changes to Class 2 NICs made by this instrument increase the threshold at which Class 2 NICs become payable and provide a reduction in the amount of NICs payable by around 500,000 self-employed individuals.

7.2 Currently, self-employed individuals start to pay Class 2 NICs once they report profits equal to, or exceeding, the SPT (currently set at £6,725).

7.3 Section 3 of the 2022 Act requires the Treasury to make regulations to ensure Class 2 NICs become payable at a threshold equivalent to when Class 4 NICs become payable. Liability to Class 4 NICs arises on profits exceeding the Lower Profits Limit, set at £11,908 for the tax year 2022-23.

7.4 This instrument ensures that individuals with profits between the SPT and the new LPT (equivalent to the Class 4 threshold) will maintain their eligibility to contributory benefits and statutory payments without having to pay Class 2 NICs.

7.5 Individuals with profits below the SPT may continue to make voluntary payments of Class 2 NICs to maintain their National Insurance record whilst individuals with profits above the LPT remain liable for Class 2 NICs.

7.6 As the Class 4 threshold was increased by the 2022 Act with effect from 6 April 2022, these changes to the Class 2 threshold also have effect from 6 April 2022.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 There are no plans to consolidate the legislation.

10. Consultation outcome

10.1 There was no consultation because these changes are in line with the Class 1 and 4 threshold increases introduced as part of the 2022 Act.

11. Guidance

11.1 Guidance on Class 2 National Insurance contributions will be updated to reflect these changes and will be published on GOV.UK at https://www.gov.uk/self-employed-national-insurance-rates.

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 the wider NICs threshold 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.

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 is that there will be no administrative burdens on small businesses, so no mitigating measure are needed.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is through normal audit activity and regular communication with affected taxpayer groups.

14.2 The instrument does not include a statutory review clause in line with the requirements set out in section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015.

15. Contact

15.1 Leonardo Kellaway at HMRC Phone: 03000 517325 or Email: leonardo.kellaway@hmrc.gov.uk can be contacted with any queries regarding the instrument.

15.2 Edd 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 Victoria Atkins MP, Financial Secretary to the Treasury can confirm that this Explanatory Memorandum meets the required standard.