EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (CONTRIBUTIONS) (AMENDMENT) REGULATIONS 2010

2010 No. [Draft]

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

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

The purpose of this Statutory Instrument is to specify the levels of the Lower Earnings Limit (LEL), the Upper Earnings Limits (UEL) and the Primary Threshold (PT) and Secondary Threshold (ST) for Class 1 National Insurance contributions (NICs) for the 2010-11 tax year.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 Section 5 of the Social Security Contributions and Benefits Act 1992 and section 5 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 provide that for every tax year there shall be specified by regulations a LEL, an UEL and a PT and ST. Regulation 10 of the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004) ("the Principal Regulations") is the relevant provision. Section 176(1)(zb) of the Social Security Contributions and Benefits Act 1992 and section 172(11ZB) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 provide that statutory instruments containing regulations under section 5 which specify the UEL shall not be made unless a draft of the instrument has been laid before Parliament and been approved by a resolution of each House.

3.2 Although in his 2009 Pre-Budget Report the Chancellor announced that, with the exception of the LEL, the NICs rates, limits and thresholds would be frozen, it remains necessary to specify those limits and thresholds for the 2010-11 tax year, including the level of the UEL.

3.3 Whilst the wording of regulation 10 of the Principal Regulations means that, with the exception of the LEL, there is no need to actually amend the figures already provided in that regulation, this instrument will amend the reference to the tax year from 2009-10 to 2010-11 and, as result, will be specifying the level of each limit and threshold for the 2010-11 tax year.

4. Legislative Context

This affirmative instrument is being made to specify the level of the LEL, the UEL and the PT and ST for the payment of Class 1 NICs for the 2010-11 tax year by making amendments to the Principal Regulations.

5. Territorial Extent and Application

This instrument applies to the United Kingdom.

6. European Convention on Human Rights

The Financial Secretary to the Treasury, Stephen Timms has made the following statement regarding Human Rights:

In my view the provisions of the Social Security (Contributions) (Amendment) Regulations 2010 are compatible with the Convention rights.

7. Policy background

What is being done and why

7.1 The NICs rates, limits and thresholds for 2010-11 were announced on the 9 December 2009 in the Pre-Budget Report. This instrument specifies the LEL, the UEL and the PT and ST for Class 1 NICs for the tax year 2010-11.

7.2 Class 1 NICs are payable on earnings and are made up of two elements; primary contributions payable by the employee and secondary contributions payable by the employer. Section 5 of the Social Security Contributions and Benefits Act 1992, as amended by paragraph 1 of Schedule 9 to the Welfare Reform and Pensions Act 1999 allow the earnings limits and thresholds for Class 1 NICs to be changed for Great Britain. Similarly section 5 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992, as amended by paragraph 1 of Schedule 10 to the Welfare Reform and Pensions Act 1999 allows the earnings limits and thresholds for Class 1 NICs to be changed for Northern Ireland.

7.3 Employees' contributions are payable at the main primary percentage rate (currently 11%) on earnings between the PT and the UEL. From April 2003 Class 1 employee NICs have also been due at the additional primary percentage rate (currently 1%) on all earnings exceeding the UEL.

7.4 Employers pay Class 1 NICs at 12.8% on their employees' earnings above the ST. There is no upper limit for payment of employers' NICs.

7.5 The LEL is linked by section 5 of the Social Security Contributions and Benefits Act 1992 to the amount of basic state retirement pension, rounded down to the nearest pound and is increased to £97, as a result of the new level

of basic state pension announced by Department for Work and Pensions on 10 December 2009.

7.6 The PT and ST levels will remain at £110 per week for the 2010-11 tax year.

7.7 For the 2010-11 tax year the UEL will remain at £844 per week to maintain alignment with the higher rate income threshold but in keeping with the provisions introduced by the National Insurance Contributions Act 2008 will be subject to affirmative resolution.

Consolidation

These amendments will make only a small amendment to the Principal Regulations which are very large and complex (the printed text ran to around 150 pages in 2001). HMRC has no current plans to consolidate the Principal Regulations.

8. Consultation outcome

No consultation has been undertaken.

9. Guidance

9.1 These Regulations do not impose a new obligation.

9.2 The NICs Rates and Thresholds for 2010-11 were announced on 9 December 2009 in an H.M.Treasury Press Notice PN02 and can be found on HMRC's website.

10. Impact

10.1 No impact on business, charities or voluntary bodies is foreseen.

10.2 No impact on the public sector is foreseen.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is as follows. There is a P11 calculator on HMRC's CD-ROM (which is provided free of charge by HMRC); it will contain the new up-rated limits and thresholds for the 2010-11 tax year and will minimise the burden on employers if they choose to take advantage of it. Small businesses will need to acquaint themselves with the new limits

and thresholds in order to calculate their National Insurance liabilities for the 2010-2011 tax year.

12. Monitoring & review

These Regulations make changes to existing limits and thresholds. The limits and thresholds are usually reviewed annually.

13. Contact

Hasan Mustafa at HM Revenue & Customs, Tel: 0207 147 2508 or e-mail: hasan.mustafa@hmrc.gsi.gov.uk can answer any queries regarding the instrument.