EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (CONTRIBUTIONS) (LIMITS AND THRESHOLDS AMENDMENTS AND NATIONAL INSURANCE FUNDS PAYMENTS) REGULATIONS 2016

2016 No. XXXX

1. Introduction

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

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

2. Purpose of the instrument

2.1 This instrument gives effect to the annual re-rating of various National Insurance contributions (NICs) limits and thresholds for the purposes of calculating Class 1 and 4 NICs liability for the tax year beginning 6 April 2016. It also allows for payment of a Treasury Grant not exceeding 5 per cent of the estimated benefit expenditure for the coming tax year to be paid 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 This instrument relies on section 105 of the Deregulation Act 2015 ("the Deregulation Act") to make a single instrument, rather than two separate instruments each making a relatively small number of changes. Regulations 2, 6 and 7 are made under order-making powers in various provisions of the Social Security Administration Act 1992 ("the Administration Act"), the Social Security Administration (Northern Ireland) Act 1992 ("the Northern Ireland Administration Act"), the Social Security Act 1993 and the Social Security (Northern Ireland) Order 1993; whereas Regulations 4 and 5 rely on regulation-making powers in the Social Security Contributions and Benefits Act 1992 ("the Contributions Act") and the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (the "Northern Ireland Contributions Act").

3.2 Section 105 of the Deregulation Act has not been cited in the preamble to the instrument on the basis that it is materially parallel to provisions in the Interpretation Act 1978.

Other matters of interest to the House of Commons

3.3 Disregarding minor or consequential changes, the territorial application of this instrument includes Scotland and Northern Ireland.

4. Legislative Context

4.1 This instrument is being made to effect the annual re-rating of NICs limits and thresholds. It specifies:

- the upper profits limit (UPL) up to which the self-employed pay the main Class 4 percentage rate;
- the upper earnings limit (UEL), which is the level of earnings at which employees begin to pay Class 1 primary NICs at the additional percentage rate;
- 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 to pay Class 1 secondary NICs at the age-related secondary percentage, currently set at 0%; and
- the Apprentice Upper Secondary Threshold (AUST), introduced from 6 April 2016, which is the level of earnings above which employers of relevant apprentices under the age of 25 are no longer eligible to pay Class 1 secondary NICs at the apprentice-related secondary percentage, currently set at 0%; and
- the prescribed equivalents of the UEL, the UST and the AUST for those earners who are paid otherwise than weekly.

4.2 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 contributions for the following tax year. This statutory instrument satisfies the requirement for such legislation.

4.3 It is a condition precedent to laying legislation under section 141 of the Administration Act that a copy of a 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. A copy of the report can be found on the GOV.UK website. 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.

5. Territorial Extent and Application

5.1 The extent of this instrument is the United Kingdom.

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

6. European Convention on Human Rights

6.1 The Financial Secretary to the Treasury Mr David Gauke MP has made the following statement regarding Human Rights:

"In my view the provisions of the Social Security (Contributions) (Limits and Thresholds Amendments and National Insurance Funds Payments) Regulations 2016 are compatible with the Convention rights".

7. Policy background

What is being done and why

7.1 It was announced at Budget 2011 that the basis for indexation of the NICs rates, limits and thresholds would be by reference to the Consumer Price Index (CPI). The

exception to this is the ST which was linked to the Retail Price Index (RPI) for the duration of the last Parliament, after the end of which, it has reverted to CPI.

7.2 For the year to September 2015, CPI was -0.1238%. This means that NICs rates, limits and thresholds will be kept the same for 2016-17, with the exception of the UPL, UEL, UST and the introduction of the AUST which are aligned with the higher rate tax threshold.

7.3 Self-employed earners pay Class 2 and Class 4 contributions. Class 4 contributions are payable by self-employed earners at a main rate (currently 9%) on profits between the lower profits limit and the UPL. The UPL is increasing to £43,000 from 6 April 2016.

7.4 Since April 2009 the UEL has been aligned with the level at which the higher rate of income tax is payable. This alignment has been made by convention. The Prime Minister made a pledge leading up to the General Election not to increase the UEL above the higher rate threshold for tax for the duration of this Parliament. Section 3 of the National Insurance Contributions (Rate Ceilings) Act 2015 legislates for that commitment.

7.5 In the Autumn Statement on 25 November 2015 it was announced that the income tax personal allowance will be £11,000 and the basic rate limit will be £32,000. The UEL will rise in alignment with the level at which the higher rate of income tax is payable (the sum of the personal allowance and the basic rate limit). For the tax year 2016-17, this will be £43,000. This corresponds to an increase in the weekly UEL to £827.

7.6 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 currently 0%. The UST was set at the rate of the UEL for 2015-16, and will continue to be set at that rate for 2016-17, so will also increase to £827 from 6 April 2016.

7.7 Section 1 of the National Insurance Contributions Act 2015 introduced a zero rate band of secondary Class 1 contributions for employers of relevant apprentices aged under 25. This will apply to earnings below a new threshold, the AUST, which is also aligned to the UEL and so will also be set at £827 from 6 April 2016.

7.8 These regulations also include the prescribed equivalents of the UEL, UST and AUST where the earnings period is a month or a year. The monthly and annual equivalents are £3,583 and £43,000 respectively.

7.9 Sections 5(4) and (5) of the Contributions Act and the Northern Ireland Contributions Act provide that the prescribed equivalents of the 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 weekly UEL, UST and AUST. The monthly arithmetical equivalent can be calculated by multiplying each of the weekly limits and thresholds by 4⅓. 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 UEL, UST and AUST are all no greater than the arithmetic equivalent of those limit or thresholds (rounded to the nearest pound).

7.10 These Regulations also make provision under section 2(2) of the Social Security Act 1993 for payment of a Treasury Grant not exceeding 5 per cent of estimated benefit expenditure for the coming tax year to be paid into the National Insurance Fund, if necessary. They also make corresponding provision in respect of the Northern Ireland

National Insurance Fund under article 4(3) of the Social Security (Northern Ireland) Order 1993.

Consolidation

7.11 There are currently no plans to consolidate the regulations or the primary legislation which are amended by this statutory instrument.

8. Consultation outcome

8.1 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.

9. Guidance

9.1 These Regulations do not impose a new obligation.

9.2 The NICs rates, limits and thresholds for the tax year 2016-17 were announced on 25 November 2015 in the Autumn Statement and can be found on the GOV.UK website on the following link. https://www.gov.uk/government/publications/tax-and-tax-credit-rates-and-thresholds-for-2016-17/tax-and-tax-credit-rates-and-thresholds-for-2016-17.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 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 to a predetermined formula.

11. Regulating small business

11.1 The changes to the UPL in these regulations apply to small businesses 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 for the tax year 2016-17.

11.2 The changes to Class 1 NICs apply to small businesses. To help minimise the impact of the requirements on firms employing nine or fewer employees, employers can use HMRC's Basic PAYE Tools to work out their payroll deductions and submit payroll information online. 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-paye-tools.

11.3 Small businesses will need to ensure that the new limits and thresholds are used to calculate their National Insurance liabilities for the tax year 2016-17.

12. Monitoring & review

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

13. Contact

13.1 Hasan Mustafa at HM Revenue and Customs Tel: 03000 586718 or email: hasan.mustafa@hmrc.gsi.gov.uk can answer any queries regarding the instrument.