EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (CONTRIBUTIONS) (RE-RATING) ORDER 2009

2009 No.

1. This explanatory memorandum has been prepared by H.M. Revenue and Customs 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

2.1 The purpose of this Statutory Instrument is to specify the rates of Class 2 and 3 National Insurance contributions (NICs) and the amount of earnings below which an earner may be excepted from liability for Class 2 contributions.

2.2 The Order also specifies the lower profits limit (LPL) and upper profit limits (UPL) for Class 4 contributions payable at the main Class 4 percentage rate.

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

None

4. Legislative Context

4.1 In each tax year the Treasury is required, by section 141 of the Social Security Administration Act 1992 ("the GB 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 an order should be made under that section to have effect for the following tax year.

4.2 It is a condition precedent to laying such an order under section 141 of the GB Administration Act that a report by the Government Actuary or the Deputy Government Actuary be laid before Parliament on the effect which, in that Actuary's opinion, the making of the order would have on the National Insurance Fund. The report by the Government Actuary's Department was published on 28th January 2009 as Cm 7537. If an order is made under section 141 of the GB Administration Act, the order may also make a corresponding provision for Northern Ireland under section 129 of the Social Security Administration (Northern Ireland) Act 1992.

4.3 The report also covers the effect of the Social Security (Contributions) (Amendment No. 2) Regulations 2009, which specifies the levels of the lower and upper earnings limits for primary and Class 1 NICs and the primary and secondary thresholds for Class 1 NICs for 2009-10. The prescribed equivalents of the upper earnings limit and the primary and secondary thresholds where the earnings period is a month or a year are specified in the Social Security (Amendment) Regulations 2009 No. 111.

5. Territorial Extent and Application

This instrument applies to all of 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 The Social Security (Contributions) (Re-Rating) Order 2009 are compatible with the Convention rights.

7. Policy background

- ***What is being done and why***

7.1 This is the annual re-rating order that sets the rates and thresholds for Class 2, 3, and 4 NICs which were announced in the Pre-Budget Report on 24 November 2008.

7.2 Class 2 contributions are payable by the self employed and are a flat rate weekly contribution. This Order increases the rate of Class 2 contributions to £2.40 per week.

7.3 Self employed earners whose profits from self employment are below the Small Earnings Exception can apply to be exempt from the payment of Class 2 contributions. The Small Earnings Exception is increased to £5,075.

7.4 Class 4 contributions are payable in addition to Class 2 contributions by those who are self employed earners and whose profits exceed the LPL. Class 4 contributions are payable at the main Class 4 percentage rate (currently 8%) on profits between the LPL and the UPL and, since April 2003, at the additional Class 4 percentage rate (currently 1%) on all profits above the UPL. The LPL is set at the same level as the earnings threshold for Class 1 contributions and is increased to £5,715. The UPL is set at the same level as the Upper Earnings Limit for Class 1 contributions and is increased to £43,875.

7.5 Class 3 contributions are payable on a voluntary basis and are also a flat rate weekly contribution. Class 3 contributions are payable by those who wish to protect their entitlement to certain contributory benefits. This Order increases the rate of Class 3 contributions to £12.05 per week. The increase in the rate of Class 3 NICs above the rate of inflation was previously announced during the passage of the Pensions Act 2008 and ensures that the provisions in that Act which allow some people to pay Class 3 contributions for six additional years from April 1975 are overall cost neutral.

8. Consultation outcome

No consultation has been undertaken.

9. Guidance

9.1 This Order does not impose a new obligation.

9.2 The NICs Rates and Thresholds for 2009-10 were announced on 24 November 2008 in an H.M.Treasury Press Release PBR08/02 and can be found on HMRC's website.

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 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

The changes to the Small Earnings Exception, Class 2 rate and Class 4 limits in this Order apply to small businesses in so far as the proprietor(s) are self employed and have no impact on employees.

12. Monitoring & review

Section 141 of the GB Administration Act requires the Treasury to conduct an annual review of the level of General earnings in Great Britain. This Order makes changes to existing limits and thresholds as a result of that review and will not be subject to any further or specific monitoring and review.

13. Contact

Kevin Rice at HM Revenue & Customs, Tel: 0207 147 2514 or e-mail: kevin.rice@hmrc.gsi.gov.uk can answer any queries regarding the instrument.