EXPLANATORY MEMORANDUM TO

THE EMPLOYMENT ALLOWANCE (INCREASE OF MAXIMUM AMOUNT) REGULATIONS 2020

2020 No. 273

1. Introduction

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

2. Purpose of the instrument

2.1 This instrument increases the maximum amount of Employment Allowance from £3,000 to £4,000 for the tax year 2020-21 and subsequent tax years.

2.2 The Employment Allowance entitles the majority of businesses, charities and community amateur sports clubs to a reduction in their secondary Class 1 National Insurance contributions (NICs) up to the value of the allowance.

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 includes Scotland and Northern Ireland.

3.3 The powers under which this instrument is made cover the entire United Kingdom (see section 21 of the National Insurance Contributions Act 2014) and the territorial application of this instrument is not limited either by the Act or by the 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, the Rt Hon Jesse Norman MP has made the following statement regarding Human Rights:

"In my view the provisions of the Employment Allowance (Increase of Maximum Amount) Regulations 2020 are compatible with the Convention rights."

6. Legislative Context

6.1 The Employment Allowance was introduced by National Insurance Contributions Act 2014 (NICA). It provides that an allowance of up to £3,000 each tax year may be offset against all eligible secondary Class 1 NICs liabilities by businesses, charities and amateur sports clubs.

6.2 Secondary Class 1 NICs are paid by employers. Section 2 of NICA excludes certain types of employers and employer Class 1 NICs liabilities from qualifying for an Employment Allowance.

6.3 The Employment Allowance (Excluded Companies) Regulations 2016 (SI 2016/344) set out that that companies where there is only a single employee, who is a director of the company, cannot qualify for the Employment Allowance. The Employment Allowance (Excluded Persons) Regulations 2020 will exclude employers with an employer NICs liability in the previous tax year of £100,000 or more from qualifying for the Employment Allowance.

7. Policy background

What is being done and why?

7.1 This instrument amends section 1(2)(a) of NICA by increasing the maximum amount of Employment Allowance to £4,000.

7.2 The Employment Allowance was first announced in Budget 2013, as an entitlement of £2,000 a year for businesses, charities, and amateur sports clubs towards their secondary Class 1 NICs liability. This was done with the intention to support businesses, particularly small businesses wanting to hire their first employee or expand their workforce.

7.3 At Summer Budget 2015, it was announced that the Employment Allowance would be increased by £1,000, to a maximum amount of £3,000 tax year, from April 2016 and an exclusion for single director companies was also included.

7.4 At Budget 2018, it was announced that the Employment Allowance would be restricted to smaller businesses with an annual secondary Class 1 NICs liability of less than £100,000. The purpose of this reform, which will come into effect from April 2020, is to better target the Employment Allowance to support smaller businesses.

7.5 This measure, which was announced at Budget 2020, increases the level of support available to eligible employers, raising the maximum amount of Employment Allowance an employer can claim to £4,000.

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 no plans to consolidate the legislation.

10. Consultation outcome

10.1 This measure was announced at Budget 2020. Since it is increasing the value of an available relief, a consultation was not considered necessary.

11. Guidance

11.1 GOV.UK and other guidance for employers explaining how to claim the Employment Allowance has been updated and will be published as these changes come into effect in April 2020.

12. Impact

12.1 The impact on business, charities or voluntary bodies eligible for the Employment Allowance will be financially positive. Those eligible will receive a maximum additional £1,000 a year which will be deducted from their employer NICs costs.

12.2 There is no, or no significant, impact on the public sector.

12.3 A Tax Information and Impact Note covering this instrument will be published on the website at https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins.

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 the regulatory burdens on small businesses (employing up to 50 people).

13.3 The basis for the final decision on what action to take to assist small businesses is because the ongoing administrative burden is expected to be negligible: employers eligible for and claiming the Employment Allowance will automatically receive the increase. There are likely to be negligible one-off costs as businesses familiarise themselves with the new value.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is to report and review take-up statistics for the Employment Allowance. This will inform future policy decisions.

14.2 This instrument does not include a statutory review clause because it relates to a tax, duty, levy or other charge and therefore meets the requirements of the exemption set out in section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015.

15. Contact

15.1 Victoria Bedford at HM Revenue and Customs Telephone: 03000 562088 or email: victoria.bedford@hmrc.gov.uk can be contacted with any queries regarding the instrument.

15.2 Rachel Nixon, Deputy Director for NICs Policy, at HM Revenue and Customs can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Financial Secretary to the Treasury, the Rt Hon Jesse Norman MP can confirm that this Explanatory Memorandum meets the required standard.