EXPLANATORY MEMORANDUM TO

THE NATIONAL INSURANCE CONTRIBUTIONS ACT 2022 (APPLICATION OF PART 1) REGULATIONS 2022

2022 No. 307

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 makes provision in relation to the zero-rate of secondary (employer) National Insurance contributions (NICs) available to freeport employers and employers of armed forces veterans. The purpose of this instrument is to ensure that an employment that is eligible for multiple rates of NICs, but to which HMRC has not assigned the relevant NICs category letters, because of the small numbers involved, can still benefit from this relief. This instrument has effect from 6 April 2022.

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 territorial extent is the United Kingdom, except for regulations 2 to 4 which only extend to Great Britain.

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5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 Sections 1 and 6 of the National Insurance Contributions Act 2022 (NICA 2022) create a zero-rate of Secondary Class 1 NICs for freeport employees and veterans. The powers at sections 1(5) and 6(8) of the NICA 2022 enable the Treasury to specify circumstances where access to zero-rate of Secondary Class 1 NICs is delayed.

7. Policy background

What is being done and why?

7.1 The NICA 2022 has legislated for two new NICs reliefs for freeport employers and employers of veterans. Employers will claim these reliefs through payroll software by

using new NICs category letters. HMRC has issued five new NICs category letters specific to these reliefs.

7.2 HMRC expects that most freeport and veteran employments will be picked up through the use of the five new category letters. However, there are a very small number of cases which will not be covered.

7.3 Rather than deploy a costly digital solution for a handful of cases, HMRC has set up a manual process to allow employments to benefit from multiple reliefs. In these specific circumstances, employers will not be eligible for the freeport or veteran reliefs until the end of the tax year. At which point, those employers will need to make a manual claim to HMRC to gain access to the relief.

7.4 This instrument does not change the amount of relief an employer can claim, rather it is an administrative change to ensure value for money for the broader taxpayer.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 Consolidation is not being considered at this time.

10. Consultation outcome

10.1 There was no consultation conducted because this instrument provides for administrative changes, not the amount of relief, that only impacts a small number of individuals.

11. Guidance

11.1 Guidance has been made available on the gov.uk website at https://www.gov.uk/guidance/check-if-you-can-claim-national-insurance-relief-in-freeport-tax-sites and https://www.gov.uk/guidance/claim-national-insurance-contributions-relief-for-veterans-as-an-employer.

12. Impact

12.1 There is no, or no significant impact on business, charities or voluntary bodies as this does not affect the amount of relief an employer can claim.

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

12.3 A Tax Information and Impact Note covering this instrument was published on 12 May 2021 alongside the National Insurance Contributions Bill (in session 2021 to 2022) and is available on gov.uk at https://www.gov.uk/government/collections/national-insurance-contributions-bill-2021. 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 in so far as the business is operating within a freeport tax site to qualify for the freeport relief or a business who has employed a veteran who qualifies for the veteran relief.

13.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), the approach taken is to publish clear guidance that allows employers to familiarise themselves with the reliefs. Further, there is no requirement for employers to claim either relief.

13.3 The basis for the final decision on what action to take to assist small businesses was to ensure freeport employers and employers of veterans were provided with detailed information on which category letters to apply when claiming the reliefs.

14. Monitoring & review

14.1 The approach to monitoring this legislation is to be through information collected from tax receipts and engagement with stakeholders.

14.2 The 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 Muhammad Chaudhary at HMRC Telephone: 03000 534 629 or email: muhammad.chaudhary@hmrc.gov.uk can be contacted with any queries regarding the instrument.

15.2 Edmund 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 The Rt Hon Lucy Frazer QC MP, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.