EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (CONTRIBUTIONS) (AMENDMENT NO. 2) REGULATIONS 2024

2024 No. 289

1. Introduction

1.1 This explanatory memorandum has been prepared by His Majesty's Revenue and Customs (HMRC) and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Nigel Huddleston MP, Financial Secretary to the Treasury at HM Treasury confirms that this Explanatory Memorandum meets the required standard.

2.2 Edmund Hair, Deputy Director for National Insurance Policy, International and Student Finance, at HMRC confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Ativie Edebiri at HMRC Telephone: 03000 584748 or email: ativie.edebiri@hmrc.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument disregards from earnings two new social security benefit payments in order to exempt them from Class 1 National Insurance Contributions (NICs) so that there is no liability to Class 1 NICs on these payments. This includes the payments made under the Scottish Government's Parental Transitions Support scheme and payments made under the Department for Work and Pensions Jobs Plus Pilot scheme.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. Policy Context

What is being done and why?

Parental Transitions Support scheme

5.1 Social security payments are administered by a number of different government departments and devolved administrations in the United Kingdom.

5.2 The Scottish Government is introducing the Parental Transitions Support scheme in Scotland. The purpose of the scheme is to support parents back into sustained employment. Payments under the scheme will be made by Scottish Local Authorities.

5.3 Without this instrument, payments made under the Parental Transitions Support scheme would be considered earnings for NICs purposes as they are provided to the individual by reason of their employment and Class 1 NICs would be payable on such payments.

5.4 As payments under the Parental Transitions Support scheme would be liable to Class 1 NICs, the Government is clarifying the NICs treatment of this scheme by disregarding payments made under the scheme from Class 1 NICs liability.

Jobs Plus Pilot scheme

5.5 The Department for Work and Pensions is introducing the Jobs Plus Pilot. Payments from the Pilot are available for employed and self-employed individuals. Payments will include: a one-off £1,000 'back to work' bonus payment, a £40 per week 'in work' credit and 'transition to work' support in the form of a reimbursement of non-direct expenses.

5.6 Without this instrument, the 'back to work' bonus payments and 'transition to work' reimbursement of non-direct expenses would be considered earnings for NICs purposes as they are provided to the individual by reason of their employment and Class 1 NICs would be payable on such payments.

5.7 With respect to the self-employed, the 'back to work' bonus payments and 'transition to work' reimbursement of non-direct expenses will also be liable to NICs as they follow the rules that apply for income tax under the trading income tax rules in the Income Tax (Trading and other Income) Act 2005 (ITTOIA 2005).

5.8 As Class 2 and 4 NICs are calculated on profits chargeable to income tax under Chapter 2 Part 2 ITTOIA 2005, the effect of the Income Tax (Exemption of Social Security Benefits) Regulations 2024 referred to in paragraph 6.4 will be to also exempt these payments to the self-employed from NICs liability.

5.9 The £40 per week 'in work credit' is not liable to NICs for employed and self-employed individuals.

5.10 As the 'back to work' bonus and non-direct expenses payments made under the Jobs Plus Pilot would be liable to NICs, the Government is clarifying the NICs treatment of this scheme by disregarding payments made under the scheme from NICs.

What was the previous policy, how is this different?

5.11 The Parental Transitions Support scheme is being introduced from 1 April 2024. This instrument confirms that payments made under the scheme will not be subject to Class 1 NICs.

5.12 The Jobs Plus Pilot scheme is being introduced from 1 April 2024. This instrument confirms that payments made under the scheme will not be subject to Class 1 NICs.

6. Legislative and Legal Context

How has the law changed?

6.1 Section 3(2) and (3) of the Social Security Contributions and Benefits Act 1992, and section 3(2) and (3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 contain a regulation-making power to establish the basis on which

the amount of earnings shall be calculated, and that payments of a particular class or description can be disregarded from that calculation. This instrument is made under these powers and with the concurrence of the Secretary of State and the Department for Communities (Northern Ireland).

6.2 Schedule 3 to the Social Security (Contributions) Regulations 2001 (S.I.2001/1004) specifies the payments which are to be disregarded in the calculation of earnings from employed earners employment for the purpose of establishing liability to pay Class 1 NICs.

6.3 This instrument amends Part 10 of Schedule 3 of the Social Security (Contributions) Regulations 2001 by the insertion of two new paragraphs after paragraph 28. Paragraph 29 will disregard any Parental Transitions Support scheme payment from incurring Class 1 NICs liability. Paragraph 30 will disregard any Jobs Plus Pilot scheme payment from incurring Class 1 NICs liability.

6.4 Similar provision for tax purposes is being made by the Income Tax (Exemption of Social Security Benefits) Regulations 2024. That instrument exempts payments made under the Parental Transitions Support scheme and the Jobs Plus Pilot scheme from income tax.

Why was this approach taken to change the law?

6.5 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 No formal consultation has been held as these are minor changes which are wholly relieving to the taxpayer.

8. Applicable Guidance

8.1 Guidance will be provided via the bodies administering the schemes.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A Tax Information and Impact Note has not been prepared for this instrument because it contains no substantive changes to National Insurance Contributions policy.

Impact on businesses, charities and voluntary bodies

9.2 There are no material impacts on business, charities or voluntary bodies because these payments are made to a small number of individuals. Therefore, there are no wider impacts on business, charities, or voluntary bodies.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector because these are payments made to approximately seven thousand individuals. Therefore, there are no wider impacts on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 There are no plans to monitor or review the instrument.

10.2 The instrument does not include a statutory review clause because it does not make or amend regulatory provisions that relate to business activity.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

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

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").