EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (CONTRIBUTIONS) (AMENDMENT NO. 2) REGULATIONS 2025

2025 No. 321

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 James Murray MP, Exchequer Secretary to the Treasury confirms that this Explanatory Memorandum meets the required standard.

2.2 Alison Woodhouse, 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 Elizabeth Reffell at HMRC Telephone: 0300 057 0622 or email: nics.policy@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 legislation makes a consequential change as a result of changes proposed to be made in the National Insurance Contributions (Secondary Class 1 Contributions) Bill 2025. This instrument amends the Social Security (Contributions) Regulations 2001 (SSCR 2001) which make provision for the assessment, collection and recovery of National Insurance contributions (NICs) under the Pay As You Earn (PAYE) system. The amendment made in this instrument ensures that employers required to report Real Time Information (RTI) to HMRC deliver the information specified in Schedule 4A (real time returns) unless the employee's earnings are below either the lower earnings limit or the secondary threshold, whichever is the lesser amount.

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?

5.1 This instrument amends the SSCR 2001 so that RTI employers will be required to deliver to HMRC the information specified in Schedule 4A (real time returns) at the

point they start to pay an employee at or above the secondary threshold or the lower earnings limit, whichever is the lesser amount.

5.2 This amendment is required as the legislation currently specifies that employers are required to deliver the information specified in Schedule 4A when paying employees at or above the lower earnings limit. Changes proposed in the National Insurance Contributions (Secondary Class 1 Contributions) Bill 2025 mean that the secondary threshold, the level at which employers start to pay Class 1 secondary NICs, will be below the lower earnings limit.

5.3 An amendment is therefore required to ensure that RTI employers are required to deliver to HMRC the information specified in Schedule 4A when paying employees at or above the secondary threshold.

What was the previous policy, how is this different?

5.4 The previous policy was that employers were required to report RTI when paying employees at or above the lower earnings limit.

5.5 The amended legislation will require RTI employers to deliver to HMRC the information specified in Schedule 4A RTI when paying at or above the secondary threshold or lower earnings limit, whichever is lower.

6. Legislative and Legal Context

How has the law changed?

6.1 The law has changed because RTI employers will now be required to deliver to HMRC the information specified in Schedule 4A when paying an employee at or above the secondary threshold or lower earnings limit, whichever is the lesser amount. This change is needed because from 6 April 2025 the secondary threshold will be reduced and will be below the lower earnings limit.

6.2 Alongside this instrument, there will also be an instrument laid, the Income Tax (Pay As You Earn) (Amendment) Regulations 2025, which amends the Income Tax (Pay as You Earn) Regulations 2003, to make similar changes so that employers with employees who commenced employment without a Form P45, have to take action on making a first relevant payment of net PAYE income at or above the lower earnings limit or the secondary threshold, whichever is the lesser amount.

Why was this approach taken to change the law?

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

7. Consultation

Summary of consultation outcome and methodology

7.1 No consultation was undertaken as this regulation is a consequential amendment needed due to the National Insurance Contributions (Secondary Class 1 Contributions) Bill 2025.

8. Applicable Guidance

8.1 No new guidance is being provided. There is existing guidance on how to operate PAYE available on the gov.uk website which will be updated.[1]

[1] Running payroll guidance: https://www.gov.uk/running-payroll

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 this SI is making an amendment to maintain the status quo following the amendments proposed in the National Insurance Contributions (Secondary Class 1 Contributions) Bill 2025. A full Impact Assessment was submitted in association with the Bill.[2]

Impact on businesses, charities, and voluntary bodies

9.2 There is no, or no significant, impact on business, charities, or voluntary bodies because this is a consequential amendment made due to a proposed change to the NICs secondary threshold by the National Insurance Contributions (Secondary Class 1 Contributions) Bill 2025.

9.3 The legislation does impact small or micro businesses.

9.4 These changes do not significantly impact small or micro businesses who cannot be exempted from the consequential amendments as doing so would be a departure from existing processes and mean insufficient information provided to HMRC.

9.5 There is no, or no significant, impact on the public sector because this is a consequential amendment made due to a proposed change to the secondary threshold in The National Insurance Contributions (Secondary Class 1 Contributions) Bill2025.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is through normal compliance activity and regular communication with representative bodies.

10.2 The instrument does not include a statutory review clause because in accordance with the requirements of the Small Business, Enterprise and Employment Act 2015, it is made in relation to the imposition of a tax, duty, levy or other charge.

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”).

[2] Impact Assessment for NICs Bill: https://www.gov.uk/government/publications/changes-to-the-class-1-national-insurance-contributions-secondary-threshold-the-secondary-class-1-national-insurance-contributions-rate-and-the-empl/changes-to-the-class-1-national-insurance-contributions-secondary-threshold-the-secondary-class-1-national-insurance-contributions-rate-and-the-empl#summary-of-impacts