EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (CONTRIBUTIONS) (AMENDMENT NO. 4) REGULATIONS 2023

2023 No. 751

1. Introduction

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

2. Purpose of the instrument

2.1 This instrument extends the deadline for paying voluntary National Insurance contributions (NICs) for tax years between 6 April 2006 and 5 April 2016, to 5 April 2025. It also extends the deadline for paying voluntary NICs for tax years 2016 to 2017 and 2017 to 2018 to 5 April 2025. It applies the rates applicable in tax year 2022 to 2023 to payments for voluntary NICs made before the new 5 April 2025 deadline for all years up to 5 April 2023, including those which would otherwise become payable at a higher rate between 1 August 2023 and 5 April 2025.

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

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

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 12(2) and (3) and 13(4) and (6) of the Social Security Contributions and Benefits Act 1992 and the Social Security Contributions and Benefits (Northern Ireland) Act 1992 set out the rules regarding the rate of voluntary Class 2 and Class 3 NICs payable when those contributions are paid late.

6.2 Voluntary Class 2 NICs are payable at the rate in force at the time of payment if paid after the end of the tax year following the one in which they were due. Voluntary Class 3 NICs are payable at the rate in force at the time of payment if paid after the end of the second tax year following the one in which they were due. Voluntary Class 2 and Class 3 NICs cannot generally be paid after the end of the sixth tax year following the one in which they were due.

6.3 Regulations 50C and 61B of the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004) were introduced as part of transitional arrangements introduced alongside the new State Pension. Those regulations allow individuals the period from 6 April 2013 to 5 April 2023 to pay voluntary NICs for tax years between 6 April 2006 and 5 April 2016.

6.4 Regulation 50C was further amended to provide an extended time period for Class 3 NICs by allowing, subject to conditions, contributions for the tax years 6 April 2006 to 5 April 2016 to be paid between 6 April 2013 and 31 July 2023. Class 3 NICs for the years covered by regulation 50C are payable at the 2022 to 2023 rate between 6 April 2023 and 31 July 2023.

6.5 Regulation 61B was further amended to provide an extended time period for voluntary Class 2 NICs by allowing, subject to conditions, contributions for the tax years 6 April 2006 to 5 April 2016 to be paid between 6 April 2013 and 31 July 2023. Voluntary Class 2 NICs for the years covered by regulation 61B are payable at the 2022 to 2023 rate between 6 April 2023 and 31 July 2023.

6.6 Regulation 65BA provides an extended time period for voluntary Class 2 and Class 3 NICs by allowing, subject to conditions, contributions for the tax year 6 April 2016 to 5 April 2017 to be paid between 6 April 2023 and 31 July 2023. Regulation 65BA also provides that voluntary Class 2 and Class 3 NICs paid for the tax years 6 April 2016 to 5 April 2023 are payable at the rate that applied in tax year 2022 to 2023 between 6 April 2023 and 31 July 2023.

7. Policy background

What is being done and why?

7.1 As part of transitional arrangements introduced alongside the new State Pension, from 6 April 2013, individuals were given until 5 April 2023 to pay voluntary NICs to make up gaps in their National Insurance record between 6 April 2006 and 5 April 2016.

7.2 As the 5 April deadline approached, HMRC and the Department for Work and Pensions experienced a significant level of customer contact about paying voluntary NICs. The government decided to extend the deadline to 31 July 2023. This was introduced by the Social Security (Contributions) (Amendment No.3) Regulations 2023 (S.I. 2023/309). Despite this deadline extension contact levels have remained significant.

7.3 Therefore, this instrument extends the deadline to pay voluntary NICs until 5 April 2025. This will give individuals more time to fill gaps in their National Insurance record in order to increase their State Pension.

7.4 This extended deadline applies to voluntary NICs paid to fill gaps in National Insurance records for the period 6 April 2006 to 5 April 2016, as well as to the tax years 2016 to 2017 and 2017 to 2018, which otherwise would have been too late to pay after 31 July 2023 and 5 April 2024 respectively.

7.5 This instrument also ensures that voluntary NICs will be payable at the rates that applied in tax year 2022 to 2023 until 5 April 2025 for all tax years from 6 April 2006 to 5 April 2023.

7.6 Voluntary NICs paid for contribution years 2023 to 2024 and 2024 to 2025 will be subject to the normal rules and rates.

7.7 This instrument amends the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004).

8. European Union Withdrawal and Future Relationship

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

9. Consolidation

9.1 As this instrument makes a small to change the regulations, there is no plan to consolidate them.

10. Consultation outcome

10.1 No formal consultation exercise has been held as these are minor changes which are beneficial to those taxpayers wanting to fill gaps in their National Insurance record in order to increase their State Pension entitlement.

11. Guidance

11.1 The changes apply to individuals and guidance will be amended to reflect the changes that are being made. The guidance can be found at https://www.gov.uk/voluntary-national-insurance-contributions.

12. Impact

12.1 There is no significant, impact on business, charities or voluntary bodies.

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

12.3 A Tax Information and Impact Note covering the previous deadline extension was published on 24th March 2023 and is available on the website at https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins. Whilst it covers the impacts of the previous deadline extension, we expect the impacts to be similar as a result of this instrument.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 The measure will be kept under review through communication with affected taxpayer groups.

14.2 The instrument does not include a statutory review clause because it relates to tax 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 Ativie Edebiri at HMRC Telephone: 0300 584748 or email: ativie.edebiri@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 Victoria Atkins MP, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.