EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (CONTRIBUTIONS) (AMENDMENT NO. 4) REGULATIONS 2024

2024 No. 822

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 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 compensation payments in order to exempt them from liability to Class 1 National Insurance contributions (NICs). The relevant payments are the Horizon Convictions Redress Scheme and Horizon Shortfall Scheme Fixed Sum Award (HSS Fixed Sum Award). It also disregards relevant onward payments of the HSS Fixed Sum Award paid to nominated individuals from earnings in order to exempt them from liability to Class 1 NICs.

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 Post Office Limited (POL), a wholly owned government company, are establishing HSS Fixed Sum Award payments to provide redress for postmasters eligible for the Horizon Shortfall Scheme. This scheme relates to postmasters who, while not criminally convicted as part of the Horizon scandal, suffered shortfalls as a result of

the faulty Horizon software and subsequently made up these shortfalls from their own funds.

5.2 The HSS Fixed Sum Award provides a fixed payment of £75,000 to postmasters in the Horizon Shortfall Scheme who have not yet settled, and supplementary payments, paying further compensation to all those eligible to the Horizon Shortfall Scheme and have received some payments, so that a Horizon Shortfall Scheme postmaster's total compensation will be no less than £75,000.

5.3 HSS Fixed Sum Awards paid to nominated individuals relate to entities that would have been eligible to receive compensation under the HSS Fixed Sum Award scheme but have been dissolved. In these cases, the nominated individual (a person who was a shareholder or director of a company or partner in a partnership) will receive the compensation.

5.4 Alongside individuals there are corporate entities who will receive HSS Fixed Sum Awards. The Government, to remedy the discrepancy between corporate and individual recipients of POL compensation payments, introduced legislation that amended Part 2 of Schedule 15 to the Finance Act 2020. The legislation provides an exemption from corporation tax for payments and relevant onward payments. It also ensures that a relevant onward payment of compensation is exempt from income tax and capital gains tax.

5.5 The Horizon Convictions Redress Scheme and Horizon Shortfall Scheme Fixed Sum Award (Tax Exemptions and Relief) Regulations 2024 referred to in paragraph 6.4 exempt a relevant onward payment of HSS Fixed Sum Award from income tax and capital gains tax. This instrument mirrors that instrument and exempts a relevant onward payment of HSS Fixed Sum Award from liability to Class 1 NICs.

5.6 The Horizon Convictions Redress Scheme provides redress for postmasters who have had their convictions quashed by legislation. The Post Office (Horizon System) Offences Act 2024 will quash convictions for certain offences alleged to have been committed while the Horizon system was in use by POL.

5.7 The Horizon Convictions Redress Scheme will compensate those in scope of the Post Office (Horizon System) Offences Act 2024 and eligible for financial redress for a number of losses such as loss of earnings and consequential pecuniary losses which without this instrument would be liable to Class 1 NICs.

5.8 Funding for the HSS Fixed Sum Award and Horizon Convictions Redress Scheme is provided fully by central government. The HSS Fixed Sum Award is administered by POL and the Horizon Convictions Redress Scheme is administered by the Department for Business and Trade.

5.9 Without this instrument, parts of the HSS Fixed Sum Award and Horizon Convictions Redress Scheme would be liable to Class 1 NICs.

5.10 The Government wishes to clarify the NICs treatment so that individuals know that they do not need to report receipt of the payments to HMRC. An exemption will reduce the administrative burden on the individuals so that their payments are full and final.

What was the previous policy, how is this different?

5.11 While compensation payments for loss of earnings are liable to Class 1 NICs, the Government has introduced legislation to exempt other POL compensation schemes (Overturned Convictions formally known as the Overturned Horizon Convictions, Group Litigation Order, Suspension Remuneration Review and Post Office Process

Review) from Class 1 NICs. This instrument will align the NICs treatment of the HSS Fixed Sum Award and Horizon Convictions Redress Scheme with previous POL compensation schemes.

5.12 The Government committed to exempting the HSS Fixed Sum Award and Horizon Convictions Redress Scheme from Class 1 NICs and the Commissioners for HMRC have agreed to use their Collection and Management Powers not to collect Class 1 NICs until this instrument comes into effect.

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 earner's 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 a new paragraph after paragraph 30 - Horizon Convictions Redress Scheme compensation payments and Horizon Shortfall Scheme Fixed Sum Awards.

6.4 Similar provision for tax purposes is being made by the Horizon Convictions Redress Scheme and Horizon Shortfall Scheme Fixed Sum Award (Tax Exemptions and Relief) Regulations 2024. That instrument exempts the HSS Fixed Sum Award and Horizon Convictions Redress Scheme from income tax, capital gains tax and provides relief from inheritance tax. HSS Fixed Sum Awards are also exempt from corporation 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 exercise has been held as the changes 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 covering this instrument will be published on the gov.uk website[1].

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact 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 compensation payments are made to a small number of individuals.

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”).

[1] Tax Information and Impact Note: https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins