EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (CONTRIBUTIONS) (AMENDMENT NO. 5) REGULATIONS 2025

2025 No. 429

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 Gareth Cooper, Deputy Director for Public Service Pensions Remedy, Individuals Policy Directorate at HMRC confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Ativie Edebiri at HMRC Telephone: 0300 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 payments made under the Horizon Shortfall Scheme (HSS) Appeals process from earnings in order to exempt them from liability to Class 1 National Insurance contributions (NICs). It also disregards relevant onward payments of HSS Appeals payments and HSS Appeals payments paid to nominated individuals in order to also 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 The Department for Business and Trade are establishing the HSS Appeals process to provide redress for postmasters.

5.2 The Horizon Shortfall Scheme compensated postmasters who suffered shortfalls as a result of faulty Horizon software and made up these shortfalls from their own funds to avoid an unjust criminal conviction.

5.3 The HSS Appeals process will allow postmasters within the Horizon Shortfall Scheme to appeal their settlement offer. Eligible postmasters who have settled their claim will be allowed to appeal their offer and may be entitled to further compensation after their claim has been reassessed. Those who have not settled will be able to pursue their claim either through the Department for Business and Trade administered HSS Appeals process, which will be exempt, or under the current Dispute Resolution process administered by Post Office Limited (POL). Payments from the Dispute Resolution Process remain liable to Class 1 NICs.

5.4 Postmasters who have settled their claim and received payment from the Historical Shortfall Scheme Fixed Sum Award will not be eligible to claim under this new scheme.

5.5 The Horizon Shortfall Scheme Appeals (Tax Exemptions And Relief) Regulations 2025 that are being introduced alongside this instrument exempt a relevant onward payment made under the HSS Appeals process from income tax and capital gains tax. This instrument mirrors that instrument and exempts a relevant onward payment made under the HSS Appeals process from Class 1 NICs.

5.6 HSS Appeals payments paid to nominated individuals relate to entities that would have been eligible to receive payment under the HSS Appeals process 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 payment.

5.7 Funding for the HSS Appeals process will be provided fully by central government. 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 individuals so that their payments are full and final.

What was the previous policy, how is this different?

5.8 Without this measure payments made to postmasters in the HSS Appeals process would be liable to Class 1 NICs. Payments will therefore be made exempt from Class 1 NICs through this instrument.

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 32– "A payment made by the Department for Business and Trade to a person or nominated individual under the Horizon Shortfall Scheme Appeals compensation payments".

Why was this approach taken to change the law?

6.4 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 scheme.

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 compensation 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 as the measure impacts a small number of postmasters and previous similar measures in respect of the Horizon Scandal have been welcomed.

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 the negative procedure and does not amend primary legislation, no statement is required.

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

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").