EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (CONTRIBUTIONS) (AMENDMENT NO. 7) REGULATIONS 2023

2023 No. 1172

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 The purpose of this instrument is to exempt certain payments made under the War Widows Recognition Payment Scheme from liability to Class 1 National Insurance Contributions (NICs).

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 the United Kingdom.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the 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 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. In accordance with those sections this instrument is made with the concurrence of the Secretary of State and the Department for Communities (Northern Ireland).

6.2 Part 6 of Schedule 3 to the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004) (payments to be disregarded in the calculation of earnings for the purposes of earnings-related contributions) specifies the payments to be disregarded for the purposes of establishing liability to pay Class 1 NICs.

6.3 This instrument amends Part 6 of Schedule 3 to the Social Security (Contributions) Regulations 2001.

6.4 Similar provision for tax purposes is being made by the War Widows Recognition Payment Scheme (Income Tax Exemption) Regulations 2023 (S.I. 2023/1171). This instrument will provide that the payments made under the War Widows Recognition Payment Scheme are exempt from Income Tax under paragraph 3(5) of Schedule 15 to the Finance Act 2020.

7. Policy background

What is being done and why?

7.1 In May 2023, The Ministry of Defence (MoD) announced a one-off payment of £87,500 would be made to war widow(er)s who lost their pension entitlements due to remarrying or cohabitating prior to changes introduced in 2015, and since then have not had their pension entitlement restored through divorce or subsequent bereavement. The one-off payment will be made under the War Widows Recognition Payment Scheme.

7.2 Under current legislation, all payments made under the War Widows Recognition Payment Scheme would be subject to income tax and only some of the payments would be subject to NICs. Payments classified as being from an Employer Financed Retirement Benefit scheme will be earnings liable to Class 1 NICs. Those payments that are not classified as such are miscellaneous income which is subject to income tax but not NICs.

7.3 In September 2023 the government announced through a written ministerial statement that these one-off payments would be exempt from both income tax and NICs. The disregard will reduce the administrative burden on individuals so that their payments are full and final.

7.4 The government wishes to disregard these payments from any NICs liability so that individuals know that they do not need to report receipt of this one-off payment to HMRC.

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 does not change the substance of the regulations, there is no plan to consolidate.

10. Consultation outcome

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

11. Guidance

11.1 Guidance for will be provided via the Ministry of Defence who are administrating the scheme. That guidance can be found at: War Widow(er)s Recognition Payment - GOV.UK (www.gov.uk)

12. Impact

12.1 There is no, or 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 has not been prepared for this instrument because it contains no substantive changes to NICs policy.

13. Regulating small business

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

14. Monitoring & review

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

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

15. Contact

15.1 Oliver Livingstone at HMRC email: oliver.livingstone@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.