EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (CONTRIBUTIONS) (AMENDMENT) REGULATIONS 2025

2025 No. 144

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 Christine Janes at HMRC telephone: 03000 556114 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 instrument mandates employers that are operating in a designated special tax site in a freeport or investment zone and claiming the associated secondary Class 1 National Insurance contributions (NICs) relief to provide HMRC with the postcode for the address at which the employee works when reporting their payroll information through Real Time Information (RTI). Employers not eligible to claim this relief are unaffected by this instrument.

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 Great Britain.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is Great Britain.

5. Policy Context

What is being done and why?

5.1 Since 6 April 2022, employers operating in a designated special tax site in a freeport can claim a zero-rate of secondary Class 1 NICs on earnings of eligible employees between the secondary threshold (set at £5,000 per annum from April 2025) and £25,000 per annum, for up to 36 months. This NICs relief also applies to eligible employers operating in a designated special tax site within an investment zone from 8 April 2024.

5.2 The secondary Class 1 NICs relief for eligible employees operating in designated special tax sites is conditional on the employer reasonably expecting that 60% of any relevant employees' working time will be spent in the special tax site (except in specific circumstances, as discussed at paragraph 5.6 below).

5.3 This measure was announced at Tax Administration and Maintenance Day on 18 April 2024. It makes provision to require employers operating in a designated special tax site to provide the workplace postcode to HMRC through their payroll of employees for whom they are claiming the secondary Class 1 NICs relief. As set out in paragraph 4.1, employers who are not eligible to claim the NICs relief are not affected by this instrument.

5.4 Alongside the announcement, a 4-week technical consultation on the draft regulations for this measure was held between 18 April 2024 and 15 May 2024. Further information on the outcome of the technical consultation can be found at paragraph 7.

5.5 The requirement to provide this data, which employers should readily hold as it underpins the eligibility to claim the relief, will help reduce employer error, and will also support HMRC in assuring validity of claims without contacting the employer.

5.6 In circumstances where an employee has an adjustment provided to them by their employer for the protected characteristics of disability, pregnancy and maternity and does not need to meet the 60% working time requirement to be eligible for the NICs relief, the employer must still provide in their payroll information the postcode for the address at which the employee works or would work except for the adjustment made to accommodate the protected characteristic.

5.7 In limited circumstances, an employee's workplace may not have an assigned postcode from the Royal Mail; for example, where an area of land inside the designated special tax site is undeveloped with no previous infrastructure and the employee is preparing the land for construction. In this scenario, the employer should contact HMRC. An officer of HMRC will provide a code to the employer which must be provided in their payroll information. We expect the number of employers to be affected by the scenario to be low, fewer than 10% of total claims (<200 employers per annum).

What was the previous policy, how is this different?

5.8 There were no requirements previously which mandated employers operating in a designated special tax site to provide their employees' workplace postcode to HMRC when providing their payroll information through RTI.

5.9 As set out in paragraph 6.3 below, this instrument will ensure that any employer claiming this relief within a designated special tax site must provide in their payroll submission through RTI the workplace postcode of employees for whom they are claiming the secondary Class 1 NICs relief.

6. Legislative and Legal Context

How has the law changed?

6.1 Sections 1 to 5 and 8 of the National Insurance Contributions Act 2022 provides for zero-rate contributions of secondary Class 1 (employer) NICs for eligible employees who work in designated special tax sites in freeports or investment zones in Great Britain on earnings between the secondary threshold (set at £5,000 per annum from April 2025) and £25,000 per annum, for up to 36 months.

6.2 Schedule 4A to the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004) sets out the information an employer must provide in their payroll submission through RTI to HMRC.

6.3 This instrument amends Schedule 4A to the Social Security (Contributions) Regulations 2001 by providing for a new reporting requirement from 6 April 2025 which mandates employers who are claiming the zero rate of secondary Class 1 NICs in respect of employees who work in designated special tax sites in freeports or investment zones, to provide HMRC with the employee's workplace postcode in their RTI return.

Why was this approach taken to change the law?

6.4 Introducing legislation is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 A public technical consultation was held for this instrument from 18 April to 15 May 2024.[1]

7.2 There was a total of 8 responses received on the technical consultation from payroll software developers and accountancy bodies. None of the responses identified any

[1] Freeport and Investment Zone postcode measure consultation: https://www.gov.uk/government/consultations/freeport-and-investment-zone-employer-national-insurance-contributions-reliefs.

issues with the draft regulations, with feedback suggesting the draft regulations met the intended policy aims set out in the consultation.

7.3 Respondents raised potential impacts this measure could have, such as costs associated with updating payroll software and the need for HMRC to publish clear guidance to support employers in reporting the new requirement. Further impacts of this measure are set out in the Tax Information and Impact Note which can be found by following the URL at paragraph 9.1, footnote 3.

8. Applicable Guidance

8.1 Existing guidance on the secondary Class 1 NICs relief available to employers in a designated special tax site will be updated to reflect the changes being introduced by this instrument. Updated guidance will be made available when the regulations come into effect.[2]

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A Tax Information and Impact Note covering this instrument can be found on the gov.uk website.[3]

Impact on businesses, charities and voluntary bodies

9.2 The impact on business, charities or voluntary bodies is minimal because this instrument will only affect those employers operating in special tax sites in freeports or investment zones who are claiming the secondary Class 1 NICs relief.

9.3 The legislation does impact small or micro businesses in so far as the business is operating within a designated special tax site in a freeport or investment zone and claiming the secondary Class 1 NICs relief.

9.4 To minimise the impact of the requirements on small or micro businesses (employing up to 50 people), the approach taken is to publish clear guidance that explains to employers how to apply the new reporting requirement when submitting their payroll information through RTI to HMRC when claiming the secondary Class 1 NICs relief.

9.5 There is no impact on the public sector because public authorities are not able to claim the special tax site secondary Class 1 NICs relief. Additionally, as set out in paragraph 9.2 this instrument will only affect those employers operating within a designated special tax site in a freeport or investment zone who are claiming the secondary Class 1 NICs relief.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is to monitor through compliance reviews of the payroll information captured through employer RTI returns to HMRC, and through engagement activity with stakeholders.

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[2] Guidance on National Insurance relief in UK Freeport or Investment Zone special tax sites: https://www.gov.uk/guidance/check-if-you-can-claim-national-insurance-relief-in-freeport-tax-sites

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

10.2 The instrument does not include a statutory review clause because it relates to a tax, duty, levy or other charge and therefore meets the requirements of the exemption set out in section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015.

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") because it does not relate to withdrawal from the European Union.