EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY CONTRIBUTIONS (DISREGARDED PAYMENTS) (CORONAVIRUS) REGULATIONS 2022

2022 No. 276

1. Introduction

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

2. Purpose of the instrument

2.1 This instrument extends the current National Insurance contributions (NICs) disregard to ensure that where an employer pays or reimburses an employee for the cost of a relevant coronavirus diagnostic test, there is no Class 1 NICs liability for either the employer or the employee. The NICs disregard will have effect for the 2022-23 tax year.

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 territorial extent of this instrument is the United Kingdom.

4.2 The territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

5.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 A coronavirus diagnostic test referred to throughout the regulations includes a test which can detect the presence of a viral antigen or viral ribonucleic acid (RNA) specific to severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) and cannot be an antibody test.

6.2 The Social Security Contributions (Disregarded Payments) (Coronavirus) (No.2) Regulations 2020 (S.I. 2020/1523) introduced a temporary Class 1 NICs disregard for employer-reimbursed coronavirus diagnostic tests.

6.3 The disregard ensured that where the employer pays for or reimburses their employee for the cost of a relevant coronavirus diagnostic test, there is no NICs liability for either the employee or the employer. This disregard was time-limited to the 2020-21 tax year.

6.4 The Social Security Contributions (Disregarded Payments) (Coronavirus) Regulations 2021 (S.I. 2021/242) provided for the 2020-21 NICs disregard for employer-

reimbursed coronavirus diagnostic tests to also apply in the 2021-22 tax year. This extension of the disregard was temporary and only has effect for payments made between 6 April 2021 and 5 April 2022.

6.5 This instrument provides for the NICs disregard to be extended again to also apply in the 2022-23 tax year. The extension of the disregard is temporary and will only have effect for payments made between 6 April 2022 and 5 April 2023.

7. Policy background

What is being done and why?

7.1 The government has decided to extend the NICs disregard and the income tax exemption for employer-reimbursed coronavirus diagnostic tests into the 2022-23 tax year.

7.2 This instrument extends the NICs disregard using the powers contained in section 3(3) of the Social Security Contributions and Benefits Act 1992. Extending this disregard will ensure that, where an employer pays for or reimburses an employee for the cost of a relevant coronavirus diagnostic test, there is no Class 1 NICs liability for either the employer, or the employee during the 2022-23 tax year.

8. European Union Withdrawal and Future Relationship

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

9. Consolidation

9.1 There are no plans to consolidate as this is a stand-alone instrument.

10. Consultation outcome

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

11. Guidance

11.1 Guidance will be updated on the gov.uk website: https://www.gov.uk/hmrc-internal-manuals/national-insurance-manual.

12. Impact

12.1 The impact on business, charities or voluntary bodies is expected to be positive as employees continue to no longer need to pay NICs when they are reimbursed for the cost of a coronavirus diagnostic test for the 2022-23 tax year, and no employer Class 1 NICs liability will arise.

12.2 The administrative burden on these businesses and civil society organisations is expected to be negligible. There will be a one-off cost in the form of familiarisation with the continuing easement. There are not expected to be any continuing costs. There will be one-off savings from not having to report information on reimbursed expenses for this year. Customer experience is expected to stay broadly the same as there is no significant change to business processes.

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

12.4 A Tax Information and Impact Note covering this instrument will be published on the gov.uk website at https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No specific action is proposed to minimise regulatory burdens on small businesses.

13.3 The basis for the final decision on what action to take to assist small businesses is that the legislation does not impose new requirements on small businesses. It was therefore considered that no mitigating action was required, as it is a wholly relieving measure.

14. Monitoring & review

14.1 This instrument will be monitored and reviewed as appropriate through communication with affected taxpayer groups.

14.2 The regulation does not include a statutory review clause because of an exemption for taxes and other charges in section 28(3) of the Small Business, Enterprise and Employment Act 2015.

15. Contact

15.1 Lowri Barber at HMRC Telephone: 03000 563 479 or email: lowri.barber@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 The Rt Hon Lucy Frazer QC MP, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.