



EXPLANATORY NOTES

Health and Social Care Levy (Repeal) Act 2022

Chapter 43

£8.14

HEALTH AND SOCIAL CARE LEVY (REPEAL) ACT 2022

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Health and Social Care Levy (Repeal) Act 2022 which received Royal Assent on 25 October 2022 (c. 43).

- These Explanatory Notes have been prepared by HM Revenue and Customs (HMRC) in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Act will mean in practice; provide background information on the development of policy; and provide additional information on how the Act will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Act. They are not, and are not intended to be, a comprehensive description of the Act.

Table of Contents

Subject	Page of these Notes
Overview of the Act	3
Policy background	3
Legal background	3
Territorial extent and application	4
Commentary on provisions of Act	4
Commencement	6
Related documents	6
Annex A - Territorial extent and application in the United Kingdom	7
Annex B - Hansard References	8
Annex C - Progress of Bill Table	9

These Explanatory Notes relate to the Health and Social Care Levy (Repeal) Act 2022 which received Royal Assent on 25 October 2022 (c. 43).

Overview of the Act

- 1 This Act repeals the Health and Social Care Levy Act 2021. As a consequence, the 1.25% Health and Social Care Levy will not come into force from 6 April 2023. It also reduces the main and additional rates of Class 1, Class 1A, Class 1B and Class 4 National Insurance contributions (NICs) for the 2022-23 tax year, in effect removing the temporary 1.25 percentage point increase legislated in section 5 of the Health and Social Care Levy Act 2021 for the remainder of the current tax year.

Policy background

- 2 This measure will reverse the 1.25 percentage point increase in NICs for the remainder of the 2022-23 tax year for employers, employees and the self-employed and will also reverse the introduction of the Health and Social Care Levy as a separate tax from April 2023.

Legal background

- 3 Legislation relating to the existing system of NICs and social security benefits is set out in a combination of primary and subordinate legislation. The relevant provisions are:
 - a. The Social Security Contributions and Benefits Act 1992 (SSCBA 1992).
 - b. The Social Security Contributions and Benefits (Northern Ireland) Act 1992.
 - c. The Social Security Administration Act 1992 (SSAA 1992).
 - d. The Social Security Administration (Northern Ireland) Act 1992 (SAA(NI)A 1992).
 - e. The Social Security (Contributions) Regulations 2001 (S.I. 2001/1004).
- 4 These provisions will continue to be the main legislation dealing with NICs.
- 5 The Health and Social Care Levy (including the transitional NICs increase for 2022-23) was introduced by the Health and Social Care Levy Act 2021.

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Territorial extent and application

- 6 The Act extends to England, Wales, Scotland and Northern Ireland.
- 7 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom.

Commentary on provisions of Act

Section 1: Repeal of the Health and Social Care Levy Act 2021

- 8 Section 1 repeals the Health and Social Care Levy Act 2021, and therefore the Health and Social Care Levy will no longer be introduced from April 2023.

Section 2: Transitional NICs rates for tax year 2022-23 etc

- 9 Section 2 provides for transitional arrangements for the 2022-23 tax year to reverse the temporary increase in the rate of NICs. This measure applies to Great Britain and Northern Ireland.
- 10 Section 2(1) ensures that the higher rates of Class 1 NICs, as set out in section 5 of the Health and Social Care Levy Act 2021, remain in place until 5 November 2022. At which point, those sections will no longer have effect and the 2021-22 tax year Class 1 NICs rates will apply from 6 November 2022.
- 11 Section 2(2) amends the main rate of Class 4 NICs and the additional rate of Class 4 NICs for the 2022-23 tax year, as set out in Part 1 of the Social Security Contributions and Benefits Act 1992, to 9.73% and 2.73% respectively. Class 4 NICs are assessed on an annual basis, therefore a blended rate has been applied to ensure consistency and fairness with Class 1 NICs payers who have paid the increased NICs rate since April 2022. Further, this approach means that the self-employed do not need to apportion profits mid-way through the tax year. Section 2(3) ensures the changes to Class 4 NICs also apply in Northern Ireland.
- 12 Section 2(4) provides for a Schedule to this Act that contains further transitional provisions and a power to make consequential provisions.

Section 3: Short title and interpretation

- 13 Section 3(1) gives the short title of the Act as the Health and Social Care Levy (Repeal) Act 2022.
- 14 Section 3(2) defines various terms used in the Act.

Schedule: Transitional and consequential provisions

- 15 Paragraph 1 amends the rate of Class 1A NICs for the 2022-23 tax year that do not relate to sporting testimonial cash payments or termination awards, as set out in section 10 of the Social Security Contributions and Benefits Act 1992 and regulation 40C and 40D of the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004), to 14.53%. Class 1A NICs that do not relate to termination awards and sporting testimonials cash payments are assessed on an annual basis, therefore a blended rate has been applied to ensure consistency with Class 1 and 4 NICs.

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- 16 Paragraph 2 makes provision for the rate of Class 1A NICs for the 2022-23 tax year that relate to sporting testimonial cash payments and termination awards, as set out in section 10 of the Social Security Contributions and Benefits Act 1992 (and Northern Ireland equivalents), so the 2021-22 tax year rate applies from 6 November 2022. Class 1A NICs that relate to termination awards and sporting testimonial cash payments are assessed based on the rate applicable at the time of payment, therefore a blended rate is not appropriate.
- 17 Paragraph 3 amends the rate of Class 1B NICs for the 2022-23 tax year, as set out in section 10A of the Social Security Contributions and Benefits Act 1992 (and Northern Ireland equivalent), to 14.53%. Class 1B is assessed on an annual basis, therefore a blended rate has been applied to ensure consistency with changes to other NICs rates.
- 18 Paragraph 4 reduces the married women and widows reduced rate of primary Class 1 NICs with effect from 6 November 2022. This removes the temporary increase made by the Social Security (Contributions) (Amendment No. 2) Regulations 2022 (S.I. 2022/416) for the remainder of the tax year.
- 19 Paragraph 5 reduces the rate of Class 1 NICs for directors to whom regulation 8(2) to (5) of the Social Security (Contributions) Regulations 2001 applies (which also applies for Northern Ireland) to a main rate of 12.73% and additional rate of 2.73% for the 2022-23 tax year. Class 1 NICs paid by directors are assessed on an annual basis. A blended rate has been applied to ensure consistency and fairness with in-year changes to other rates of NICs. Paragraph 5 also provides a blended rate of 6.58% for directors who have elected to pay the married women and widows reduced rate.
- 20 Paragraph 6 amends the calculation of the annual maximum for the 2022-23 tax year, as set out in regulations 21 and 100 of the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004). This calculation is assessed on an annual basis, therefore blended rates have been used to ensure consistency with in-year changes to other rates of NICs. Paragraph 6 also revokes the Social Security (Contributions) (Amendment) Regulations 2022 (S.I. 2022/300) which are superseded by this change.
- 21 NICs collected are paid to the National Insurance Fund and the National Health Service in a proportion set out in Section 162 of the Social Security Administration Act 1992 (and Northern Ireland equivalents). Paragraph 7 ensures that NICs collected on or after 6 November (or the amount attributed as a result of the blended rate where NICs is assessed on an annual basis) is allocated in the same proportion as the 2021-22 tax year. The Health and Social Care Levy Act 2021 had previously increased the proportion to be sent to the NHS. This Act repeals the changes made to the allocation by the Health and Social Care Levy Act 2021, and Paragraph 7 ensures that the NICs collected due to the transitional rate is allocated correctly. This paragraph and the Act adjust the balance of funding between NICs receipts and general taxation following the repeal of the Health and Social Care Levy Act 2021 and the in-year reduction in NICs rates. Despite repealing the Levy, the government will maintain overall funding for health and social care services at the same level as if the Levy was in place, and will be doing this without the tax increase.
- 22 Paragraph 8 ensures that that powers to increase NICs rates by secondary legislation in sections 143 and 145 of the Social Security Administration Act 1992, which are limited by reference to the rates in force at the end of the previous tax year, are not affected by any changes to NICs rates made by this Bill. Paragraph 8 ensures that the allocation of NICs in the 2023-24 tax year and beyond is consistent with the allocation in the 2021-22 tax year.

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- 23 Paragraph 9 provides HM Treasury with a power to make consequential provisions including amending primary legislation and retrospective provision back to 6 April 2022. Statutory Instruments made using this power are subject to the negative procedure in the House of Commons.

Commencement

- 24 This Act will come into force upon Royal Assent.

Related documents

- 25 The following documents are relevant to the Act and can be read at the stated locations:

- A Tax Information Impact Note at <https://www.gov.uk/government/publications/reversal-of-the-health-and-social-care-levy-and-in-year-reductions-for-national-insurance-contributions-rates/cancellation-of-the-health-and-social-care-levy-and-in-year-reductions-in-national-insurance-contributions-rates>
- Delegated Powers Memorandum at <https://bills.parliament.uk/publications/47840/documents/2283>

Annex A - Territorial extent and application in the United Kingdom

Provision	England	Wales	Scotland	Northern Ireland
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?	Extends and applies to Northern Ireland?
Section 1	Yes	Yes	Yes	Yes
Section 2	Yes	Yes	Yes	Yes
Section 3	Yes	Yes	Yes	Yes
Schedule	Yes	Yes	Yes	Yes

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Annex B - Hansard References

26 The following table sets out the dates and Hansard references for each stage of the Act's passage through Parliament.

Stage	Date	Hansard Reference
<i>House of Commons</i>		
Introduction	22 September 2022	Vol. 719 Col. 853
Second Reading	11 October 2022	Vol. 720 Col. 56
Public Bill Committee	11 October 2022	Vol. 720 Col. 86
Report and Third Reading	11 October 2022	Vol. 720 Col. 100
<i>House of Lords</i>		
Introduction	12 October 2022	Vol. 824 Col. 789
Second Reading	17 October 2022	Vol. 824 Col. 967
Order of Commitment discharged	17 October 2022	Vol. 824 Col. 991
Third Reading	17 October 2022	Vol. 824 Col. 991
Royal Assent	25 October 2022	House of Commons Vol. 721 Col. 247
		House of Lords Vol. 824 Col. 1465

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Annex C - Progress of Bill Table

27 This Annex shows how each section and Schedule of the Act was numbered during the passage of the Bill through Parliament.

Section of the Act	Bill as Introduced in the Commons	Bill as amended in Committee in the Commons	Bill as introduced in the Lords	Bill as amended in Committee in the Lords	Bill as amended on Report in the Lords
Section 1	Clause 1	Clause 1	Clause 1	Clause 1	Clause 1
Section 2	Clause 2	Clause 2	Clause 2	Clause 2	Clause 2
Section 3	Clause 3	Clause 3	Clause 3	Clause 3	Clause 3
Schedule	Schedule	Schedule	Schedule	Schedule	Schedule

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