

EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (CONTRIBUTIONS) (RE-RATING) ORDER 2013

2013 No. 559

1. This explanatory memorandum has been prepared by H.M. Revenue and Customs (HMRC) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument gives effect to the annual re-rating of various National Insurance contributions (NICs) rates and limits. The purpose of this Statutory Instrument is to specify for the tax year beginning 6 April 2013:

- the rate of Class 2 NICs payable by the self-employed;
- the Class 2 small earning exception (SEE), which sets the level of earnings below which the self employed can be exempted from paying Class 2 NICs;
- the rate of Class 3 NICs payable by those wishing to protect their contribution record for basic state pension and bereavement purposes; and
- the lower profits limit (LPL) and the upper profits limit (UPL) between which the self employed pay the main Class 4 percentage rate.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 In each tax year the Treasury is required, by section 141 of the Social Security Administration Act 1992 (“the Administration Act”), to conduct a review of the general level of earnings in Great Britain taking into account changes in that level since their last review with a view to determining whether an order should be made under that section to have effect for the following tax year.

4.2 It is a condition precedent to laying such an order under section 141 of the Administration Act that a copy of a report by the Government Actuary or the Deputy Government Actuary be laid before Parliament on the effect which, in that Actuary’s opinion, the making of the order would have on the National Insurance Fund. A copy of the report can be found on the Government Actuary’s Department website at <http://www.gad.gov.uk/Publications/index.html>. If an order is made under section 141 of the Administration Act, the order may also make a corresponding provision for Northern Ireland under section 129 of the Social Security Administration (Northern Ireland) Act 1992.

4.3 The report also covers the effect of the Social Security (Contributions) (Limits and Thresholds) (Amendment) Regulations 2013, which is made at the same time as this Order, which specifies the levels of the lower earning limit and upper earnings limits (UEL) and the primary and secondary thresholds for Class 1 NICs for

2013-14. The prescribed equivalents of the primary and secondary thresholds where the earnings period is a month or a year are also specified in those Regulations.

4.4 As a consequence of this Order being made consequential amendment will be made to regulation 125(c) of the Social Security (Contributions) Regulations 2001 (SI 2001/1004). The Social Security (Contributions) (Re-rating) Consequential Amendment Regulations 2013, which will be subject to negative resolution, will give effect to the annual re-rating exercise in respect of the special rate of Class 2 NICs payable by share fishermen for the tax year 2013-14. The amending Regulations will take effect from 6 April 2013.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Exchequer Secretary to the Treasury, Mr David Gauke MP has made the following statement regarding Human Rights:

In my view the provisions of the Social Security (Contributions) (Re-rating) Order 2013 are compatible with the Convention rights.

7. Policy background

• *What is being done and why*

7.1 In the Budget on 23 March 2011 it was announced that the basis for indexation of the NICs rates, limits and thresholds would be by reference to the Consumer Price Index (CPI). The exceptions are as follows: the secondary threshold (the point at which employers start to pay Class 1 NICs) which will continue to be set by reference to the Retail Price Index (RPI); and the Class 1 UEL / Class 4 UPL which will continue to be aligned with the point at which higher rate income tax is paid. For September 2012, the rates of the CPI and RPI were 2.15% and 2.65% respectively.

7.2 Class 2 contributions are payable by the self-employed and are a flat rate weekly contribution. This Order increases the rate of Class 2 contributions to £2.70 per week.

7.3 Self-employed earners whose earnings from self employment are below the SEE can apply to be exempt from the payment of Class 2 contributions. The SEE is increased to £5,725 per year.

7.4 Class 4 contributions are payable in addition to Class 2 contributions by those who are self-employed earners and whose taxable profits exceed the LPL. Class 4 contributions are payable at the main Class 4 percentage rate (currently 9%) on profits between the LPL and UPL and at the additional Class 4 percentage rate (currently 2%) on all profits above the UPL.

7.5 The LPL is increased to £7,755 from 6 April 2013 in line with the CPI. The UPL is set at the same level as the UEL for Class 1 contributions and is being reduced to £41,450 to maintain alignment both with the UEL and with the point at which higher rate income tax becomes payable.

7.6 Class 3 contributions are payable on a voluntary basis and are also a flat rate weekly contribution. Class 3 contributions are payable by those who wish to protect their entitlement to certain contributory benefits. This Order increases the rate of Class 3 contributions to £13.55 per week.

8. Consultation outcome

8.1 No consultation has been undertaken. This instrument relates to routine changes to rates and limits as part of the annual NICs re-rating exercise.

9. Guidance

9.1 This Order does not impose a new obligation.

9.2 The NICs rates, limits and thresholds for 2013-14 were announced on 5 December 2012 in the Autumn Statement and can be found on HMRC's website.

10. Impact

10.1 No impact on business, charities and voluntary bodies is foreseen.

10.2 No impact on the public sector is foreseen.

10.3 In line with government commitments, a Tax Information and Impact Note has not been prepared for this instrument as it gives effect to previously announced policy and it relates to routine changes to rates, limits and thresholds to a predetermined indexation formula.

11. Regulating small business

11.1 The changes to the SEE, Class 2 rate and Class 4 limits in this Order apply to small businesses in so far as the proprietor(s) are self employed. These small businesses will need to acquaint themselves with the new rates and limits in order to calculate their National Insurance liabilities for the tax year 2013-14. These changes have no impact on employees.

12. Monitoring & review

12.1 Section 141 of the Administration Act requires the Treasury to conduct in each tax year a review of the level of general earnings in Great Britain. This Order makes changes to existing rates, limits and thresholds as a result of that review and will not be subject to any further or specific monitoring and review.

13. Contact

Hasan Mustafa at HMRC, Tel: 0207 147 2508 or e-mail:

hasan.mustafa@hmrc.gsi.gov.uk can answer any queries regarding the instrument.