EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (CONTRIBUTIONS) (RATES, LIMITS AND THRESHOLDS AMENDMENTS AND NATIONAL INSURANCE FUNDS PAYMENTS) REGULATIONS 2023

2023 No. 236

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 This instrument gives effect to the annual re-rating of various National Insurance contributions (NICs) rates, limits and thresholds for the purposes of calculating Class 1, Class 2, Class 3 and Class 4 NICs liability (or voluntary payment) for the tax year beginning 6 April 2023. It also allows for payments of a Treasury Grant not exceeding 5% of the estimated benefit expenditure for the 2023-24 tax year to be made into the National Insurance Fund and makes corresponding provision for Northern Ireland.

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 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 The Financial Secretary to the Treasury, Victoria Atkins MP, has made the following statement regarding Human Rights:

"In my view the provisions of the Social Security (Contributions) (Rates, Limits and Thresholds Amendments and National Insurance Funds Payments) Regulations 2023 are compatible with the Convention rights."

6. Legislative Context

6.1 This instrument is being made to give effect to the annual re-rating of NICs rates, limits and thresholds. It specifies:

- the rate of Class 2 contributions that are payable by the self-employed;
- the small profits threshold (SPT), the threshold at which self-employed individuals start to accrue entitlement to certain contributory benefits without

paying Class 2 NICs. Below this threshold, the self-employed may pay Class 2 NICs voluntarily to protect their entitlement to certain contributory benefits;

- the rate of Class 3 contributions, which eligible persons can choose to pay to satisfy the conditions for certain contributory benefits;
- the lower profits threshold (LPT), which is the level of taxable profits at which the self-employed become liable to pay Class 2 NICs;
- the lower profits limit (LPL), which is the level of taxable profits at which the self-employed begin to pay Class 4 NICs at the main Class 4 percentage rate (which is 9% for tax year 2023-24);
- the lower earnings limit (LEL) for primary Class 1 NICs, which is the level of earnings at which employees start to gain access to certain contributory benefits;
- the primary threshold (PT), which is the level of earnings above which employees begin to pay primary Class 1 NICs (known as "employee contributions") at the main percentage rate (which is 12% for tax year 2023-24);
- the upper earnings limit (UEL), which is the level of earnings above which employees begin to pay primary Class 1 NICs at the additional percentage rate (which is 2% for tax year 2023-24);
- the secondary threshold (ST), which is the level above which employers begin to pay secondary Class 1 NICs (known as "employer contributions") in respect of their employees' earnings at 13.8% for tax year 2023-24;
- the upper secondary threshold (UST), which is the level of earnings above which employers of employees under the age of 21 are no longer eligible for the age-related secondary percentage of Class 1 NICs (which is 0% for tax year 2023-24);
- the apprentice upper secondary threshold (AUST), which is the level of earnings above which employers of relevant apprentices under the age of 25 are no longer eligible for the apprentice-related secondary percentage of Class 1 NICs (which is 0% for tax year 2023-24);
- the veteran upper secondary threshold (VUST), which is the level of earnings above which employers of eligible veterans are no longer eligible for the veteran-related secondary percentage of Class 1 NICs (which is 0% for tax year 2023-24);
- the freeport upper secondary threshold (FUST), which is the level of earnings above which employers of eligible workers in freeports are no longer eligible for the freeport-related secondary percentage of Class 1 NICs (which is 0% for tax year 2023-24);
- and the prescribed equivalents of the LEL, PT, UEL, ST, UST and AUST, VUST and FUST for those earners who are paid otherwise than weekly.

6.2 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 legislation should be made under that section to determine the rates and thresholds applying to Class 2, 3 or 4

NICs for the following tax year. This instrument satisfies the requirement for such legislation.

6.3 It is a condition precedent to laying legislation under section 141 of the Administration Act that a copy of the report by the Government Actuary, or the Deputy Government Actuary, be laid before Parliament on the effect which, in the Actuary's opinion, the making of the legislation would have on the National Insurance Fund. If legislation is made under section 141 of the Administration Act, it may also make a corresponding provision for Northern Ireland under section 129 of the Social Security Administration (Northern Ireland) Act 1992.

7. Policy background

What is being done and why?

7.1 The basis of indexation of all NICs rates, limits and thresholds has been by reference to at least Consumer Price Index (CPI) since 2011, except where the government has made specific policy decisions. For the year to September 2022, CPI increased by 10.1%.

7.2 It was announced at Autumn Statement 2022 that most NICs rates, limits and thresholds would be fixed at their 2022-23 levels for tax year 2023-24, except for the flat cash rate of Class 2 and Class 3 NICs which will increase in line with September CPI.

7.3 The LEL and SPT will be fixed at their current levels for tax year 2023-24 instead of being increased by CPI. Up to 500,000 additional low-income individuals (who may not qualify for National Insurance credits through other means) could benefit from the fix to the LEL and SPT for tax year 2023-24, as wage growth will mean they will meet the level at which entitlement to certain contributory benefits is achieved without paying any NICs.

7.4 It was announced at Budget 2007 that the annual UEL and UPL would be aligned with the income tax higher rate threshold (HRT) from April 2009. The UST, AUST and VUST are also aligned to this level.

7.5 The NICs UEL, UPL and associated thresholds are already fixed at their current levels until April 2026 (as announced at Budget 2021) and will now be fixed for an additional two years until April 2028. The FUST will also be fixed at its current level of £25,000. From July 2022, following the introduction of the National Insurance Contributions (Increase of Thresholds) Act 2022, the NICs PT and LPL were increased to align with the Personal Allowance (PA) for income tax, and these will be fixed at £12,570 until April 2028. The Class 2 LPT will be also be fixed at £12,570 until April 2028 to maintain its alignment with the LPL. The ST will also be fixed at its current level until April 2028.

7.6 It is expected that 55,000 individuals will be brought into paying NICs by tax year 2027-28 as a result of fixing the PT and LPL. Increasing the rates of Class 2 and 3 NICs will be a small tax increase in cash terms for individuals.

7.7 These regulations set the NICs rates, limits and thresholds for tax year 2023-24 only. For future years, NICs rates, limits and thresholds will continue to be set annually through the re-rating exercise as standard.

Class 2, 3 and 4 contributions

7.8 Self-employed earners who are below the State Pension age pay Class 2 and Class 4 NICs. Class 2 contributions are payable by self-employed earners at a weekly flat rate when profits exceed the LPT. Part 2 of the Social Security (Class 2 National Insurance Contributions Increase of Thresholds) Regulations 2022 introduced the LPT. The weekly flat rate for Class 2 will increase by CPI from £3.15 to £3.45. The LPT is aligned with the LPL and PT and will be fixed at £12,570 for tax year 2023-24.

7.9 The SPT will be fixed at its 2022-23 level of £6,725 for tax year 2023-24. Following the introduction of the National Insurance Contributions (Increase of Thresholds) Act 2022, and the Social Security (Class 2 National Insurance Contributions Increase of Threshold) Regulations 2022, self-employed individuals with profits between the SPT and LPT will be treated as "having paid NICs" without actually needing to pay Class 2 NICs. This is to protect their entitlement to contributory benefits.

7.10 Class 4 NICs are payable by self-employed earners who are below the State Pension age at the main percentage rate, 9% for tax year 2023-24, on taxable profits between the LPL and the UPL and at the additional Class 4 percentage rate, 2% for tax year 2023-24, on all profits above the UPL.

7.11 The LPL is set at the same level as the PT and will be fixed at £12,570 from 6 April 2023. The change required to set the LPL for 2023-24 has already been legislated for by Section 2(3) and (4) of the National Insurance Contributions (Increase of Thresholds) Act 2022. The UPL is set at the same level as the HRT and will remain at £50,270 to maintain this alignment.

7.12 Class 3 NICs are voluntary payments paid at a flat rate of £15.85 per week for the tax year 2022-23. These will be increased to £17.45 per week from 6 April 2023, in line with CPI.

Class 1 earnings limits and thresholds

7.13 Section 5 of the Social Security Contributions and Benefits Act 1992 ("the Contributions Act") requires earnings limits and thresholds for Class 1 NICs to be specified for Great Britain each tax year. Similarly, section 5 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 ("the Northern Ireland Contributions Act") requires there to be earnings limits and thresholds for Class 1 NICs for Northern Ireland.

7.14 The LEL is the level of earnings at which employees start to gain access to certain contributory benefits. From 6 April 2023 the LEL will be fixed at its current level to £123 per week for tax year 2023-24 in line with the announcement made at Autumn Statement 2022. Since April 2009, the UEL (the level of earnings up to which employees pay NICs at the main percentage rate of 12% for tax year 2023-24 and thereafter the additional percentage rate of 2% for tax year 2023-24) has been aligned with the HRT for income tax.

7.15 The annual UEL is set at the same level as the HRT and will remain at £967 a week to maintain this alignment in 2023-24.

7.16 Primary Class 1 NICs (known as "employees' contributions") are payable at the main primary percentage (12% for tax year 2023-24) on earnings between the PT and the UEL. Secondary Class 1 NICs (known as "employers' contributions") are payable by employers on their employees' earnings above the ST at a single percentage rate

(13.8% for tax year 2023-24). There is no upper limit for payment of employers' contributions.

7.17 The UST sets the level of earnings above which employers of employees under the age of 21 are no longer eligible to pay secondary Class 1 contributions at the age-related secondary percentage, which is 0% for tax year 2023-24. The UST is set at the same level as the UEL and will remain at £967 a week in 2023-24.

7.18 The AUST sets the level of earnings above which employers of relevant apprentices under the age of 25 are no longer eligible to pay secondary Class 1 contributions at the apprentice-related secondary percentage, which is 0% for tax year 2023-24. The AUST is set at the same level as the UEL and will remain at £967 per week in 2023-24.

7.19 The VUST sets the level of earnings above which employers of qualifying veterans are no longer eligible to pay secondary Class 1 contributions at the veteran-related secondary percentage, which is 0% for tax year 2023-24. The VUST has been set at the same level as the UEL and will remain at £967 a week in 2023-24.

7.20 The FUST sets the level of earnings above which employers of qualifying freeport employees are no longer eligible to pay secondary Class 1 contributions at the freeport-related secondary percentage, which is 0% for tax year 2023-24. The FUST has been set at £25,000 and will remain at £481 per week for tax year 2023-24.

Class 1 prescribed equivalents and Treasury Grant provision

7.21 Sections 5(4) and (5) of the Contributions Act and the Northern Ireland Contributions Act provide that the prescribed equivalents of the LEL, PT, ST, UEL, UST and AUST (as set out above) may be set at an amount which is no greater than £1 above the arithmetical equivalent of the LEL, PT, ST, UEL, UST and AUST. The monthly arithmetical equivalent can be calculated by multiplying each of the weekly limits and thresholds by 4⅓. The annual arithmetical equivalent can be calculated by dividing each of the weekly limits and thresholds by 7 and multiplying each result by 365. The monthly and annual prescribed equivalents of the LEL, PT, ST, UEL, UST and AUST are all no greater than £1 above the arithmetic equivalent of those limits or thresholds.

7.22 Section 8 (7) of the National Insurance Contributions Act 2022 provides that the prescribed equivalents of the VUST and FUST may be set at an amount which is no greater than £1 above the arithmetical equivalent of the VUST and FUST with the same calculation method being applied as mentioned in paragraph 7.21. The monthly and annual prescribed equivalents of both the VUST and FUST are all no greater than £1 above the arithmetic equivalent of those thresholds.

7.23 This instrument includes the prescribed equivalents of the UEL, PT, ST, UST, AUST, VUST and FUST where the earnings period is a month or a year. The monthly and annual equivalents of the UEL are £4,189 and £50,270 respectively. The monthly prescribed equivalent of the PT is £1,048 and the annual prescribed equivalent of the PT is £12,570. The monthly and annual prescribed equivalents of the ST are £758 and £9,100 respectively. The monthly and annual equivalents of the UST, AUST and VUST are £4,189 and £50,270 respectively. The monthly and annual equivalents of the FUST are £2,083 and £25,000.

7.24 This instrument also makes provision under section 2(2) of the Social Security Act 1993 for payment of a Treasury Grant not exceeding 5% of estimated benefit expenditure for the coming tax year to be paid into the National Insurance Fund, if necessary. It also makes corresponding provision in respect of the Northern Ireland National Insurance Fund under article 4(3) of the Social Security (Northern Ireland) Order 1993.

Why is it being changed?

7.25 Each year the government is required to set the various NICs rates, limits and thresholds for the purposes of collecting Class 1, Class 2, Class 3 and Class 4 NICs for the upcoming tax year.

What will it now do?

7.26 This instrument will set the various NICs rates, limits and thresholds for the tax year 2023-24.

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 currently no plans to consolidate the legislation which is amended by this instrument.

10. Consultation outcome

10.1 There was no consultation because the instrument relates to routine changes to rates, limits and thresholds as part of the annual NICs re-rating exercise.

11. Guidance

11.1 Guidance is not required as this instrument does not impose a new obligation.

12. Impact

12.1 The impact on business, charities or voluntary bodies is minimal with businesses being required to make routine changes to their payroll software. The fix to the ST for 2023-24 will bring around 15,000 businesses into paying NICs, after the Employment Allowance is accounted for.

12.2 There is no, or no significant, impact on the public sector, except for routine changes in payroll.

12.3 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. A Tax Information and Impact Note covering NICs thresholds and related changes to income tax thresholds (remaining at 2022-23 levels until 2027-28) is available at https://www.gov.uk/government/publications/the-personal-allowance-and-basic-rate-limit-for-income-tax-and-certain-national-insurance-contributions-nics-thresholds-from-6-april-2026-to-5-apr/income-tax-personal-allowance-and-the-basic-rate-limit-and-certain-national-insurance-contributions-thresholds-from-6-april-2026-to-5-april-2028.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses due to the changes to the LPL and LPT in so far as the proprietor(s) are self-employed. These small businesses will need to acquaint themselves with the new limits in order to calculate their National Insurance liabilities from 6 April 2023.

13.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), the approach taken is that employers can use HMRC's Basic PAYE Tools to work out their payroll deductions and submit payroll information online.

13.3 The basis for the final decision on what action to take to assist small businesses is informed by the fact that Basic PAYE Tools work out the tax and NICs for employees every time they are paid and can be used to report this information to HMRC. This free computer package is available to download from https://www.gov.uk/basic-paye-tools.

13.4 Alternatively, small businesses can find out more information on other HMRC – recognised payroll software to manage Real Time Information payments and deductions from https://www.gov.uk/payroll-software. Small businesses will need to ensure that the new rates, limits and thresholds are used to calculate their National Insurance liabilities from 6 April 2023.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is that this instrument makes changes to existing rates, limits and thresholds, which are reviewed annually.

14.2 The instrument does not include a statutory review clause in line with the requirements set out in section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015.

15. Contact

15.1 Muhammad Chaudhary at HMRC Telephone: 03000 534 629 or email: muhammad.chaudhary@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.