NATIONAL INSURANCE CONTRIBUTIONS (INCREASE OF THRESHOLDS) BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the National Insurance Contributions (Increase of Thresholds) Bill as introduced in the House of Commons on 24 March 2022 (Bill [Bill or Chapter Number]).

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

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These Explanatory Notes relate to the National Insurance Contributions (Increase of Thresholds) Bill as introduced in the House of Commons on 24 March 2022 (Bill [AUTOGENERATED]*)*

Overview of the Bill

1 The Bill deals with the following matters:

- Increase in the Primary Threshold (PT) for Class 1 National Insurance contributions (NICs).
- Increase in Lower Profits Limit (LPL) for Class 4 NICs.
- Regulation making power to ensure the threshold for paying Class 2 NICs is equivalent to the LPL, and to make provisions for people whose profits for a tax year are less than the LPL to be treated as having made Class 2 contributions.

Policy background

2 The Government has an ultimate ambition to align the NICs starting thresholds with the income tax personal allowance. For the 2020-21 tax year the PT and LPL were raised by over £800 to £9,500, representing a tax cut for 31 million workers. For 2021-22, the PT and LPL were increased by the Consumer Price Index (CPI) to £9,568. The current legislated position for 2022-23 is a further increase by CPI to £9,880 from April.

3 At Spring Statement 2022 the government has announced that it will meet this ambition by aligning the starting thresholds from July 2022 and, alongside this, from April 2022, self-employed individuals with profits between the Small Profit Threshold and LPL will continue to be able to build up National Insurance credits but will not pay any Class 2 NICs.

Legal background

4 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 (SSCB(NI)A 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 (SI 2001/1004).

5 These provisions will continue to be the main legislation dealing with NICs.

Territorial extent and application

6 Bill extends to England and Wales, Scotland and Northern Ireland.

7 There is a convention that Westminster will not normally legislate with regard to matters that are within the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly without consent of the legislature concerned.

8 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom. The table also summarises the position regarding legislative consent motions.

Scotland

9 The Bill does not contain any provisions relating to matters which are within the legislative competence of the Scottish Parliament and therefore no Legislative Consent Motion is being sought in relation to any provisions of the Bill. If there are amendments relating to the legislative competence of the Scottish Parliament consent will be sought for them.

Wales

10 The Bill does not contain any provisions relating to matters within the legislative competence of Senedd Cymru and therefore no Legislative Consent Motion is being sought in relation to any provisions of the Bill. If there are amendments which relate to such matters, consent will be sought for them.

Northern Ireland

11 Under the provisions of Schedule 2 to the Northern Ireland Act 1998 NICs are an excepted matter. The Bill therefore applies to the relevant Northern Ireland legislation relating to NICs, where stated. If there are amendments which relate to non-excepted matters, consent of the Northern Ireland Assembly will be sought for them.

Fast-track legislation

12 Government has asked Parliament to expedite the parliamentary progress of this Bill. In their report on *Fast-track Legislation: Constitutional Implications and Safeguards*[1], the House of Lords Select Committee on the Constitution recommended that the Government "should provide more information as to why a piece of legislation should be fast-tracked[2]". The justification for fast-tracking the Bill is explained below.

13 The legislation is required to be in place from 6 July 2022. The increase in PT and LPL will require changes to be made to the systems of employers and HMRC (including those designed to facilitate Pay as You Earn). To help ensure that people are not over taxed it is important for both those employers and HMRC to have as much time as possible to implement the changes. This is particularly important given all employees in the UK liable for NICs will be affected.

What efforts have been made to ensure the amount of time made available for parliamentary scrutiny has been maximised?

14 The Bill was introduced as soon as possible after the announcement of the intention to increase the PT and LPL. While the Bill reflects an important and significant policy, the Bill is short (containing only 5 substantive clauses).

To what extent have interested parties and outside groups been given an opportunity to influence the policy proposal?

15 No consultation has taken place in relation to the Bill due to the need to legislate for the measure as soon as possible after announcement to give employers and HMRC as much time as possible to implement the changes.

Does the Bill include a sunset clause (as well as any appropriate renewal procedure)? If not, why does the Government judge that their inclusion is not appropriate?

16 No, this Bill does not include a sunset clause. This measure is a relieving change to ensure that no NICs or tax are paid by employees or the self-employed on the first £12,570 of earnings or profit.

Are mechanisms for effective post-legislative scrutiny and review in place? If not, why does the Government judge that their inclusion is not appropriate?

17 As is the case for tax policy, these changes will be continuously kept under review using information collected from HMRC's internal systems and National Insurance receipts.

Has an assessment been made as to whether existing legislation is sufficient to deal with any or all of the issues in question?

18 Existing legislation does not provide for in-year changes to NICs thresholds.

Has the relevant parliamentary committee been given the opportunity to scrutinise the legislation?

19 A European Convention on Human Rights analysis is included in these Explanatory Notes for the Joint Committee on Human Rights.

Commentary on provisions of Bill

Clause 1: Increase of primary threshold

20 Clause 1(1) introduces amendments to SI 2001/1004.

21 Clause 1(2) amends regulation 10(c) by replacing the weekly amount of the PT of £190 with £242.

22 Prescribed equivalents ensure that the threshold is reflective of an employment pay period. Clause 1(3) amends regulation 11(3) by replacing the monthly and annual prescribed equivalents of the PT as follows:

a. in sub-paragraph (a), the monthly prescribed equivalent of £823 is replaced with £1,048.

b. in sub-paragraph (b), the annual prescribed equivalent of £9,880 is to be replaced with £12,570.

23 Clause 1(4) specifies that the amendments made by subsections (2) and (3) come into force on 6 July 2022.

Clause 2: Increase in lower limit of profit for Class 4 contributions

24 Clause 2(1) amends sections 15(3) and 18(1) and (1A) SSCBA 1992 and SSCB(NI)A 1992 by replacing the amount specified for the LPL as £9,880 with £11,908.

25 Clause 2(2) specifies the amendment by subsection (1) is treated as coming into force on 6 April 2022.

26 Clause 2(3) and 2(4) specifies that the amount of £11,908 (as substituted by subsection (1)) is to be replaced by £12,570 from 6 April 2023.

Clause 3: Equivalent provisions for Class 2 contributions

27 Clause 3(1) requires the Treasury to make regulations to ensure that the threshold for paying Class 2 NICs is equivalent to the LPL threshold.

28 Clause 3(2) specifies that those regulations may treat individuals whose profit is below the LPL as having made Class 2 contributions, that the regulations may have effect from 6 April 2022 and may amend an Act of Parliament.

Clause 4: Transitional and consequential provisions

29 Clause 4(1) ensures that the calculation for the annual maximum amount of Class 1 NICs that individuals with more than one employment pays during the 2022-23 tax year uses the equivalent to the annual threshold for employees across the 2022-23 tax year (£11,908).

30 Clause 4(2) provides that the primary threshold for weekly and annual earnings periods for directors, referenced in regulation 8 of SI 2001/1004, are set at £229 and £11,908 respectively.

31 Clause 4(3) provides that the modification made by subsections (1) and (2) has effect for the 2022-23 tax year.

32 Clause 4(4) provides the Treasury with regulation making powers to amend SI 2001/1004 as the Treasury considers appropriate. This power may have retrospective effect, but from no earlier than 6 April 2022.

Clause 5: Regulations

33 Clause 5(1) provides that regulations made under the powers in this Act are to be made by

statutory instrument.

34 Clause 5(2) applies section 175(3) and (4) of the Social Security Contributions and Benefits Act 1992 (SSCBA) to any regulations under this Act. This allows for supplemental, transitional, or consequential provisions.

35 Clause 5(3) specifies that the power in clause 3 (equivalent provisions for Class 2 contributions) are subject to the draft affirmative procedure where they amend an Act of Parliament.

36 Clause 5(4) specifies that any other regulations made under this Act are subject to the negative procedure.

Clause 6: Short title

37 Clause 6 gives the short title of the Act as National Insurance Contributions (Increase of Thresholds) Act 2022

Commencement

38 This Bill will commence on Royal Assent.

Financial implications of the Bill

39 Exchequer impact is set out in Table 2.1 of Spring Statement 2022 and have been certified by the Office for Budget Responsibility. More details can be found in the policy costings document published alongside Spring Statement 2022.

40 HMRC anticipates some increases in call volumes from customers as a result of implementing this change. The initial assessment does not suggest there will be significant delivery costs in implementing this policy. HMRC will continue to undertake and refine its operational impacting. It is anticipated that further IT changes may be identified and required to be delivered at additional cost to HMRC, to support safe delivery of this policy.

Parliamentary approval for financial costs or for charges imposed

41 This Bill does require a money resolution but does not require a ways and means resolution. A money resolution is required where a Bill authorises new charges on the public revenue – broadly speaking, new public expenditure - and a ways and means resolution is required where a bill authorises new charges on the people - broadly speaking, new taxation or similar charges.

Compatibility with the European Convention on Human Rights

42 The Chancellor of the Exchequer has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

"In my view the provisions of the National Insurance Contributions (Increase of Thresholds) Bill are compatible with the Convention Rights".

43 The effect of the increase in thresholds by the Bill is that the amount of earnings (in the case of employees) or profits (in the case of the self-employed) which is not liable to NICs is increased. The provisions of the Bill are therefore wholly relieving. While Article 1, Protocol 1 to the European Convention on Human Rights (protection of property) would be engaged when considering liability to NICs, an increase in thresholds is wholly relieving so there is no interference and the Bill is considered to be compatible with the Convention.

Related documents

44 The following documents are relevant to the Bill and can be read at the stated locations:

- Table 2.1 of Spring Statement 2022, March 2022.
- Tax Information and Impact Note

(https://www.gov.uk/government/publications/national-insurance-primary-threshold-and-the-lower-profits-limit-increase-and-associated-class-2-changes-in-2022-23-tax-year)

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?**	**Legislative Consent Motion process engaged?**	**Extends and applies to Scotland?**	**Legislative Consent Motion process engaged?**	**Extends and applies to Northern Ireland?**	**Legislative Consent Motion process engaged?**
Clause 1	Yes	Yes	No	Yes	No	Yes	No
Clause 2	Yes	Yes	No	Yes	No	Yes	No
Clause 3	Yes	Yes	No	Yes	No	Yes	No
Clause 4	Yes	Yes	No	Yes	No	Yes	No
Clause 5	Yes	Yes	No	Yes	No	Yes	No
Clause 6	Yes	Yes	No	Yes	No	Yes	No

Subject matter and legislative competence of devolved legislatures

45 There is no matter in the Bill that is within the legislative competence of the devolved legislatures.

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