NATIONAL INSURANCE CONTRIBUTIONS (REDUCTION IN RATES) BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the National Insurance Contributions (Reduction in Rates) Bill as brought from the House of Commons on 4 December 2023 (HL Bill 25).

- These Explanatory Notes have been prepared by HM Revenue and Customs (HMRC) 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 (Reduction in Rates) Bill as brought from the House of Commons on 4 December 2023 (HL Bill 25)

Overview of the Bill

1 This Bill introduces a cut in the rate of primary (employee) Class 1 National Insurance contributions (NICs) from 12% to 10% and a cut in the rate of self-employed Class 4 NICs from 9% to 8% with related consequential changes. The Bill also includes provisions to remove the liability of self-employed persons to pay Class 2 NICs for those with profits above £12,570 per annum, whilst maintaining access to contributory benefits. The Class 1 NICs rate cut takes effect from 6 January 2024. The Class 4 NICs rate cut and provisions relating to Class 2 NICs will take effect from 6 April 2024.

Policy background

2 The Bill is intended to deliver part of the Government's long-term plan to grow the economy and reform the tax system. At a time of rising living costs, the Bill is intended provide a cut in the amount of NICs paid for 29 million working people, worth £450 to the average employee and £350 to the average self-employed person. The Government has chosen to prioritise those in work because it believes that is the best way to encourage economic growth and reducing NICs is the best way to target these individuals.

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.

e. The Social Security (Contributions) Regulations 2001 (S.I. 2001/1004).

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

Territorial extent and application

5 The Bill extends to, that is forms part of, the law of England and Wales, Scotland and Northern Ireland. Amendments the Bill makes to the legislation of Great Britain and Northern Ireland have the same extent as the enactments they amend. The Bill applies in England, Wales, Scotland and Northern Ireland.

6 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.

7 The matters to which the provisions of the Bill relate are not within the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly, and no legislative consent motion is being sought in relation to any provision of the Bill. If there are amendments relating to matters within the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly, the consent of the relevant devolved legislatures will be sought for the amendments.

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.

Fast-track legislation

9 The 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.

Why is fast-tracking necessary?

10 The changes to primary Class 1 rates are to occur on 6 January 2024. Accordingly, the legislation must be passed before then. Further, as the reduction in NICs rates requires changes to be made to the payroll systems of all employers, the legislation needs to be passed as soon as possible to ensure individuals do not overpay. The Government has asked Parliament to expedite the parliamentary progress of this Bill with the intention of providing those employers with as much time as possible to implement the changes to their payroll software ahead of the rate reduction. The Government believes this is particularly important given all employees in the UK who pay NICs will be affected.

What is the justification for fast-tracking each element of the bill?

11 The reduction in the rate of primary Class 1 NICs is intended to take effect from 6 January 2024 therefore the Government considers that it is necessary for the Bill to receive Royal Assent before Parliamentary recess for Christmas to give as much certainty and notice to employers and payroll software developers. The fast-tracking procedure is also appropriate for the changes in the Bill relating to Class 2 and 4 NICs to give certainty and notice to the self-employed, with the changes intended to take effect from 6 April 2024.

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

12 No formal 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.

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

13 Due to the Chancellor's intention that the reduction in NICs rates be delivered as quickly as possible, it was not possible to discuss the policy with stakeholders ahead of announcement.

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?

14 No, this Bill does not include a sunset clause given it concerns a reduction in NICs rates that are intended to remain in place.

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[1] https://publications.parliament.uk/pa/ld200809/ldselect/ldconst/116/116.pdf

[2] https://publications.parliament.uk/pa/ld200809/ldselect/ldconst/116/116.pdf (paragraph 186)

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

15 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?

16 New primary legislation is required to give effect to the reduction in NICs rates.

Have relevant parliamentary committees been given the opportunity to scrutinise the legislation?

17 A European Convention on Human Rights analysis is included in these Explanatory Notes for the Joint Committee on Human Rights. A Delegated Powers Memorandum has been prepared for the Delegated Powers and Regulatory Reform Committee.

Commentary on provisions of Bill

Clause 1: Reduction of Class 1 main primary percentage

18 Clause 1 amends section 8(2)(a) SSCBA 1992 to reduce the main primary percentage of Class 1 NICs paid by employees from 12% to 10%. The clause makes equivalent provisions for Northern Ireland by amending SSCB(NI)A 1992. The clause also reduces the reduced rate that applies in relation to a historic class of married women and widows. The amendments take effect from 6 January 2024.

Clause 2: Reduction of main Class 4 percentage

19 Clause 2 amends section 15(3ZA)(a) SSCBA 1992 to reduce the main Class 4 percentage paid by the self-employed from 9% to 8%. The clause makes equivalent provisions for Northern Ireland by amending SSCB(NI)A 1992. The amendments take effect from 6 April 2024.

Clause 3: Removal of requirement to pay Class 2 contributions

20 Clause 3 amends section 11 SSCBA 1992 to remove the obligation on persons to pay Class 2 contributions where their earnings exceed the lower profits threshold. The small profits threshold is retained, with the result that self-employed persons with profits from a trade, profession or vocation above it will be treated as having paid Class 2 NICs. The clause makes equivalent provisions for Northern Ireland by amending SSCB(NI)A 1992. The amendments take effect from 6 April 2024.

Clause 4: Transitional and consequential provision

21 Clause 4 introduces the schedule containing transitional and consequential provisions.

Clause 5: Short title

22 Clause 5 gives the short title of the Bill as the National Insurance Contributions (Reduction in Rates) Act 2023.

Schedule: Transitional and consequential provisions

23 Paragraph 1 reduces the rate of Class 1 NICs for directors to whom regulation 8(2) to (5) of S.I. 2001/1004 applies (which also applies for Northern Ireland) to a main rate of 11.5% for the 2023-24 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 1 also provides a blended rate of 5.35% for directors who have elected to pay the married women and widows reduced rate.

24 Paragraph 2 amends the calculation of the annual maximum for the 2023-24 tax year, as set out in regulations 21 and 100 of 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 3 amends the calculation of the annual maximum for subsequent tax years.

25 Paragraph 4 makes consequential changes arising from clause 3 that removes the requirement to pay Class 2 NICs. It omits section 11A SSCBA 1992 (Application of certain provisions of the Income Tax Acts in relation to Class 2 contributions) and makes equivalent provisions for Northern Ireland by amending SSCB(NI)A 1992. The paragraph also makes consequential amendments to sections 141, 143 and 145 of SSAA 1992. These amendments take effect from 6 April 2024.

26 Paragraph 5 provides the Treasury with a power to make consequential, transitional or saving provisions that may amend primary legislation. Regulations made under the power may apply retrospectively from 6 April 2023. Statutory Instruments made using this power are subject to the negative procedure.

Commencement

27 The primary Class 1 NICs rate change (Clause 1) comes into force on 6 April 2024 and, the consequential amendments for Class 1 (for directors and the annual maximum, paragraphs 1 and 2 of the Schedule) come into force upon Royal Assent with effect for the tax year 2023-24. The provisions relating to Class 2 and 4 NICs (Clauses 2 and 3 and the consequential amendments in paragraphs 3 and 4 of the Schedule) come into force on 6 April 2024. The power to make further consequential amendments (paragraph 5 of the Schedule) and Clauses 4 and 5 (introducing the Schedule and giving the short title) come into force upon Royal Assent.

Financial implications of the Bill

28 The exchequer impact for the measures in the Bill are set out in a Tax Information and Impact Note published at Autumn Statement.

29 HMRC anticipates a small increase in call volumes and customer contact as a result of the in-year reduction of NICs rates. 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

30 The result of the reduction of rates and removal of the requirement to pay Class 2 NICs is to reduce the level of the National Insurance Fund. This is turn increases the likelihood of money provided by Parliament being used to increase the level of the National Insurance Fund under the Social Security Act 1993. Accordingly, the Bill requires a money resolution.

Compatibility with the European Convention on Human Rights

31 The Baroness Vere of Norbiton has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

"In my view the provisions of the Reduction of National Insurance Contribution Bill are compatible with the Convention Rights".

32 The effect of the Bill is to reduce NICs rates. Therefore, the amount of NICs that employees and the self-employed pay will decrease. The provisions of the Bill are therefore wholly relieving.

Duty under section 20 of the Environment Act 2021

33 The Baroness Vere of Norbiton is of the view that the Bill as brought from the House of Commons does not contain provision which, if enacted, would be environmental law for the purposes of section 20 of the Environment Act 2021. Accordingly, no statement under that section has been made.

Related documents

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

- A Tax Information and Impact Note has been published by HM Revenue and Customs.[3]
- A Delegated Powers Memorandum has been prepared by HM Treasury.[4]

[3] https://www.gov.uk/government/publications/changes-to-national-insurance-contributions-from-6-january-2024/a-reduction-in-the-main-rates-of-primary-class-1-and-class-4-national-insurance-contributions-and-the-removal-of-the-requirement-to-pay-class-2-nation

[4] https://publications.parliament.uk/pa/bills/cbill/58-04/0012/231123DelegatedPowersmemo.pdf

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	N/A	Yes	N/A	Yes	N/A
Clause 2	Yes	Yes	N/A	Yes	N/A	Yes	N/A
Clause 3	Yes	Yes	N/A	Yes	N/A	Yes	N/A
Clause 4	Yes	Yes	N/A	Yes	N/A	Yes	N/A
Clause 5	Yes	Yes	N/A	Yes	N/A	Yes	N/A
Schedule	Yes	Yes	N/A	Yes	N/A	Yes	N/A

Subject matter and legislative competence of devolved legislatures

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

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