EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (CONTRIBUTIONS) (RATES, LIMITS AND THRESHOLDS AMENDMENTS AND NATIONAL INSURANCE FUNDS PAYMENTS) REGULATIONS 2018

2018 No. 337

1. Introduction

1.1 This explanatory memorandum has been prepared by HM Revenue and Customs and is laid before Parliament by Command of Her Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments

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 for the tax year beginning 6 April 2018. It also allows for payment of a Treasury Grant not exceeding 5 per cent of the estimated benefit expenditure for the coming tax year to be paid 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 This instrument relies on section 105 of the Deregulation Act 2015 ("the Deregulation Act") to make a single instrument, rather than two separate instruments each making a relatively small number of changes. Regulations 3 to 5, 9 and 10 are made under order-making powers in various provisions of the Social Security Administration Act 1992 ("the Administration Act"), the Social Security Administration (Northern Ireland) Act 1992 ("the Northern Ireland Administration Act"), the Social Security Act 1993 and the Social Security (Northern Ireland) Order 1993; whereas Regulations 7 and 8 rely on regulation-making powers in the Social Security Contributions and Benefits Act 1992 ("the Contributions Act") and the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (the "Northern Ireland Contributions Act").

3.2 Section 105 of the Deregulation Act has not been cited in the preamble to the instrument on the basis that it is materially parallel to provisions in the Interpretation Act 1978.

Other matters of interest to the House of Commons

3.3 Disregarding minor or consequential changes, the territorial application of this instrument includes Scotland and Northern Ireland

4. Legislative Context

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

- the rate of Class 2 NICs that are payable by the self-employed;

- the small profits threshold (SPT), which is the level of taxable profits at which the self-employed begin to pay Class 2 NICs;
- the amount of a Class 3 contribution, which eligible persons can choose to pay to satisfy the conditions for contributory benefit entitlement;
- the lower profits limit (LPL), which is the level of profits at which the self-employed begin to pay Class 4 NICs at the main Class 4 percentage rate;
- the upper profits limit (UPL), which is the level of profits at which the self-employed begin to pay Class 4 NICs at the additional percentage rate;
- the lower earnings limit (LEL), which is the level of earnings at which employees start to gain access to certain contributory benefits;
- the upper earnings limit (UEL), which is the level of earnings above which employees begin to pay Class 1 NICs at the additional percentage rate;
- the primary threshold (PT), which is the level of earnings above which employees begin to pay Class 1 NICs at the main percentage rate;
- the secondary threshold (ST), which is the level above which employers begin to pay Class 1 NICs in respect of their employees' earnings;
- the upper secondary threshold (UST), introduced from 6 April 2015. This 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%;
- the Apprentice Upper Secondary Threshold (AUST), introduced from 6 April 2016. This is the level of earnings above which employers of relevant apprentices under the age of 25 are no longer eligible to pay Class 1 NICs at the zero rate apprentice-related secondary percentage,
- and the prescribed equivalents of the LEL, UEL, PT, ST, UST and AUST for those earners who are paid otherwise than weekly.

4.2 Each tax year the Treasury is required, by section 141 of 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 statutory instrument satisfies the requirement for such legislation.

4.3 It is a condition precedent to laying legislation 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 the Actuary's opinion, the making of the legislation would have on the National Insurance Fund. A copy of the report can be found on the GOV.UK website. 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 Northern Ireland Administration Act.

5. Extent and Territorial Application

5.1 The extent of this instrument is the United Kingdom.

5.2 The territorial application of this instrument is the United Kingdom.

6. European Convention on Human Rights

6.1 The Financial Secretary to the Treasury Mel Stride 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 2018 are compatible with the Convention rights."

7. Policy background

What is being done and why

7.1 It was announced at Budget 2011 that the basis for indexation of the NICs rates, limits and thresholds would be by reference to the Consumer Price Index (CPI). The exception to this was the ST which was linked to the Retail Price Index (RPI) until 2015-16.

7.2 For the year to September 2017, CPI increased by **2.9593%.** This means that a CPI increase will be applied to most NICs rates, limits and thresholds with effect from 6 April 2018. The exceptions are the UPL, UEL, UST and AUST, which will be aligned with the higher rate income tax threshold, and the ST, which will be aligned with the PT.

Class 2, 3 and 4 contributions

7.3 Self-employed earners 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 SPT. Both the weekly flat rate and the SPT are increased by CPI. The weekly flat rate will be increased from £2.85 to £2.95. The SPT will be increased from £6,025 to £6,205 per year.

7.4 Class 4 NICs are payable by self-employed earners at the main percentage rate (currently 9%) on taxable profits between the LPL and the UPL and at the additional Class 4 percentage rate (currently 2%) on all profits above the UPL.

7.5 The LPL is set at the same level as the LEL for Class 1 NICs and will be increased to £8,424 from 6 April 2018 in line with CPI. The UPL is set at the same level as the UEL for Class 1 NICs and will be increased to £46,350 to maintain alignment both with the UEL and the higher rate threshold for income tax.

7.6 Class 3 NICs are voluntary payments paid at a flat rate of £14.25 per week for the tax year 2017-18. These will be increased to £14.65 per week from 6 April 2018.

Class 1 earnings limits and thresholds

7.7 Section 5 of 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 Northern Ireland Contributions Act requires there to be earnings limits and thresholds for Class 1 NICs for Northern Ireland.

7.8 The LEL is the level of earnings at which employees start to gain access to certain contributory benefits. It was announced at Budget 2011 that the LEL would be increased by reference to CPI. From 6 April 2018 the LEL will be increased from £113 to £116 per week.

7.9 Since April 2009 the UEL (the level of earnings up to which employees pay NICs at the main percentage rate of 12% and thereafter the additional percentage rate of 2%) has been aligned with the higher rate threshold for income tax.

7.10 At Autumn Budget 2017 it was announced that the income tax personal allowance will be £11,850 and the basic rate limit will be £34,500 from 6 April 2018. The UEL will rise in alignment with the level at which the higher rate of income tax is payable (the sum of the personal allowance and the basic rate limit). From 6 April 2018, this will be £46,350. This corresponds to an increase in the weekly UEL to £892.

7.11 Primary Class 1 NICs (known as "employees' contributions") are payable at the main primary percentage (currently 12%) 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 (currently 13.8%). There is no upper limit for payment of employers' contributions. At Autumn Budget 2017 it was announced that the ST and the PT would be £162 per week from 6 April 2018.

7.12 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%. The UST is set at the same level as the UEL and will be increased from £866 per week to £892 from 6 April 2018.

7.13 Section 1 of the National Insurance Contributions Act 2015 introduced a zero-rate band of secondary Class 1 NICs for employers of relevant apprentices aged under 25. The AUST sets the level of earnings above which employers of such apprentices are no longer eligible to pay secondary Class 1 NICs at 0%. The AUST is set at the same level as the UEL and will be increased from £866 per week to £892 from 6 April 2018.

Class 1 prescribed equivalents and Treasury Grant provision

7.14 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 weekly 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 limit or thresholds.

7.15 These Regulations include prescribed equivalents of the UEL, PT, ST, UST and AUST where the earnings period is a month or a year. The monthly and annual equivalents of the UEL are £3,863 and £46,350 respectively. The monthly prescribed equivalent of the PT is £702 and the annual prescribed equivalent of the PT is £8,424. The monthly and annual prescribed equivalents of the ST are £702 and £8,424 respectively. The monthly and annual equivalents of the UST are £3,863 and £46,350. The monthly and annual equivalents of the AUST are £3,863 and £46,350 respectively.

7.16 These Regulations also make provision under section 2(2) of the Social Security Act 1993 for payment of a Treasury Grant not exceeding 5 per cent of estimated benefit expenditure for the coming tax year to be paid into the National Insurance Fund, if necessary. They also make corresponding provision in respect of the Northern Ireland National Insurance Fund under article 4(3) of the Social Security (Northern Ireland) Order 1993.

Consolidation

7.17 There are currently no plans to consolidate the regulations or the primary legislation which are amended by this statutory instrument.

8. Consultation outcome

8.1 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.

9. Guidance

9.1 These Regulations do not impose a new obligation.

9.2 The NICs rates, limits and thresholds for the tax year 2018-19 were announced on 22nd November 2017 in the Autumn Budget and can be found on the GOV.UK website on the following link. https://www.gov.uk/government/publications/autumn-budget-2017-overview-of-tax-legislation-and-rates-ootlar/annex-a-rates-and-allowances

10. Impact

10.1 There is no impact on business, charities or voluntary bodies except for routine changes in payroll.

10.2 There is no impact on the public sector.

10.3 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.

11. Regulating small business

11.1 The legislation applies to activities that are undertaken by small businesses.

11.2 The changes to the rate of Class 2, LPL, UPL and SPT in these Regulations 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 rate and limits in order to calculate their National Insurance liabilities from 6 April 2018.

11.3 The changes to Class 1 NICs apply to small businesses. To help minimise the impact of the requirements on firms employing nine or fewer employees, employers can use HMRC’s Basic PAYE Tools to work out their payroll deductions and submit payroll information online. The 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.

11.4 Small businesses will need to ensure that the new rates, limits and thresholds are used to calculate their National Insurance liabilities from 6 April 2018.

12. Monitoring & review

12.1 These Regulations make changes to existing rates, limits and thresholds and are reviewed annually.

13. Contact

13.1 Emma Barker at HMRC Telephone: 03000 586778 or email: emma.robinson3@hmrc.gsi.gov.uk can answer any queries regarding the instrument.