HEALTH AND SOCIAL CARE LEVY (REPEAL) BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Health and Social Care Levy (Repeal) Bill as introduced in the House of Commons on 22 September 2022 (Bill 155).

- 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.

Table of Contents

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Overview of the Bill

1 This Bill repeals the Health and Social Care Levy Act 2021. As a consequence, the 1.25% Health and Social Care Levy will not come into force from 6 April 2023. It also reduces the main and additional rates of Class 1, Class 1A, Class 1B and Class 4 National Insurance contributions (NICs) for the 2022-23 tax year, in effect removing the temporary 1.25 percentage point increase legislated in section 5 of the Health and Social Care Levy Act 2021 for the remainder of the current tax year.

Policy background

2 This measure will reverse the 1.25 percentage point increase in NICs for the remainder of the 2022-23 tax year for employers, employees and the self-employed and will also reverse the introduction of the Health and Social Care Levy as a separate tax from April 2023.

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 (SAA(NI)A 1992).

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

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

5 The Health and Social Care Levy (including the transitional NICs increase for 2022-23) was introduced by the Health and Social Care Levy Act 2021.

Territorial extent and application

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

7 There is a convention that Westminster will not normally legislate regarding 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 which are 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 The Government has asked Parliament to expedite the parliamentary progress of this Bill. In their report on Fast-track Legislation: *Constitutional Implications and Safeguards*, 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". The justification for fast-tracking the Bill is explained below.

13 The legislation is required to be in place from 6 November 2022 as the reversal of the temporary increase to NICs rates requires changes to be made to the payroll systems of all employers. To help ensure that people are not over-taxed it is important for those employers 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 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. The Prime Minister made clear her intentions to

implement this policy throughout the time she was campaigning for leadership of the Conservative Party, and also at PMQs on 7 September 2022.

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?

15 No, this Bill does not include a sunset clause given it concerns a repeal and transitional provision relating to that repeal.

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

16 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?

17 New legislation is required to repeal the Health and Social Care Levy Act 2021.

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

18 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: Repeal of the Health and Social Care Levy Act 2021

19 Clause 1 repeals the Health and Social Care Levy Act 2021, and therefore the Health and Social Care Levy will no longer be introduced from April 2023.

Clause 2: Transitional NICs rates for tax year 2022-23 etc

20 Clause 2 provides for transitional arrangements for the 2022-23 tax year to reverse the temporary increase in the rate of NICs. This measure applies to Great Britain and Northern Ireland.

21 Clause 2(1) ensures that the higher rates of Class 1 NICs, as set out in section 5 of the Health and Social Care Levy Act 2021, remain in place until 5 November 2022. At which point, those sections will no longer have effect and the 2021-22 tax year Class 1 NICs rates will apply from 6 November 2022.

22 Clause 2(2) amends the main rate of Class 4 NICs and the additional rate of Class 4 NICs for the 2022-23 tax year, as set out in Part 1 of the Social Security Contributions and Benefits Act 1992, to 9.73% and 2.73% respectively. Class 4 NICs are assessed on an annual basis, therefore a blended rate has been applied to ensure consistency and fairness with Class 1 NICs payers who have paid the increased NICs rate since April 2022. Further, this approach means that the self-employed do not need to apportion profits mid-way through the tax year. Clause 2(3) ensures the changes to Class 4 NICs also apply in Northern Ireland.

23 Clause 2(4) provides for a Schedule to this Bill that contains further transitional provisions and a power to make consequential provisions.

Clause 3: Short title and interpretation

24 Clause 3(1) gives the short title of the Bill as the Health and Social Care Levy (Repeal) Act 2022.

25 Clause 3(2) defines various terms used in the Act.

Schedule: Transitional and consequential provisions

26 Paragraph 1 amends the rate of Class 1A NICs for the 2022-23 tax year that do not relate to sporting testimonial cash payments or termination awards, as set out in section 10 of the Social Security Contributions and Benefits Act 1992 and regulation 40C and 40D of the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004), to 14.53%. Class 1A NICs that do not relate to termination awards and sporting testimonials cash payments are assessed on an annual basis, therefore a blended rate has been applied to ensure consistency with Class 1 and 4 NICs.

27 Paragraph 2 makes provision for the rate of Class 1A NICs for the 2022-23 tax year that relate to sporting testimonial cash payments and termination awards, as set out in section 10 of the Social Security Contributions and Benefits Act 1992 (and Northern Ireland equivalents), so the 2021-22 tax year rate applies from 6 November 2022. Class 1A NICs that relate to termination awards and sporting testimonial cash payments are assessed based on the rate applicable at the time of payment, therefore a blended rate is not appropriate.

28 Paragraph 3 amends the rate of Class 1B NICs for the 2022-23 tax year, as set out in section 10A of the Social Security Contributions and Benefits Act 1992 (and Northern Ireland equivalent), to 14.53%. Class 1B is assessed on an annual basis, therefore a blended rate has been applied to ensure consistency with changes to other NICs rates.

29 Paragraph 4 reduces the married women and widows reduced rate of primary Class 1 NICs with effect from 6 November 2022. This removes the temporary increase made by the Social Security (Contributions) (Amendment No. 2) Regulations 2022 (S.I. 2022/416) for the remainder of the tax year.

30 Paragraph 5 reduces the rate of Class 1 NICs for directors to whom regulation 8(2) to (5) of the Social Security (Contributions) Regulations 2001 applies (which also applies for Northern Ireland) to a main rate of 12.73% and additional rate of 2.73% for the 2022-23 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 5 also provides a blended rate of 6.58% for directors who have elected to pay the married women and widows reduced rate.

31 Paragraph 6 amends the calculation of the annual maximum for the 2022-23 tax year, as set out in regulations 21 and 100 of the Social Security (Contributions) Regulations 2001 (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 6 also revokes the Social Security (Contributions) (Amendment) Regulations 2022 (S.I. 2022/300) which are superseded by this change.

32 NICs collected are paid to the National Insurance Fund and the National Health Service in a proportion set out in Section 162 of the Social Security Administration Act 1992 (and Northern Ireland equivalents). Paragraph 7 ensures that NICs collected on or after 6 November (or the amount attributed as a result of the blended rate where NICs is assessed on an annual basis) is allocated in the same proportion as the 2021-22 tax year. The Health and Social Care Levy Act 2021 had previously increased the proportion to be sent to the NHS. This Bill repeals the changes made to the allocation by the Health and Social Care Levy Act 2021, and Paragraph 7 ensures that the NICs collected due to the transitional rate is allocated correctly. This paragraph and the Bill adjust the balance of funding between NICs receipts and general taxation following the repeal of the Health and Social Care Levy Act 2021 and the in-year reduction in NICs rates. Despite repealing the Levy, the government will maintain overall funding for health and social care services at the same level as if the Levy was in place, and will be doing this without the tax increase.

33 Paragraph 8 ensures that that powers to increase NICs rates by secondary legislation in sections 143 and 145 of the Social Security Administration Act 1992, which are limited by reference to the rates in force at the end of the previous tax year, are not affected by any changes to NICs rates made by this Bill. Paragraph 8 ensures that the allocation of NICs in the 2023-24 tax year and beyond is consistent with the allocation in the 2021-22 tax year.

34 Paragraph 9 provides HM Treasury with a power to make consequential provisions including amending primary legislation and retrospective provision back to 6 April 2022. Statutory Instruments made using this power are subject to the negative procedure in the House of Commons.

Commencement

35 This Act will come into force upon Royal Assent.

Financial implications of the Bill

36 Costings will be set out in due course.

37 HMRC anticipates increased call volumes and customer contact as a result of the in-year reduction of NICs rates. There will be delivery costs in implementing this policy. IT changes will be 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

38 The Bill requires a money resolution to enable transfers of funds between the Consolidated Fund and the National Insurance Fund as a consequence of the repeal of the Health and Social Care Levy Act 2021 and the in-year reversal in NICs rates.

Compatibility with the European Convention on Human Rights

39 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 Health and Social Care Levy (Repeal) Bill are compatible with the Convention Rights".

40 The effect of the Bill is to repeal the Health and Social Care Levy Act 2021 and reduce NICs rates. Therefore, the amount of NICs that employees, employers and the self-employed pay will decrease. The provisions of the Bill are therefore wholly relieving.

Environmental law

41 The Chancellor of the Exchequer is of the view that the Bill as introduced into 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

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

- A Tax Information Impact Note will be published by HM Revenue & Customs
- Delegated Powers Memorandum (link to be inserted)

Cabinet Office

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
Schedule	Yes	Yes	N/A	Yes	N/A	Yes	N/A

Subject matter and legislative competence of devolved legislatures

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

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