

# **National Insurance Contributions (Termination Awards and Sporting Testimonials) Bill**

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## EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by Her Majesty's Revenue and Customs, have been ordered to be published as HL Bill 184 – EN.

## EUROPEAN CONVENTION ON HUMAN RIGHTS

Lord Young of Cookham 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 (Termination Awards and Sporting Testimonials) Bill are compatible with the Convention rights.



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TO

Provide for Class 1A national insurance contributions on certain termination awards; and to provide for the controller of a sporting testimonial to be the person liable to pay Class 1A national insurance contributions on payments from money raised by the testimonial.

**B**E IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows: –

**PART 1**

TERMINATION AWARDS

**1 Termination awards: Great Britain**

- (1) Section 10 of the Social Security Contributions and Benefits Act 1992 (Class 1A contributions: benefits in kind etc.) is amended as follows. 5
- (2) After subsection (1) insert –
- “(1A) A Class 1A contribution is payable for a tax year, in accordance with this section, in respect of an earner and the amount of a termination award if and so far as – 10
- (a) that amount counts as employment income of the earner under section 403 of ITEPA 2003 (charge on termination payments or benefits), and
- (b) the earner is chargeable to income tax on that amount for the tax year by virtue of that section.
- (1B) No Class 1A contribution is payable under subsection (1A) in respect of an amount so far as it is an amount of earnings in respect of which Class 1 contributions are payable. 15
- (1C) No Class 1A contribution is payable under subsection (1A) unless the employment which is terminated is employed earner’s employment.”

- (3) In subsection (2), in the words before paragraph (a), after “contribution” insert “payable under subsection (1)”.
- (4) After subsection (3) insert –
- “(3A) A Class 1A contribution payable under subsection (1A) is payable by the person who, if the amount in respect of which the Class 1A contribution is payable were earnings in respect of which Class 1 contributions would be payable, would be liable to pay the secondary Class 1 contribution.” 5
- (5) In subsection (4) after “contribution” insert “payable under subsection (1)”.
- (6) After subsection (4) insert – 10
- “(4A) The amount of the Class 1A contribution payable under subsection (1A) in respect of an amount is the Class 1A percentage of that amount.”
- (7) In subsection (5) for “subsection (4)” substitute “subsections (4) and (4A)”.
- (8) In subsection (9)(a) for “or general earnings” substitute “, general earnings or termination awards”. 15
- (9) After subsection (11) insert –
- “(12) In this section “termination award” means a payment or benefit received by an earner (or an earner’s spouse, civil partner, blood relative or dependant) in connection with the termination of the earner’s employment.” 20
- (10) In the heading, omit “: benefits in kind etc.”
- (11) In section 162(5) of the Social Security Administration Act 1992 (appropriate national health service allocation), in paragraph (c), after “general earnings” insert “and the amounts chargeable to income tax under section 403 of the Income Tax (Earnings and Pensions) Act 2003”. 25

## 2 Termination awards: Northern Ireland

- (1) Section 10 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (Class 1A contributions: benefits in kind etc.) is amended as follows.
- (2) After subsection (1) insert –
- “(1A) A Class 1A contribution is payable for a tax year, in accordance with this section, in respect of an earner and the amount of a termination award if and so far as – 30
- (a) that amount counts as employment income of the earner under section 403 of ITEPA 2003 (charge on termination payments or benefits), and 35
- (b) the earner is chargeable to income tax on that amount for the tax year by virtue of that section.
- (1B) No Class 1A contribution is payable under subsection (1A) in respect of an amount so far as it is an amount of earnings in respect of which Class 1 contributions are payable. 40
- (1C) No Class 1A contribution is payable under subsection (1A) unless the employment which is terminated is employed earner’s employment.”

- (3) In subsection (2), in the words before paragraph (a), after “contribution” insert “payable under subsection (1)”.
- (4) After subsection (3) insert –
- “(3A) A Class 1A contribution payable under subsection (1A) is payable by the person who, if the amount in respect of which the Class 1A contribution is payable were earnings in respect of which Class 1 contributions would be payable, would be liable to pay the secondary Class 1 contribution.” 5
- (5) In subsection (4) after “contribution” insert “payable under subsection (1)”.
- (6) After subsection (4) insert – 10
- “(4A) The amount of the Class 1A contribution payable under subsection (1A) in respect of an amount is the Class 1A percentage of that amount.”
- (7) In subsection (5) for “subsection (4)” substitute “subsections (4) and (4A)”.
- (8) In subsection (9)(a) for “or general earnings” substitute “, general earnings or termination awards”. 15
- (9) After subsection (11) insert –
- “(12) In this section “termination award” means a payment or benefit received by an earner (or an earner’s spouse, civil partner, blood relative or dependant) in connection with the termination of the earner’s employment.” 20
- (10) In the heading, omit “: benefits in kind etc.”
- (11) In section 142(5) of the Social Security Administration (Northern Ireland) Act 1992 (appropriate health service allocation), in paragraph (c), after “general earnings” insert “and the amounts chargeable to income tax under section 403 of the Income Tax (Earnings and Pensions) Act 2003”. 25

## PART 2

### SPORTING TESTIMONIALS

#### 3 Sporting testimonials: Great Britain

- (1) The Social Security Contributions and Benefits Act 1992 is amended as follows.
- (2) In section 10 (Class 1A contributions: benefits in kind etc) in subsection (2) for “section 10ZA below” substitute “sections 10ZA and 10ZBA”. 30
- (3) In section 10ZA (liability of third party provider of benefits in kind) after subsection (1) insert –
- “(1A) This section does not apply if the benefit is a sporting testimonial payment (see section 10ZBA).” 35
- (4) After section 10ZB insert –
- “10ZBA Liability of third party controller of sporting testimonial**
- (1) This section applies where –

- (a) a Class 1A contribution is payable for any tax year in respect of the whole or any part of general earnings received by an earner;
  - (b) the general earnings, in so far as they are ones in respect of which such a contribution is payable, consist in a sporting testimonial payment; and 5
  - (c) the controller of the sporting testimonial is not the person (“the relevant employer”) by whom, but for this section, the Class 1A contribution would be payable in accordance with section 10(2).
- (2) The controller of the sporting testimonial, instead of the relevant employer, is liable to pay any Class 1A contribution in respect of the sporting testimonial payment. 10
- (3) Subsection (4) applies if—
- (a) the controller of the sporting testimonial pays an amount (“the amount to cover tax”) for the purpose of discharging any liability of the earner to income tax for any tax year (“the relevant year”), and 15
  - (b) the income tax in question is tax chargeable in respect of the sporting testimonial payment or of the amount to cover tax.
- (4) For the purposes of this Act the amount to cover tax is to be treated as if it were general earnings consisting in the making of a sporting testimonial payment to the earner in the relevant year and falling, for the purposes of Class 1 contributions, to be left out of account in the computation of the earnings paid to or for the benefit of the earner. 20
- (5) The controller of the sporting testimonial, instead of the relevant employer, is liable to pay any Class 1A contribution in respect of any further sporting testimonial payment treated as made to the earner in accordance with subsection (4). 25
- (6) Expressions used in this section and section 226E of ITEPA 2003 (sporting testimonial payments) have the same meaning as in that section.” 30

#### **4 Sporting testimonials: Northern Ireland**

- (1) The Social Security Contributions and Benefits (Northern Ireland) Act 1992 is amended as follows.
- (2) In section 10 (Class 1A contributions: benefits in kind etc) in subsection (2) for “section 10ZA below” substitute “sections 10ZA and 10ZBA”. 35
- (3) In section 10ZA (liability of third party provider of benefits in kind) after subsection (1) insert—
- “(1A) This section does not apply if the benefit is a sporting testimonial payment (see section 10ZBA).”
- (4) After section 10ZB insert— 40

##### **“10ZBA Liability of third party controller of sporting testimonial**

- (1) This section applies where—
- (a) a Class 1A contribution is payable for any tax year in respect of the whole or any part of general earnings received by an earner;

- (b) the general earnings, in so far as they are ones in respect of which such a contribution is payable, consist in a sporting testimonial payment; and
  - (c) the controller of the sporting testimonial is not the person (“the relevant employer”) by whom, but for this section, the Class 1A contribution would be payable in accordance with section 10(2). 5
- (2) The controller of the sporting testimonial, instead of the relevant employer, is liable to pay any Class 1A contribution in respect of the sporting testimonial payment.
- (3) Subsection (4) applies if— 10
  - (a) the controller of the sporting testimonial pays an amount (“the amount to cover tax”) for the purpose of discharging any liability of the earner to income tax for any tax year (“the relevant year”), and
  - (b) the income tax in question is tax chargeable in respect of the sporting testimonial payment or of the amount to cover tax. 15
- (4) For the purposes of this Act the amount to cover tax is to be treated as if it were general earnings consisting in the making of a sporting testimonial payment to the earner in the relevant year and falling, for the purposes of Class 1 contributions, to be left out of account in the computation of the earnings paid to or for the benefit of the earner. 20
- (5) The controller of the sporting testimonial, instead of the relevant employer, is liable to pay any Class 1A contribution in respect of any further sporting testimonial payment treated as made to the earner in accordance with subsection (4). 25
- (6) Expressions used in this section and section 226E of ITEPA 2003 (sporting testimonial payments) have the same meaning as in that section.”

### PART 3

#### GENERAL 30

## 5 Extent, commencement and short title

- (1) In this Act—
  - (a) sections 1 and 3 extend to England and Wales and Scotland;
  - (b) sections 2 and 4 extend to Northern Ireland;
  - (c) this section extends to England and Wales, Scotland and Northern Ireland. 35
- (2) This section comes into force on the day this Act is passed.
- (3) The other provisions of this Act come into force on such day as the Treasury may appoint by regulations made by statutory instrument.
- (4) Regulations— 40
  - (a) may appoint different days for different purposes or different areas;
  - (b) may include transitional, transitory or saving provision.
- (5) This Act may be cited as the National Insurance Contributions (Termination Awards and Sporting Testimonials) Act 2019.

# National Insurance Contributions (Termination Awards and Sporting Testimonials) Bill

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## B I L L

To provide for Class 1A national insurance contributions on certain termination awards; and to provide for the controller of a sporting testimonial to be the person liable to pay Class 1A national insurance contributions on payments from money raised by the testimonial.

*Lord Young of Cookham*

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*Ordered to be Printed, 11th June 2019*

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