



HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

The Rt Hon Dame Eleanor Laing MP
Deputy Speaker and Chairman of Ways and Means
House of Commons
London
SW1A 0AA

14 September 2021

Dear Eleanor,

POWERS CONTAINED IN THE HEALTH AND SOCIAL CARE LEVY BILL

I am writing to you with further information on the delegated powers in the Health and Social Care Levy Bill.

The annex to this letter contains a summary of the powers contained in clause 4.

I am also depositing a copy of this letter in the Library of the House.

As ever,

A handwritten signature in black ink that reads "Jesse".

RT HON JESSE NORMAN MP

HEALTH AND SOCIAL CARE LEVY BILL

A. INTRODUCTION

1. The Bill was introduced in the House of Commons on 8 September 2021. This note identifies the provisions of the Bill that confer powers to make delegated legislation. It explains in each case why the power has been taken and explains the nature of, and the reason for, the procedure selected.

B. PURPOSE AND EFFECT OF THE BILL

2. The Bill introduces a new tax which will be payable by any person who is liable to pay a qualifying National Insurance contribution (NICs): Class 1, 1A, 1B or Class 4 NICs. The new tax, which will be known as the Health and Social Care Levy (“the Levy”), will be equivalent to 1.25% of the amount of earnings (or, in the case of Class 4, profits) in respect of which qualifying NICs are payable but, unlike NICs, will also apply to those over State Pension age. Amounts of the Levy collected from the tax year 2023-24 onwards will be paid to Her Majesty’s Revenue and Customs (HMRC), then sent to those responsible for health and social care in all four parts of the UK in accordance with determinations made by the Treasury.
3. In addition to introducing the Levy, the Bill also provides for a transitional increase in the rates of Class 1, 1A, 1B and Class 4 NICs which is only effective for the tax year 2022-23. During that tax year, the relevant rates of NICs will be increased by 1.25% by making temporary modifications to the Social Security Contributions and Benefits Act 1992 and the Social Security Administration Act 1992¹. Thereafter the rates of Class 1 and Class 4 NICs will revert to those for the tax year 2021-22. The Bill increases the percentages of NICs to be paid and all receipts from the increase in rates are hypothecated towards funding the NHS for the transitional year only.

C. DELEGATED POWERS

4. The Bill contains a new delegated power in relation to the operation of the Levy. This allows regulations to make provision generally for the purposes of the Levy.

Power to make provision generally for the purpose of the Levy

Clause 4(1)(b) – Health and Social Care Levy: United Kingdom: power to make provision generally for the purposes of the Levy

- ***Power conferred on: HM Treasury***
 - ***Power exercised by: Regulations***
 - ***Parliamentary procedure: affirmative resolution in the case of regulations limiting reliefs or exemptions etc, negative resolution in other cases***
5. Clause 4(1)(b) confers a power on the Treasury to make provision generally for the purposes of the Levy. This is relevant to Clause 3(1) which provides that any provision made by or under an enactment that applies in relation to a qualifying National Insurance contribution is to apply in relation to payments of the Levy corresponding to the contribution. However, the Treasury may want to make provision regarding the

¹ Equivalent temporary modifications are also made to the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and the Social Security Administration (Northern Ireland) Act 1992.

direct application of NICs legislation to the Levy, for example where such application causes administrative difficulties for HMRC. This power may also be exercised to modify the effects of primary legislation.

6. Clause 4(2) provides some examples where the power may be used: -
 - provision about reliefs or exemptions from the Levy;
 - provision that disapplies any relevant provision so far as it would otherwise (as a result of clause 3(1)) apply to the Levy;
 - provision modifying the application of any relevant provision in relation to the Levy; and
 - provision about (including provision modifying) the application of any provision of the Tax Acts (that is not otherwise relevant provision) in relation to the Levy.
7. Clause 4(3) provides that regulations under clause 4(1)(b) may: -
 - make different provision for different purposes;
 - make supplementary, incidental and consequential provision; and
 - make transitional or transitory provision and savings.
8. This power is considered appropriate to ensure the effective operation of the Levy and to avoid the need for separate primary legislation each time a change is needed to be made. Clause 4(2) lists indicative cases where the power can be used. The range of provisions which may be made under Clause 4(3) broadly follow precedents applying to NICs and the Apprenticeship Levy; for example, sections 175(3) to (5) of the Social Security Contributions and Benefits Act 1992, section 5(2) of the National Insurance Act 2014 and section 121 of the Finance Act 2016.
9. Clause 4(5)(b) provides that regulations that have the effect of limiting the application of, or reducing or removing, any existing relief or exemption which may increase the amount of Levy payable by taxpayers cannot be made unless a draft of the instrument has been laid before and approved by a resolution of the House of Commons. Where regulations under this power reduce the amount of Levy payable or are beneficial in other ways, the Government believes that the negative procedure is appropriate.