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BRIEFING PAPER

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National Insurance Contributions (Termination Awards and Sporting Testimonials) Bill 2017-19

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1. Summary

The *National Insurance Contributions (Termination Awards and Sporting Testimonials) Bill*, Bill 381 of 2017-19, was presented on 25 April 2018.

The purpose of the Bill is to make amendments to the National Insurance (NI) treatment of termination awards and income from sporting testimonials. Termination awards are payments received in connection with the termination of a person's employment. Sporting testimonials are matches often held to mark the end of a sportsperson's playing career, the proceeds from which are paid over to the sportsperson. The Bill will align the way these income sources are charged National Insurance contributions (NICs) with the way they are subject to income tax.

These provisions were included in a draft National Insurance Contributions Bill, published in December 2016. Neither provision appears to have been controversial at that time. In the Spring 2017 Budget the Government announced that, in addition to these changes, it would make wider reforms to the structure of NI as paid by the self-employed: to abolish the flat rate Class 2 NICs charge, and to increase the rate of Class 4 NICs.[1] However, the Government cancelled the proposed increase in Class 4 NICs soon after the Budget,[2] and subsequently announced it would not scrap Class 2 NICs.[3] In the 2018 Budget the Government confirmed that it would introduce legislation to amend the NICs treatment of termination payments and income from sporting testimonials, to take effect from April 2020.[4] This is the purpose of the current Bill.

The Bill received a second reading on 30 April. The Bill was considered in Committee over two sessions on 14 May, when it was agreed, unamended, without a division. The Bill completed its report stage and third reading on 10 June, without amendment. The Bill was considered in the House of Lords over 11 June to 23 July, and agreed without amendment. The *National Insurance Contributions (Termination Awards and Sporting Testimonials) Act 2019* received Royal Assent on 24 July.

The text of this legislation, explanatory notes on the Bill, and the stages of the Bill's scrutiny in the House are set out on the Bill's page on the Parliamentary site. HM Revenue

1 *Spring Budget 2017*, HC 1025, March 2017 para 3.5
2 HC Deb 15 March 2017 cc420-1
3 Written statement HCWS944, 6 September 2018. In November 2017 the Government had proposed delaying the abolition of Class 2 NICs for a year (Written Statement HCWS220, 2 November 2017).
4 *Budget 2018*, HC 1629, October 2018 para 3.12; HMT, *Overview of Tax Legislation and Rates*, October 2018 para 2.14

& Customs published a note on the Bill at the time of its publication,[5] and had previously published tax information notes on both measures.[6]

This note gives a short explanation of the purpose of this legislation. A second Library paper examines the way the self-employed are charged NICs, and the history to the Government's proposals to reform this aspect of National Insurance.[7]

2. National Insurance contributions

2.1 Scope

National Insurance contributions (NIC) are paid by employees, employers and the self-employed. NIC receipts are used to fund contributory benefits: the state pension, contributions-based jobseeker's allowance, contributory employment and support allowance, maternity allowance, and bereavement benefits. In turn entitlement to contributory benefits is based on someone's National Insurance payment record. Receipts from NICs go into the National Insurance Fund, which operates on a 'pay as you go' basis: broadly speaking, this year's contributions pay for this year's benefits, though a fixed proportion of NI receipts go to the National Health Service rather than into the Fund.

In 2018/19 NICs raised an estimated £137.7bn. This compares with estimated Exchequer receipts of £192.4bn from income tax, and £131.7bn from VAT.[8]

NICs are charged on income from employment and self-employed only, not income from other sources – such as savings, pensions or benefits. Someone is liable to pay NICs if they are aged 16 or over and under state pension age, though employers' liability to pay NICs on earnings paid to employees is unaffected by employees reaching state pension age.

2.2 Rates

Employees are liable to pay primary Class 1 National Insurance contributions (NICs) on their earnings if they exceed the lower earnings limit (LEL).

The LEL is set at £118 per week for 2019/20. A zero rate of NICs is charged on earnings between the LEL and the primary threshold (PT), set at £166 per week. A notional primary Class 1 NIC is deemed to have been paid in respect of earnings between LEL and PT to protect benefit entitlement. Earnings above the PT are charged NICs at a rate of 12%, subject to a cap at the upper earnings limit (UEL), set at £962 per week. Earnings *above* the UEL are charged NICs at a rate of 2%.

Prior to 6 April 2016 employees were charged a reduced rate of NICs if they had contracted out of the state second pension (S2P). These arrangements have ended with the introduction of the new 'single-tier' state pension, and the closure of the additional state pension.

Employers pay secondary Class 1 NICs on employee earnings at a rate of 13.8% on earnings above the secondary threshold (ST). The ST is set at £166 a week for 2019/20. Employers also pay Class 1A or 1B on employees' expenses or benefits at a rate of 13.8%.

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5 *National Insurance contributions (termination awards and sporting testimonials) Bill*, updated 1 May 2019
6 *Income Tax and National Insurance contributions: treatment of termination payments*, updated 4 April 2018; *Income Tax: update to - treatment of income from sporting testimonials*, updated 9 November 2017
7 *National Insurance contributions (NICs) and the self-employed*, Commons Briefing paper CBP7918, 21 December 2018
8 OBR, *Economic & Fiscal Outlook*, CP 50, March 2019 p76 (Table 4.3)

In the 2013 Autumn Statement the Government announced that from April 2015 it would abolish employer NICs on earnings for employees under 21, on earnings up to the higher rate threshold. From this date a zero rate has applied to earnings on this category of employee up to the 'upper secondary threshold' (UST), set in line with the UEL.

In December 2014 the Government announced that it would abolish employer NICs up to the UEL for apprentices aged under 25, with effect from April 2016. Consequently a zero rate also applies to earnings on this second category of employees up to a new 'apprentice upper secondary threshold' (AUST), which is also aligned with the UEL. The UST and AUST are set at £962 per week for 2019/20.

Self-employed people pay a weekly flat rate Class 2 NIC (set at £3.00). They may apply for exemption from paying Class 2 contributions if their annual profits are less than the level of the 'small profits threshold' (SPT), set at £6,365. In addition they may be liable to pay a separate Class 4 profits related contribution. Class 4 NICs are charged at a rate of 9% on profits between a lower annual profits limit (£8,632) and an annual upper profits limit (£50,000 – all figures for 2019/20). Profits above the upper limit are charged NICs at a rate of 2%.

Further to these categories, individuals may be entitled to make voluntary Class 3 contributions to ensure that they qualify for basic retirement pension and bereavement benefits. Class 3 NICs are charged at a weekly flat rate, set at £15.00 for 2019/20.[9]

2.3 Receipts

NICs receipts: estimates for 2018/19 and 2019/20

Great Britain, £ million		**2018-19**		**2019-20**	
National Insurance Fund					
Class 1[1]	Primary	42,291		44,366	
	Secondary	61,259		63,194	
	Total		103,551		107,560
Classes 1A and 1B			1,274		1,356
Class 2			325		333
Class 3			37		37
Class 4			2,200		2,191
Total National Insurance Fund contributions[2,3]			**107,387**		**111,477**
National Health Service					
Class 1	Primary	9,876		10,288	
	Secondary	14,346		14,801	
	Total		24,223		25,089
Classes 1A and 1B			203		217
Class 2			60		61
Class 3			7		7
Class 4			860		853
Total National Health Service contributions[3]			**25,352**		**26,227**

9 HMT, *Budget 2018: overview of tax legislation & rates*, October 2018 (Annex A: Rates and allowances); *Direct taxes: rates and allowances 2019/20*, Commons Briefing paper CBP8495, 27 March 2019.

Great Britain, £ million		2018-19		2019-20	
All contributions					
Class 1[1]	Primary	52,168		54,653	
	Secondary	75,606		77,995	
	Total		127,773		132,649
Classes 1A and 1B			1,477		1,573
Class 2			384		394
Class 3			44		44
Class 4			3,061		3,045
Total contributions[3]			**132,739**		**137,704**

Notes: [1] All figures are gross of recoveries by employers of Statutory Maternity Pay, Statutory Paternity Pay including Additional Statutory Paternity Pay, Statutory Adoption Pay, and Statutory Shared Parental Pay. [2] These figures appear in Table 5.1 in the main report. [3] Figures may not sum to totals shown due to rounding.
Source: Government Actuary's Department, *Report to Parliament on the 2019 re-rating and up-rating orders*, January 2019 p38 (Appendix D)

3. Termination payments

Termination awards are payments received in connection with the termination of a person's employment. In a 2014 report on the tax treatment of employee benefits and expenses the Office for Tax Simplification recommended certain reforms to the tax regime for termination payments, as "this is an area which gives rise to confusion because many people believe that the first £30,000 of any 'payoff' will be tax-free" and "many employers are unclear about which parts of a termination package qualify for the exemption."[10]

After a consultation exercise, the 2016 Budget stated that "from April 2018, the Government will tighten the scope of the exemption to prevent manipulation and align the rules so employer NICs contributions are due on those payments above £30,000 that are already subject to income tax" though "the first £30,000 of a termination payment will remain exempt from income tax and the full payment will be outside the scope of employee NICs."[11] At the time it was estimated that this measure would raise just over £400m a year from 2018/19.[12]

Provision for these tax changes was made by s5 of the *Finance (No.2) Act 2017*. When this legislation was introduced, some concerns were raised that this might hit individuals dealing with the wider costs from being made redundant, and that the Government might cut the £30,000 exemption in the future. When this provision was debated at the Committee stage of the Finance Bill, Treasury Minister Mel Stride said, "the Government recognise that losing a job is a challenging time, but we must remain vigilant to opportunities for the tax rules to be manipulated … [This clause] … sets out a fair and proportionate set of changes that will continue to protect the vast majority of employees. The first £30,000 of a termination payment will remain tax-free, as will the whole of the compensation payment for discrimination during employment. However, where there

10 *Review of employee benefits and expenses: final report*, July 2014 p7
11 *Budget 2016*, HC 901, March 2016 para 1.145-6
12 *Spring Budget 2017*, HC 1025, March 2017 p29 (Table 2.2 – item ar).

were opportunities for manipulation, the loopholes must be closed, and they now will be."[13] A Library paper discusses this issue in more detail: *Taxation of termination payments*, Commons Briefing paper CBP8084, 8 May 2018.

As noted, following the delay to the introduction of the National Insurance Bill, in the 2018 Budget the Government confirmed it would bring forward legislation to extend employer NICs on termination payments above £30,000 with effect from 6 April 2020.[14] These provisions now form clauses 1-2 of the *National Insurance Contributions (Termination Awards and Sporting Testimonials) Bill*.

HMRC's note on the Bill underlines two points as to the scope of these provisions:

> **More closely aligning the NICs treatment of termination awards with the Income Tax treatment**
>
> A termination award is a payment received in connection with the termination of a person's employment.
>
> At Budget 2016, the government announced that it would reform the Income Tax and NICs treatment of termination awards. Currently, certain forms of termination awards are exempt from Employee and Employer NICs and the first £30,000 is free from Income Tax.
>
> The Bill will align the Employer NICs treatment of termination awards in excess of £30,000, with the Income Tax treatment for such payments.
>
> This Bill does not affect the:
>
> - Employee NICs treatment of termination awards
> - NICs treatment of statutory redundancy pay and compensation
>
> Termination awards will remain exempt from Employee NICs. The £30,000 threshold ensures that:
>
> - no statutory redundancy pay on its own will be affected
> - compensation for injury suffered in the workplace will remain free from Income Tax and NICs.[15]

HM Treasury has also published a factsheet on the Bill which notes that, "from 6 April 2020, employers will need to report and pay class 1A NICs on liable termination awards made to their employees. They already pay income tax on these payments and so the process for paying NICs will be broadly similar."[16]

The explanatory notes to the Bill provide a breakdown of the Exchequer impact of the changes to the tax and NICs treatment of termination awards …

> Aligning the NICs treatment of termination awards is now estimated to increase receipts by £190m for 2020/21 rising to £210m for 2023/24. Combined with the rule reform for termination awards, it is now estimated to increase receipts by £440m for 2020/21 rising to £480m for 2023/24. The table below updates the original costing of this policy change to reflect the delay in the NICs treatment of termination awards.

Exchequer impact (£m)

2017 to 2018	2018 to 2019	2019 to 2020	2020 to 2021	2021 to 2022	2022 to 2023	2023 to 2024
+35	+205	+220	+440	+460	+470	+480

13 HC Deb 11 October 2017 c372
14 *Budget 2018*, HC1629, October 2018 para 3.12
15 *National Insurance contributions (termination awards and sporting testimonials) Bill*, 25 April 2019
16 HMT, *National Insurance (Termination Awards and Sporting Testimonials) Bill – Factsheet*, 29 April 2019

… and reiterates HMRC's earlier assessment that "the additional cost to employers is expected to be reflected in lower wages and profit margins, with a reduction in total wages and salaries of 0.1% by 2020 to 2021."[17]

At the Bill's Committee stage Treasury Minister Robert Jenrick confirmed that "some 80% of people in receipt of a termination payment are not going to be affected by these measures"

> [The 20% who will be affected] will primarily be higher rate taxpayers or payers of the rate beyond that, in the top two or three deciles of income. Those affected really are those in receipt of larger termination payments … We have modelled this, and I believe that about 72,000 termination payments will be impacted per year. Our modelling also suggests that the average payment that will be affected by this measure is £61,000—a significant size of termination payment.[18]

The issue was also raised with the Minister by Kirsty Blackman MP at an earlier stage in the Committee's proceedings, when it was taking evidence from the Minister and Treasury officials. Mr Jenrick noted that it was possible that employers might decide to pass on the extra cost of Class 1A NICs to employees, but this was difficult to quantify:

> We have chosen not to apply both employer and employee national insurance contributions, so the employee will not pay anything directly. Your question cuts to, "If you were an employer looking at how much money you were willing to pay somebody as part of a termination, would you take into account the fact that the employer now has to pay 13.8% class 1A national insurance contributions?"
>
> That is quite possible—we do not dispute that—but it is difficult to accurately quantify the proportion of employers that would pass that on to the employee. We know that it is a revenue-raising measure, and we expect—and the Office for Budget Responsibility has verified—that it will bring in around £200 million a year on an ongoing basis. Those facts speak for themselves. We will be raising additional national insurance revenue from employers, but it will be for employers to decide how much of that is passed to employees through the usual negotiations.[19]

On this point Simon Smith, head of NICs policy at HMRC, said: "the only thing that I would add is that the OBR has chosen to model this as a 0.1% reduction in wages. There has been no further adjustment on top of that for redundancy payments or anything else. That is largely because it is uncertain, as the Minister said, how it would be distributed. It will depend a lot on the individual employer-employee relations whether it is taken as lower profit, wages or anything else."[20]

4. Sporting testimonials

Sporting testimonials are matches often held to mark the end of a sportsperson's playing career, the proceeds from which, net of costs, are paid over to sportsperson.

In 2014 HM Revenue & Customs announced that it was reviewing its guidance on the tax treatment of sporting testimonials. At the time there was no specific tax legislation that covered income raised this way, and there were concerns that this guidance was not being applied correctly.[21]

Subsequently in July 2015 HMRC launched a consultation, which provides some context:

17 Explanatory Notes Bill 381-EN, April 2019 para 48-9, para 50
18 PBC, *Second Sitting*, 14 May 2019 c47
19 PBC, *First Sitting*, 14 May 2019 c7
20 *ibid.*
21 For details see, HMRC, *Withdrawal of extra-statutory concessions*, 2 October 2014 p8

> Testimonial matches are a long-standing practice in the sporting world to honour a sportsperson's playing career. They are often held to mark the end of the sportsperson's playing career but might also be held to recognise a particular period of service with a particular club. The proceeds raised from the testimonial, net of costs, are paid over to the sportsperson and may reflect the proceeds from one match or a series of matches during a testimonial year
>
> The practice started at a time when professional players were often relatively poorly paid. They had limited options for earning money after retiring from their sport and careers were often shortened by injuries which can be more easily managed now. Over the years the practice has evolved from a time when the amount the sportsperson received reflected little more than passing a bucket around spectators at a match to proceeds from many thousands of pounds from a special match or series of matches and related events.
>
> There is no specific income tax legislation that covers sporting testimonials. However, HMRC has published guidance on the tax treatment of income from sporting testimonials given to individual sportspersons …
>
> [This] confirms that where the right to a testimonial match is part of the sportsperson's contract of employment, or where the sportsperson's club always grants a testimonial match after a set qualifying period of service, the proceeds will always be taxable Section 62 of the *Income Tax (Earnings and Pensions) Act 2003* (ITEPA) as earnings. In addition, if income received from a sporting testimonial or benefit match was derived from the sportsperson's employment then it would be liable to Class 1 NICs …
>
> [The guidance] goes on to explain that where there is no entitlement to the testimonial match, and no custom exists in respect of it, then the proceeds are not earnings within Section 62 *ITEPA 2003*. The guidance suggests this will usually be the case where the match is organised by a testimonial committee independent of the club … [The guidance] does not currently provide guidance on other matters to consider where there is no entitlement to the testimonial match and no custom exists. HMRC believe there may have been widespread misunderstanding of this aspect of the guidance so that the existence of a testimonial committee has meant that this income has, in most cases, not been treated as general earnings of the sportsperson.[22]

In November 2015 the Government confirmed that it would amend both income tax and NICs legislation to simplify the rules:

> From 6 April 2017, all income from sporting testimonials and benefit matches for employed sportspersons will be liable to income tax. In addition, an exemption of up to £50,000 will be available for employed sportspersons with income from sporting testimonials that are not contractual or customary. This legislation will apply where the sporting testimonial is granted or awarded on or after 25 November 2015, and only to events that take place after 5 April 2017. Separate legislation will be introduced before 6 April 2017 for the National Insurance treatment of this income which will follow the income tax treatment.[23]

Draft legislation was published at this time, and in the light of responses to this, the Government announced that the proposed exemption of £50,000 would be set at £100,000.[24] HMRC has updated its impact assessment of this measure. This states that the Exchequer impact of this change is expected to be negligible;[25] it also addresses the anticipated impact on individuals:

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22 HMRC, *Tax Treatment of Income from Sporting Testimonials – Proposals for Legislation*, July 2015 pp5-6. At the time HMRC's guidance was included in its Employment Income Manual (specifically para EIM64120)

23 HM Treasury, *Spending Review and Autumn Statement*, Cm 9162, November 2015 para 3.18

24 *Budget 2016*, HC 901, March 2016 para 2.30

25 This remains the case: see, Explanatory Notes Bill 381-EN, April 2019 para 52. As Treasury Minister Robert Jenrick confirmed in Committee, this means "in the terminology of the Treasury and the OBR, less than £3m per annum; but in all likelihood [this measure] will raise significantly less than that" (PBC, *Second Sitting*, 14 May 2019 c58).

> Research indicates that some 220 sporting testimonials or benefit matches are held annually, but of these a much smaller number are held for professional sportspersons who are not self-employed. Employed sportspersons who have a contractual entitlement or customary right to a sporting testimonial or benefit match will not be affected by these changes as these are already fully charged to income tax and Class 1 NICs. A small number of individuals may now pay income tax and NICs on some of the income from their sporting testimonial or benefit match where this is in excess of the £100,000 exemption.[26]

Statutory provision for the change to income tax rules was included in the *Finance Act 2016*.[27] The clause was one of those selected for debate at the start of the Committee stage on 27 June that year, although it was agreed, unamended, without a division. On this occasion Treasury Minister David Gauke said that it was the Government's view that the new £100,000 exemption was "a fair compromise, and the vast majority of employed sportspersons who have testimonials will not be impacted."[28]

As noted, in December 2016 the Government included provisions in its draft National Insurance Contributions Bill for the necessary changes to NICs legislation, so that Class 1A NICs would be charged on this category of income. As with the income tax rules, provision would be made for a £100,000 exemption, and this would apply to only one testimonial in a person's lifetime, which could come from one event or a series of events held over a 12 calendar month testimonial year.[29] These provisions now form clauses 3-4 of the current Bill.[30]

At the Bill's Committee stage Treasury Minister Robert Jenrick said that although there was great variation in events, "after doing a trawl for evidence in the public domain" the Treasury has estimated that about £72,000 is raised by the average testimonial.[31]

It may be worth emphasising that any income derived from termination awards or sporting testimonials will remain free from *employee* NICs.[32]

5. Scrutiny

The Bill received a second reading on 30 April. The Bill was considered in Committee over two sessions on 14 May, when it was agreed, unamended, without a division.

In its first sitting the Committee took evidence from the Exchequer Secretary, Robert Jenrick with officials from HM Treasury and HMRC, and then from Bill Dodwell (Office of Tax Simplification) and Colin Ben-Nathan (Chartered Institute of Taxation). In its second sitting the Committee considered the Bill, and one new clause tabled by Kirsty Blackman that would have required the Treasury to produce a report on the impact of the Bill.

On this occasion the Minister set out the Government's rationale for introducing a new Class 1A NICs charge on termination awards:

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26 HMRC, *Income Tax: update to - treatment of income from sporting testimonials*, 9 November 2017
27 specifically, s12 & Schedule 2 of FA2016.
28 HC Deb 27 June 2016 c 69
29 See, *Sporting Testimonial Payments: Draft Clauses 2016 – Explanatory Notes*, December 2016
30 The draft Bill included provision to ensure a testimonial committee incurred the Class 1A charge, rather than the employer, where a game had been organised by that committee. The delay in presenting these provisions meant that secondary legislation was laid to prevent this. For details see, *Social Security (Contributions) (Amendment) Regulations SI 2018/120*, Commons Briefing paper CBP8250, 4 May 2018.
31 PBC, *First Sitting*, 14 May 2019 c13
32 *National Insurance contributions (termination awards and sporting testimonials) Bill*, 25 April 2019

> Termination awards that are not earnings are currently charged to income tax on amounts that exceed £30,000, and they are currently entirely exempt from employee and employer national insurance contributions. Allowing the difference between the income tax treatment of that income and the employer national insurance treatment to persist would be confusing, and continue to provide an incentive for employers to manipulate final payments to achieve a tax advantage. [Clauses 1-2] will close that loophole, simplify the tax system, and raise about £200 million in revenue to continue to support the funding of public services in a significant way.[33]

The Minister also underlined that the Bill would not make any wider changes to the taxation of redundancy payments:

> [These clauses] do not introduce a NICs liability on the employee … There remains an unlimited employee national insurance charge exemption on termination awards. Although there is a principled case for greater simplification and alignment by applying employee NICs to that income, the Government have listened carefully to representations made during the consultation, and we believe that our approach strikes the right balance between delivering greater simplification for employers, and fairness to individuals who are undoubtedly in a difficult period of their lives: losing their jobs and having to make the necessary adjustments.
>
> Secondly, the clauses do not reduce or seek new powers to change the existing £30,000 threshold, below which termination awards are entirely tax-free and NICs-free. … That threshold remains generous compared with those of many other countries, including the United States and Germany, that tax income linked to a termination from the very first pound. It will ensure that about 80% of awards are unaffected by [these clauses] … and that awards made as statutory redundancy pay are untouched. We have no plans to lower the threshold in future. Any future Government who wished to do so would need parliamentary approval …
>
> Finally, the clauses do not introduce any legislation that goes beyond mirroring the effect of the income tax rules with respect to the scope of the change. Instead, by virtue of the clause, the rules that determine liability to income tax will apply directly in calculating the amount of employer class 1A NICs payable on termination awards above £30,000. Therefore, clauses 1 and 2 simplify the tax system and reduce the incentive for manipulating payments to achieve tax advantage.[34]

Mr Jenrick went on to argue that it was unnecessary for the Bill to make an explicit requirement for the Government to review its impact:

> First, the Government do not deem it appropriate to conduct reports that have been very narrowly constructed. A report focused exclusively on one aspect of the Government's reforms to termination payments—the distribution analysis, for example—would miss other important aspects such as the impact on the levels of tax avoidance or the funding of public services …
>
> Secondly, the Government have already consulted on this measure in detail. We have published both the draft policy proposals and the legislation for scrutiny. We explicitly considered the impact on employers and individuals as part of the policy and our development …
>
> Finally, the Government have already committed to keeping this measure under review, as new information may become available. The publicly available tax information and impact note, or TIIN, commits the Government to keeping the scheme under review through communication with taxpayer groups affected by the measure and through information collected from tax receipts.
>
> As with all legislation, the Treasury is also required to carry out post-legislative scrutiny of Acts within three to five years of their implementation …The Treasury may well do

33 Public Bill Committee, [Second Sitting](), 14 May 2019 c33
34 *op.cit.* cc33-4

> that before that deadline; it would certainly be required to do so and to report to the Treasury Committee if it had not.[35]

Turning to the second provision in the Bill, the Minister gave details of how the new Class 1A charge would apply to sporting testimonials:

> At present, where a sporting testimonial is non-contractual or non-customary, it can be organised by a third party, rather than the employer, to raise money. As I mentioned earlier, although existing legislation implies that NICs liability already applies, the amounts raised through the third party may not have been subject to NICs because of this long-standing practice and ambiguity. Therefore, this concessionary treatment will end with the passage of this Bill on 6 April 2020, when clause 3 takes effect. Where the employer arranges the testimonial, it is part of the contract or there was an expectation that the sportsperson would be entitled to one, the testimonial is already subject to income tax and NICs in full.
>
> From April 2020, non-contractual and non-customary testimonials arranged by third parties will be subject to NICs above the £100,000 threshold. The third-party testimonial committee will be liable to pay an employer class 1A NICs charge on the amount raised above £100,000, and not on any amount paid below that.
>
> These types of testimonials will not be subject to employee NICs, to ensure that the sportsperson is not adversely affected. I would like to reassure hon. Members that we expect the vast majority of these payments to be unaffected by the Bill, as they will not exceed the threshold of £100,000.[36]

Clause 5 of the Bill deals with the Bill's extent, commencement and short title. Kirsty Blackman tabled an amendment to ensure the impact of these changes were communicated, to employers and employees, as well as to sporting fans attending testimonial matches. Mr Jenrick argued the amendment was unnecessary:

> Without repeating myself, this is one of those Bills that has been around for some time, has been consulted upon and been part of Budget measures … It is well known and is expected by members of the public who take an interest in these matters—perhaps a limited number—and by tax professionals and employers. I do not think that on this occasion a specific public communication awareness campaign is necessary.
>
> On sporting testimonials, and whether there would be value in educating members of the public that in some circumstances a proportion of the money they spend on their ticket prices or donations will go to the Exchequer, it is worth remembering that any contractual testimonial is already subject to income tax, and also to employers' and employees' national insurance contributions, as a result of prior legislation in the Finance Act ... Without exactly knowing the feelings of all sports fans, in many cases I think they would expect that a particularly well-paid sportsperson holding the testimonial likely to raise in excess of £100,000 at the end of a successful career would be paying their fair share of tax, and that their sporting testimonial committee would be paying employers' national insurance. I do not think that fans' automatic assumption would be that well-paid sportspeople would pay no tax on the money they make.[37]

In the event Ms Blackman withdrew this amendment, as well as a new clause she had tabled to require the Government to publish a review of the impact of this legislation. An extract from the exchanges on the Member's new clause is copied below:

> **Kirsty Blackman** : We are not asking for much here. We are asking the Government to tell us whether the law that they have proposed and taken through Parliament—that they have stood up and told us will generate £200 million of revenue—has

35 *op.cit.* cc35-6
36 *op.cit.* cc49-50
37 *op.cit.* cc59-60

> actually generated that revenue. We can make better law if we better understand the effects of the previous legislation that we have passed …
>
> **Robert Jenrick :** … Without repeating comments already made today, I appreciate her legitimate arguments. We feel that the measures in the Bill have been sufficiently consulted on. The long-standing tradition that a new piece of legislation will be reviewed within three to five years will apply. The review's outcome will be in the public domain. It will be sent to the Treasury Committee. Ordinarily, it would be published on its website, and the hon. Lady or any other interested Members would be able to view it there. It will not be a private document only for the consumption of members of the Committee. I hope that will reassure her that we intend carry out a review in due course and that will be available for those who take an interest in it.
>
> **Kirsty Blackman :** I thank the Minister for that response—that I should set in my diary between 2023 and 2025 to regularly check the Treasury Committee's website to see whether the review has been published. I am being sarcastic but, to be honest, it would be better if the Treasury could just commit to sending it to those Members on the original Bill Committee in all circumstances, rather than us having to imagine when the Treasury happens to do the review and have to go on and happen to find it on the right possible day. That would make for better lawmaking in this place. I will not push this because of the drafting error—it would not make sense to press something that has a mistake in it—but I will probably return to it on Report.[38]

The Bill completed its report stage and third reading on 10 June, again without any amendments being made.[39]

At Report stage the House considered three new clauses and one amendment tabled by the Opposition, similar to those debated in Committee, to require the Government to produce assessments of the various aspects of the impact of these changes. In turn the Exchequer Secretary Robert Jenrick reiterated the case he had made in Committee. In the event the House divided on one of these that would have required a series of reviews on the impact of the Bill on the number and size of termination awards; this was defeated by 273 votes to 214. There was a short exchange of views at the Bill's Third Reading. Speaking for the Opposition, Anneliese Dodds argued that Labour had had "many concerns about [the Bill] that have not been addressed during its passage":

> First, on sporting testimonials, we still lack clarity on the scope of the Bill due to its terminological ambiguity. We still do not have any proper projection from the Government with regard to its impact on charitable giving.
>
> On termination payments, we remain deeply concerned that the Bill still leaves the door open to reducing the value of national insurance-free termination payments. As a result of the Bill … we could see a reduction in the amount of NI-free payments going to those who are losing their jobs through secondary legislation. That is completely inappropriate and something we will not accept. The Government themselves have admitted that the measures will exert downward pressure on wages. There will also be a negative impact on termination payments, because they will be passed on from employers to employees.[40]

Kirsty Blackman also opposed the Bill, on the grounds that it would make the tax system "more complicated", that "companies will have a larger administrative burden", and that "those who are already at the bottom of the pile will be receiving less in wages as a result of the changes the Government are making."[41] The House approved the Bill's third reading by 270 votes to 207. In turn the Bill was considered in the House of Lords over 11 June to 23 July and received Royal Assent on 24 July.

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[38] *op.cit.* cc61-2. When she introduced the new clause, the Member acknowledged that it contained a drafting error, and as a consequence would not press it to a vote.

[39] HC Deb 10 June 2019 cc453-478

[40] HC Deb 10 June 2019 cc473-4

[41] HC Deb 10 June 2019 c474