House of Commons Library

Research Briefing

23 November 2022

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Health and Social Care Levy (Repeal) Bill 2022-23

Contents

Summary

The purpose of the Health and Social Care Levy (Repeal) Bill 2022-23 is to repeal the Health and Social Care Levy Act 2021.

The Act established the Health and Social Care Levy, which was first announced by then Prime Minister Boris Johnson in September 2021.

The Levy was introduced to raise funds for health and social care for a three-year period from 2022/23 to 2024/25, including plans to reform the system for charging for adult social care from October 2023. These funds started being raised through an increase in the rates of National Insurance contributions from 6 April 2022 of 1.25 percentage points.

The Health and Social Care Levy (Repeal) Bill went through all stages in the House of Commons on 11 October, and received Royal Assent on 25 October.

What is the Health and Social Care Levy?

In a statement to the House on 7 September 2021, the then Prime Minister Boris Johnson announced plans to substantially increase funding for health and social care over the next three years. This would be funded by a new tax: the Health and Social Care Levy. The Levy would be based on National Insurance contributions (NICs).

From 2023, the Levy would be legislatively separate from NICs and would also apply to individuals working above State Pension age, who are not currently liable to pay NICs on their earnings. The rates of income tax that apply to income from dividends would also be increased, to help to fund these plans.

The Government proposed the Levy would apply to employees and employers liable for Class 1 NICs, and to self-employed people liable for Class 4 NICs.

- In 2022/23 the Levy would be collected by increasing the current rates of NICs by 1.25 percentage points.
- In 2023/24 a formal legal surcharge of 1.25 per cent would replace the increase in NICs rates and apply to those working above State Pension age. The rates of NICs would return to their previous level.

Full details were set out in the Government's, Build Back Better: Our Plan for Health and Social Care, published with the Prime Minister's statement. This included proposals to reform the funding of adult social care, including a new £86,000 cap on the amount anyone would have to spend on their personal care over their lifetime, and changes to the means test for accessing financial support with social care costs. These reforms were to be introduced from October 2023.

In its Economic and Fiscal Outlook published alongside the Autumn 2021 Budget, the Office for Budget Responsibility (OBR) estimated the Levy would raise around £12.4 billion a year for health and social care over the three years 2022/23 to 2024/25.

How was the Levy introduced?

Following Mr Johnson's statement, the Government introduced the Health and Social Care Levy Bill 2021-22 to make provision for these tax measures. The Bill was 'fast tracked' so that all of its stages were taken in the House of Commons on 14 September 2021. The Health and Social Care Levy Act 2021 received Royal Assent on 20 October 2021. Further details are provided in the Commons Library briefing on the Health and Social Care Levy Act 2021.

Provision to increase the rates of tax on dividend income was made by section 4 of the Finance Act 2022.

This was introduced through the National Insurance Contributions (Increase of Thresholds) Act 2022.

Subsequently the first stage of introducing the Levy took place on 6 April 2022, when the rates of NICs for employees, employers and the self-employed were increased by 1.25 percentage points.

The Government's proposal to cancel the Levy

At Prime Minister's Questions on 7 September 2022, the then Prime Minister Liz Truss announced the Government would "reverse the national insurance increase" (which was introduced by the Health and Social Care Levy Act 2021). On 22 September 2022, the then Chancellor Kwasi Kwarteng announced the 1.25 percentage point rise in NICs rates for employees, employers and the self-employed would be reversed from 6 November 2022, and that the Health and Social Care Levy Act 2021 would be cancelled.

To give effect to these changes, the Health and Social Care Levy (Repeal) Bill 2022-23 was introduced the same day. The Bill, with its explanatory notes, is published on the Bill's page on Parliament.uk, which also gives details of its parliamentary progress to date. HM Revenue & Customs (HMRC) has published an impact assessment of the Bill.

Following the Chancellor's announcement, in her business statement later the same day the Leader of the House Penny Mordaunt announced that all stages of the Bill in the House of Commons would take place on 11 October.

Subsequently on 11 October the House approved a motion for all of the Bill's stages in the Commons to be taken that day, and the Bill was agreed, unamended (Votes and Proceedings No.50 (PDF), 11 October 2022). Following the Bill's consideration by the House of Lords, the Health and Social Care Levy (Repeal) Act 2022 received Royal Assent on 25 October (Votes and Proceedings No.59 (PDF), 25 October 2022).

A Treasury factsheet on the Bill noted the increase in tax rates on dividend income, which were announced along with the Levy and took effect from April 2022, would be reversed from April 2023. The factsheet also stated that "funding for health and social services will be maintained at the same level as if the Levy was in place." However, in his Autumn Statement to the House of Commons on 17 November 2022 the Chancellor Jeremy Hunt stated that the cap on care costs and the reforms to the means test would be delayed for two years, with the funding allocated "to allow local authorities to provide more care packages."

Further information

Commons Library briefing Health and Social Care Levy Act 2021 discusses the background to the Government's decision to introduce the Ley and examines the legislation to implement it.

Commons Library briefing National Insurance contributions: an introduction gives an overview of the National Insurance system, and the reforms that have been made to it in recent years. The briefing was last updated on 16 December 2019.

Commons Library briefing Proposed reforms to adult social care (including cap on care costs) examines the proposed changes to how people pay for social care, and the Government's plans for wider reform. The briefing was updated on 22 November 2022, to take account of the announcement about social care reform in the Autumn Statement 2022.

1 Background

1.1 Introducing the Health and Social Care Levy

Boris Johnson's statement on 7 September 2021

National Insurance contributions (NICs) are paid by employees, employers and the self-employed, and used to fund contributory benefits – primarily the state pension. Entitlement to contributory benefits is based on someone's National Insurance payment record.[1]

On 7 September 2021 the then Prime Minister Boris Johnson gave a statement to the House announcing the introduction of a new tax: the Health and Social Care Levy, to substantially increase funding for health and social care.[2]

The new Levy would be based on NICs, and introduced in two stages:

- In 2022/23 the rate of primary Class 1 NICs for employees charged on their earnings, the rate of secondary Class 1 NICs for employers charged on their employees' earnings, and the rate of Class 4 NICs for the self-employed charged on their trading profits, would be increased by 1.25 percentage points.
- In 2023/24 a separate Levy set at 1.25% would be introduced, replacing the temporary increase in NICs rates. Liability to the Levy would be extended to individuals in employment who are over State Pension age. At present pensioners are not liable to pay NICs on any earnings they receive from employment.[3]

Legislation to establish the Levy

Statutory provision for the Levy was made by the Health and Social Care Levy Act 2021.[4]

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1 HMRC, What National Insurance is for, ret'd October 2022. For details of NICs rates and thresholds see, HMRC, Rates and allowances: National Insurance contributions, updated 9 June 2022.

2 HC Deb 7 September 2021 cc153-5

3 HM Government, Build Back Better: Our Plan for Health and Social Care, CP 506, September 2021 para 80, para 91-92

4 Further background is provided in Commons Library briefing CBP9310, Health and Social Care Levy Act 2021, 6 October 2022.

The then Financial Secretary Jesse Norman wrote to the Treasury Select Committee when the Health and Social Care Levy Bill was introduced, and set out its rationale as follows:

> Bringing this Levy into law is not a step which the Government takes lightly. It is intended to lead to a significant permanent increase in the funding available for health and social care across the UK. Against the backdrop of the wider fiscal position, the Government's judgement has been that it would not be possible to fund this from existing tax revenues, nor would it be responsible to fund it through borrowing. Thus a new Levy or similar is the only fiscally responsible way to provide these vital services with the support they need.[5]

Alongside the Autumn 2021 Budget the OBR published its Economic and Fiscal Outlook. In this the OBR estimated that these measures would raise between £12.4bn and £13bn a year over the five year period 2022/23 to 2026/27.[6]

Prior to the Government's announcement in September 2022 that it would cancel the Levy it did not publish an updated estimate for the amount it anticipated the Levy would raise.[7] However, in February 2022 the OBR provided a breakdown of its costing – which had been published with the Autumn 2021 Budget – to set out the components of the Levy's yield from employers, employees and the self-employed.[8]

HMRC published an impact assessment of the Health and Social Care Levy Bill when this was introduced.[9] In a letter to the Treasury Select Committee at this time the Financial Secretary explained that the assessment did not include figures for the operational cost to HMRC for the Levy, but final estimates would be published before April 2022. The Minister noted that "the current estimate of HMRC operational costs is in the range of £40-50 million including IT costs and resource."[10]

In a letter to the Committee in April 2022, the then Financial Secretary Lucy Frazer said, "the Levy will initially be introduced as an increase to National Insurance contribution rates for 2022-23 only, and then become a separate tax from April 2023 onwards. HMRC's delivery programme will continue beyond April 2022 and so we will provide a further estimate of costs ahead of April 2023."[11]

5 Treasury Committee, Correspondence from the Financial Secretary to the Treasury relating to the Health and Social Care Levy Bill, (PDF), 10 September 2021

6 Autumn Budget & Spending Review (PDF), HC 822, October 2021 (Table 5.1 – item 10); OBR, Economic and Fiscal Outlook (PDF), CP545, October 2021 para A10-A19.

7 PQ15107, 19 April 2022; and, PQ154373, 25 April 2022

8 OBR, Supplementary forecast information release: Health and Social Care Levy costing breakdown, 10 February 2022

9 HMRC, Health and Social Care Levy Policy Paper, 9 September 2021. An updated version was published on 13 December 2021.

10 Treasury Committee, Correspondence from the Financial Secretary to the Treasury relating to the Health and Social Care Levy (PDF), dated 14 September 2021

11 Treasury Committee, Letter from the Financial Secretary to the Treasury, relating to the Health and Social Care Levy delivery costs (PDF), 6 April 2022

Spring Statement 2022: an increase in NI thresholds

In the Autumn 2021 Budget the then Chancellor Rishi Sunak announced that NI thresholds would be increased in line with inflation for 2022/23.[12] In his Spring Statement on 23 March 2022 Mr Sunak confirmed that the first stage of the Levy's introduction would proceed, with the rise in Class 1 and Class 4 NICs rates from 6 April 2022. However, Mr Sunak also announced an increase in NI thresholds for the coming year, to align the Primary Threshold (for employees) and the Lower Profits Limit (for the self-employed) with the personal income tax allowance.[13] Details were set out in an impact assessment published by HMRC:

> The Primary Threshold will be set at £190 a week from 6 April 2022, and rise to £242 a week from 6 July 2022. This is the earliest date that will allow all payroll software developers and employers to update their systems and implement changes. The threshold will be set at £242 a week for 2023/24, aligned with the personal allowance at £12,570.
>
> The Lower Profits Limit will be set at £11,908 for 2022/23, so that the benefit the self-employed receive from the higher annual threshold is in line with that received by employees. It is to be set at £12,570 for 2023/24, aligned with the personal allowance.
>
> From April 2022 the threshold for paying flat-rate Class 2 NICs will be aligned with the Lower-Profits Limit, with provision to protect the benefit entitlement of those with earnings between the Small Profits Threshold and the Lower Profits Limit.[143]

Statutory provision for this increase in NI thresholds was made by the National Insurance Contributions (Increase of Thresholds) Act 2022.[15]

The allocation of receipts from the Levy for health and social care

Following his statement the Chancellor gave evidence to the Treasury Committee on 28 March 2022. On this occasion Mr Sunak was asked by Conservative MP Anthony Browne, who is a member of the Committee, about the implications of the rise in NI thresholds for the Government's plans to boost expenditure on health and social care, as the Government had committed to allocating the receipts from the Levy to this funding:

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12 Provision for this was made by the Social Security (Contributions) (Rates, Limits and Thresholds Amendments and National Insurance Funds Payments) Regulations 2021 (SI 2021/157).

13 HC Deb 23 March 2022 cc337-373

14 HMRC, National Insurance: Increase to Primary Threshold and the Lower Profits Limit and reduction in Class 2 liability of those earning between the Small Profits Threshold and Lower Profits Limit, 23 March 2022. See also, HM Treasury, Spring Statement 2022: Factsheet on Personal Tax, 23 March 2022.

15 See also, HM Treasury press notice, Tax cut worth up to £330 comes in for 30 million workers, 6 July 2022; Low Incomes Tax Reform Group press notice, Check the small print about the National Insurance changes this month, 12 July 2022

> **Anthony Browne**: You mentioned just now, and have done so many times before, that the increase in national insurance—the health and social care levy—is hypothecated for the NHS and social care. You have now reduced the threshold, which will mean less income. Does that mean there will be less money for health and social care?
>
> **Rishi Sunak**: No, for a couple of reasons. First, we have set those budgets and they are the budgets, so the NHS and social care will receive the budgets that they were given at spending review. All the fluctuations up or down in the levy revenue over the short term will be absorbed more generally.
>
> More specifically, the vast majority of the levy revenue was raised above the £12,500 level; just a few hundred million pounds—about £600 million, from memory—was raised below. That is, essentially, broadly offset by a slight increase in the forecast revenues from the levy in general. In general, there is not a massive change, but even if there was, there is not a penny less going to the health and social care system.
>
> **Anthony Browne**: In what way is it actually hypothecated if the budget is already set?
>
> **Rishi Sunak**: Well, it is hypothecated, and then we set a budget based on that. I don't think it would be right for the NHS and social care budgets to be cut in the middle of a period if, for whatever reason, the levy revenue came in lower. Over time, it is a hypothecated revenue stream, but I think for public policy and planning purposes, it is right that you will have periods where it is set and then they can be adjusted at the next spending review cycle.[16]

When the Government first announced the Levy some commentators expressed scepticism that there would be any direct link between the Levy's receipts and the funding for health and social care.[17]

Following the Spring Statement Paul Johnson, director of the Institute for Fiscal Studies, commented, "the absurdity of the idea that the NI increase, which will become the health and social care levy, is in any way hypothecated to health and social care was laid even more bare yesterday. The cut in NI receipts from yesterday's new measure is not leading to, and of course should not lead to, a cut in funding for the NHS and social care."[18]

Anthony Browne asked both Dr Gemma Tetlow (chief economist, Institute for Government) and Torsten Bell (chief executive, Resolution Foundation) about this issue when they gave evidence to the Treasury Select Committee on the Spring Statement. Dr Tetlow suggested that "there is no real sense in which this tax is used for the NHS or social care" while Mr Bell said, "it was vaguely

16 Treasury Committee, Oral evidence: Spring Statement 2022, HC 1226, 28 March 2022 Qs159-160

17 For example, Ben Zaranko, An ever-growing NHS budget could swallow up all of this week's tax rise, leaving little for social care, IFS Observation, 8 September 2021.

18 Paul Johnson, Spring Statement 2022: Opening Remarks, Institute for Fiscal Studies, 24 March 2022. See also comments by the Financial Times economics editor Chris Giles (@ChrisGiles_, The complete uselessness of tax hypotecations, (Twitter), 23 March 2022 [Accessed 4 October 2022]. Available from: https://twitter.com/ChrisGiles_/status/1506696426302185473

true as a statement of intent in September […] but we are now done, so it is now dead."[19]

At the time HMRC published guidance for employers to highlight the rise in NICs rates for 2022/23 on payslips.[20] It was anticipated that from 2023/24 the Levy would be itemised as a separate deduction on payslips.[21]

1.2 The Government's decision to cancel the Levy

The Chancellor's statement and the Government's Growth Plan

As part of her campaign for the leadership of the Conservative Party, Liz Truss proposed reversing the first stage of the implementation of the Levy – the rise in NICs rates that had applied from April 2022.[22] Following her election Ms Truss confirmed during Prime Minister's Questions on 7 September that the Government would "reverse the National Insurance increase."[23]

On 22 September the then Chancellor Kwasi Kwarteng announced that the Government was introducing legislation to reverse the 1.25 percentage point rise in NICs rates for employees, employers and the self-employed from November, and to cancel the Health and Social Care Levy.[24] Further details were set out in a written statement by the Economic Secretary to the Treasury Richard Fuller:

> Today the Government have introduced the Health and Social Care Levy (Repeal) Bill. This Bill delivers the Prime Minister's promise to reverse the temporary 1.25 percentage point increase in national insurance rates from 6 November and will cancel the levy coming in as a separate tax from April 2023. […]
>
> The Government are implementing the change as soon as possible, to maximise the cash benefit for people and businesses this year. Most employees will receive a cut to their national insurance directly via payroll in their November pay.
>
> The self-employed will pay NICs at 9.73% on earnings between £11,909 and £50,270 per annum. The blended figure is equivalent to seven months at the higher rate 10.25% and the remainder at 9%

19 Treasury Committee, Oral evidence: Spring Statement 2022, HC 1226, 30 March 2022 Qs330, 334
20 HMRC, Prepare for the Health and Social Care Levy, February 2022; HMRC, Employer Bulletin: February 2022, 16 February 2022
21 PQ133937, 10 March 2022; PQ156622, 25 April 2022
22 "Liz Truss launches Tory leadership campaign ahead of second-round vote", Financial Times, 14 July 2022; Stuart Adam et al., Tax and spending policies of Conservative leadership contenders, Institute for Fiscal Studies, 21 July 2022
23 HC Deb 7 September 2022 c231
24 HM Treasury press notice, National Insurance increase reversed, 22 September 2022

> While the tax rise will be cancelled, funding for health and social care services will be maintained as planned. The additional funding used to replace the expected revenue from the levy will come from general taxation. The Government remain committed to ensuring fiscal discipline over the medium term.[25]

Following the introduction of the Health and Social Care Levy (Repeal) Bill, HM Revenue & Customs published an impact assessment. This set out in a little more detail how the Bill would amend NICs rates:

> With effect from 6 November, the Class 1 NICs rate reduction will have effect prospectively by reducing the main and additional rates of Class 1 employee NICs by 1.25 percentage points to 12% and 2%. Class 1 employer NICs will also be reduced by 1.25 percentage points to 13.8%. In the case of NICs rates which apply annually there will be transitional arrangements to reduce the current rates. Class 1A (not paid monthly through RTI) and 1B will be set at 14.53% for the 2022-23 tax year.
>
> The main and additional rates of Class 4 will be set at 9.73% and 2.73% respectively[26] for the 2022-23 tax year. In the case of Class 1 rates which apply annually, particularly directors, the main and additional rates will be set at 12.73% and 2.73% respectively and have effect for the tax year 2022-23 from Royal Assent of the Bill.[27]
>
> The repeal of the Health and Social Care Levy will take place immediately upon Royal Assent of the Bill.
>
> From 6 April 2023, the NICs rates applicable in the 2021 to 2022 tax year will apply.[28]

The following day the then Chancellor presented the Government's Growth Plan in a statement to the House.[29] In his statement, which set out a series of major tax and spending measures, Mr Kwarteng confirmed the cancellation of the Levy, adding that the increase in the rates of tax on dividend income – which had been introduced with the increase in NICs rates in April 2022 – would also be reversed from April 2023.[30]

HM Treasury published a factsheet on these changes, which gave details of when taxpayers could expect to benefit from the cut in NICs rates:

> **When will people receive the extra cash?**

25 Written Statement: Health and Social Care Levy (Repeal) Bill, HCWS301, 22 September 2022

26 Class 1A, 1B and Class 4 NICs are assessed on an annual basis, therefore an average rate has been applied to ensure consistency and fairness with Class 1 NICs payers who have paid the increased NICs rate since April 2022.

27 Class 1 NICs paid by directors are assessed on an annual basis, therefore an average rate has been applied to ensure consistency and fairness with in-year changes to other rates of NICs.

28 HMRC, Cancellation of the Health and Social Care Levy and in-year reductions in National Insurance contributions rates, 23 September 2022

29 For details see, Commons Briefing paper CBP9624, September 2022 fiscal statement: a summary, 3 October 2022.

30 HC Deb 23 September 2022 cc937-8. See also, HM Treasury, The Growth Plan 2022, CP743, September 2022 para 4.28-9

- Most employees will receive the cut in their November 2022 pay directly via their payroll.

- Basic rate taxpayers will on average see a gain of approximately £75 in 2022-23 rising to £175 in 2023-24. For higher rate taxpayers, these figures are on average approximately £300 in 2022-23 rising to £700 in 2023-24. For additional rate taxpayers, the gain will be on average approximately £1,650 in 2022-23 rising to £3,890 in 2023-24.

- Due to the complexities of some payroll software systems, there will be some people who receive the cut backdated in December 2022 or January 2023.

- Although individuals should contact their employer for refunds as a first port of call in all circumstances, there may be circumstances where individuals may need to apply to HMRC for a refund (for example, if their employer is no longer trading, or if an individual has moved roles and their previous employer has confirmed they are unable to issue a refund retrospectively themselves). [...]

What does this mean for the self-employed ?

- Self-employed people and company directors will pay a blended rate of National Insurance – taking into account the changes in rates throughout the year – when they submit their annual self-assessment return.[31]

The factsheet also underlined the point, made in the Economic Secretary's written statement, that "funding for health and social care services will be maintained at the same level as if the Levy was in place."[32]

The Office for Budget Responsibility (OBR) were not asked to produce a forecast for the Chancellor's statement.[33] It is normal practice for the OBR to produce a forecast when the Chancellor presents the Budget, and the forecast will include the OBR's estimates of the financial impact of individual policy measures.[34]

However, the Treasury's Growth Plan included provisional costings for the measures set out in Mr Kwarteng's statement. The financial cost of reversing the raise in NICs rates and cancelling the Levy is estimated to be just over £6 billion in 2022/23, rising to £14.3 billion in 2023/24. By comparison cancelling the rise in dividend income tax rates is estimated to cost just over £1.4 billion in 2023/24.[35]

31 HM Treasury, Reversal of the Health and Social Care Levy Factsheet, 23 September 2022

32 As above

33 Treasury Committee, Correspondence with the Chancellor of the Exchequer, relating to Office for Budget Responsibility forecasts (PDF), 20 September; and, Correspondence with the Chancellor of the Exchequer, relating to Office for Budget Responsibility forecasts (PDF), 22 September 2022

34 For details see, Commons Library briefing CBP5657, The Office for Budget Responsibility.

35 HM Treasury, The Growth Plan 2022, CP743, September 2022 p26 (Table 4.2 items 1-3 (Levy) and item 4 (Dividend Tax)).

On 26 September Mr Kwarteng announced that he had commissioned the OBR to produce a forecast to be published alongside a statement he would make later in the autumn on the Government's fiscal rules.[36]

On 17 October the Chancellor Jeremy Hunt announced a series of changes to the Government's fiscal plans.[37] Mr Hunt confirmed that nearly all of the tax measures announced in the Growth Plan on 23 September would be reversed, apart from the cancellation of the Health and Social Care Levy, as well as certain cuts in stamp duty land tax that had already taken effect.[38]

Prior to this, on 14 October, following his appointment as Chancellor,[39] Mr Hunt confirmed he would make a fiscal statement with the OBR's full forecast, on 31 October.[40] Subsequently in a letter to the Treasury Committee the Chancellor announced that the date of the Autumn Statement and the accompanying OBR forecast would be moved to 17 November 2022.[41]

The explanatory notes to the Bill state that HMRC anticipate that the in-year reduction in NICs rates will lead to "increased call volumes and customer contact", and that IT changes to support this measure will involve an "additional cost" for HMRC.[42] HMRC's impact assessment states that these costs are "currently being quantified."[43]

Responses to the Government's decision

There was relatively little comment on the Government's decision to cancel the Levy, compared with the other tax measures that the Chancellor set out in his fiscal statement on 23 September.[44] In their commentary on the Chancellor's statement the Institute for Fiscal Studies presented analysis of the Levy's cancellation along with the proposals to cut the basic rate of tax to

36 HM Treasury press notice, Update on Growth Plan implementation, 26 September 2022. HMRC's impact assessment confirms that the Treasury's costings "have been produced using the economic forecast from Spring Statement 2022 […] These costings will be finalised and accounted for in the public finances at the next forecast." (HMRC, Cancellation of the Health and Social Care Levy and in-year reductions in National Insurance contributions rates, 23 September 2022).

37 HM Treasury press notice, Chancellor brings forward further Medium-Term Fiscal Plan measures, 17 October 2022

38 HC Deb 17 October 2022 cc395-430

39 10 Downing Street press notice, Exchange of letters between Kwasi Kwarteng and the Prime Minister, 14 October 2022

40 HM Treasury press notice, Government update on Corporation Tax, 14 October 2022

41 Treasury Committee, Correspondence from the Chancellor of the Exchequer, relating to the Autumn Statement and the Office for Budget Responsibility forecasts, 26 October 2022

42 Bill 155-EN, 22 September 2022 p7

43 HMRC, Cancellation of the Health and Social Care Levy and in-year reductions in National Insurance contributions rates, 23 September 2022

44 "National Insurance rise to be reversed in November", BBC News, 22 September 2022; "Health secretary sets up £500mn social care fund to boost NHS", Financial Times, 22 September 2022.

19%, scrap the 45% additional rate, as well as the continued freeze to personal allowances.[45]

Similarly in their detailed commentary on the Growth Plan the Resolution Foundation (RF) discussed these measures in the round, although they noted that "the tax cuts confirmed yesterday are strongly focused on higher-income households, driven by the reversal of the rise in National Insurance and the scrapping of the additional 45p rate of Income Tax, along with associated cuts to Dividend Tax."[46] On the news of the Government's decision to cancel the Levy, Karl Handscomb (senior economist, RF) was critical that most of the benefit of the cancellation in NICs rate rises would go to those on higher incomes:

> While raising National Insurance was a flawed way to fund social care provision that would initially largely benefit non-National Insurance payers, cutting NICs is an equally flawed way to tackle Britain's cost-of-living crisis that is hitting lower-income households the hardest.
>
> This policy will give away most to those who need the least support. The poorest tenth of households will gain just £11.50 this year, while the top 10 per cent on average gain 60 times that amount. Twice as much of the permanent gains will go to the richest 5 per cent of households as the entire bottom half of the income distribution.[47]

John Cullinane, the director of public policy at the Chartered Institute of Taxation (CIOT), raised concerns that the implementation date for this measure might present challenges for both employers and HMRC:

> We note that HMRC have acknowledged that the timeline for this change is tight and that some employers may not be able to implement the changes in time. HMRC have indicated that they will be directing employees to their employers to correct any overpaid NICs in the first instance.
>
> While 6 November is probably do-able for most payroll providers that is only because we understand some software providers have already started rewriting their software in anticipation. Perhaps the bigger question is whether HMRC can update their systems in time, although they have provided some assurance that their Basic PAYE tool will be automatically updated for these changes.[48]

Mr Cullinane went on to address the implications of cancelling the Levy:

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45 Stuart Adam et al., Mini-Budget response, Institute for Fiscal Studies, 23 September 2022. On 3 October the Chancellor announced that the Government would **not** proceed with the proposal to scrap the 45% additional rate (see, Commons Briefing paper CBP9624, September 2022 fiscal statement: a summary, 3 October 2022).

46 Torsten Bell et al., Mini budget analysis: Blowing the budget, Resolution Foundation, 24 September 2022 p3

47 Resolution Foundation press notice, Reversing the National Insurance rise will give most to those who need help the least, 22 September 2022

48 CIOT press notice, National Insurance reversal – CIOT comments on challenging timetable, 22 September 2022. See also, "Third time lucky: NI changes from November 2022", Taxation, 3 October 2022.

When the Health and Social Care Levy was announced we said that it would:

- Increase the gap between the taxes the government get from someone being employed and someone being self-employed
- Increase the gap between tax people pay on their employment income and tax they pay on income from renting out property
- Increase the share of taxes that come from employment income overall, partly in order to help people retain and pass on their wealth
- Potentially set a precedent for including people of pensionable age within the scope of National Insurance

Today's announcement, and the legislation published this afternoon, reverses these effects, but only returns us to the position of six months ago.[49]

[49] As above. See also, CIOT press notice, CIOT comments on Health and Social Care Levy announcement, 7 September 2021.

2 The Bill

2.1 A summary of the Bill

The Bill is comprised of three clauses and one Schedule.

Clause 1 would repeal the Health and Social Care Levy Act 2021.

Clause 2 would provide for transitional arrangements for the reduction in NICs rates to apply in 2022/23.

Clause 2(1) would provide for the higher rates of Class 1 NICs, introduced by the Health and Social Care Levy Act 2021, to be cancelled from 6 November 2022.

Clause 2(2) would set the rates of Class 4 NICs for 2022/23; specifically, the main rate at 9.73% and the additional rate at 2.73%. Initially the Health and Social Care Levy Act 2021 had set these rates for 2022/23 at 13.25% and 3.25%, respectively (section 5 of the Act). The decision to set these rates is based on the fact that Class 4 NICs are assessed on an annual basis. As the Bill's explanatory notes comment: "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."[50]

Clause 3 provides for the Bill's short title and defines a number of terms used in the Bill.

The Schedule to the Bill would make a series of transitional and consequential provisions. Notably paragraph 9 to the Schedule would provide HM Treasury with regulation-making powers to make consequential provisions, as the Department considered "appropriate in the consequence of this Act." These regulations could make amendments to primary legislation (ie, this is a 'Henry VIII' power). They could also make retrospective provisions back to 6 April 2022. These regulations would be subject to the negative procedure.[51]

50 Bill 155-EN, 22 September 2022 para 22

51 Bill 155-EN, 22 September 2022 para 34

National Insurance contributions are a UK-wide tax. The Bill extends to England, Wales, Scotland and Northern Ireland. There is no provision in the Bill that is within the legislative competence of the devolved legislatures.[52]

2.2 Fast track procedure

In her Business Statement on 22 September the Leader of the House Penny Mordaunt announced that all stages of the Bill would be taken on 11 October.[53]

Enacting legislation this way is known as ‘fast-tracking’.[54]

In 2009, the House of Lords Constitution Committee published a report on this type of legislation – that is, “bills … which the Government of the day represents to Parliament must be enacted swiftly … and then uses its power of legislative initiative and control of Parliamentary time to secure their passage.”[55] The Committee recommended that the Government should explain the reasons for fast-tracking legislation; what consultation had taken place with interested parties; the steps taken to maximise parliamentary scrutiny; and mechanisms in place for post-legislative scrutiny. It also recommended that there should be a presumption in favour of sunset clauses in fast-track legislation.[56] The Cabinet Office’s Guide to Making Legislation states that when a Bill is fast-tracked, the Government uses the Bill’s explanatory notes to address these questions.[57]

The explanatory notes to the Health and Social Care Levy (Repeal) Bill address this issue, as follows:

> 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?**

52 Bill 155-EN, 22 September 2022 p8
53 HC Deb 22 September 2022 c810
54 For details see, Commons Library briefing CBP5256, Fast-track legislation. Commons Library briefing CBP4974 Expedited legislation: Public bills receiving their Second and Third Readings on the same day in the House of Commons, provides a list of public bills since 1979 where the main Commons stages (Second and Third Reading) have been passed within one day.
55 Select Committee on the Constitution, Fast-track Legislation: Constitutional Implications and Safeguards, 7 July 2009, HL 116-I 2008-09, para 27
56 Select Committee on the Constitution, Fast-track Legislation: Constitutional Implications and Safeguards, 7 July 2009, HL 116-I 2008-09
57 Cabinet Office, Guide to Making Legislation, 2022 para 10.43

> 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?**
>
> 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?**
>
> 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?**
>
> 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?**
>
> A European Convention on Human Rights analysis is included in these Explanatory Notes for the Joint Committee on Human Rights.[58]

The legislation to establish the Health and Social Care Levy was 'fast-tracked' in this way.[59]

2.3 The Bill's scrutiny

On 11 October the House approved a motion for all of the Bill's stages in the Commons to be taken that day, and the Bill was agreed, unamended.[60]

Introducing the Bill on Second Reading the Chief Secretary to the Treasury Chris Philp underlined the fact that abolishing the 2021 Act would not affect the amount of money the Government would allocate to health services and social care:

58 Bill 155-EN, 22 September 2022 pp3-4

59 On 14 September 2021 the House approved a motion for all of the stages of the Health and Social Care Levy Bill 2021-22 to be taken in the Commons on that day, and, following this, the Bill was agreed, unamended (Votes and Proceedings No.47, 14 September 2021).

60 Votes and Proceedings No.50, 11 October 2022; HC Deb 11 October 2022 cc56-100

> To be clear, the funding that was to be provided via the levy for both health and social care, which in the case of social care amounted to £5.4 billion over the three-year spending review period, is completely unaltered. There is no change to that funding at all. […] Instead of funding it from the health and social care levy, it will be funded differently, partly by general taxation and other means, which will be set out in the medium-term fiscal plan.[61]

The Minister went on to summarise the Government's case for scrapping the Health and Social Care Levy:

> That brings me to the rationale for why we are repealing the levy. First, it is so that people can keep more of their own money, particularly at this time when that is so critical with the cost of living. … I and the Chancellor think it is also important to boost incentives to work. We want to make sure that working is as attractive as possible and, by lowering the taxes on work, I believe that we will do that.[62]

Generally other MPs who contributed to the debate supported the Bill.

Speaking for the Opposition James Murray said, "we welcome this U-turn, as it puts an end to a tax rise that we said was wrong from the very start."[63] Speaking for the SNP Richard Thomson said, "SNP Members never believed that a levy on national insurance was the way to achieve the objectives of meeting those challenges." He went on to say:

> It must be fairer, as a general principle, to spread the burden by increasing income taxes across the board on both earned and unearned income, as well as to look again at areas such as inheritance taxes and capital gains, so that the totality of the wealth right across the nations of these islands can be taken into consideration when sharing that burden.[64]

Speaking for the Liberal Democrats Sarah Olney said, "we are really pleased that it is being reversed, and we support this Bill. […] It has always been our argument that tax could have been more productively raised by an expanded windfall tax, which we have been calling for since last autumn."[65]

In the event the Bill received a Second Reading without a vote. The House proceeded to complete the remaining stages of the Bill, which received a Third Reading without a vote, unamended.

The House divided once, on a new clause tabled by the Opposition. As James Murray, speaking for the Opposition explained, the new clause would require the Government to publish an "assessment of the Treasury's plans to raise an amount of revenue equivalent to the proceeds of the levy in the context of its approach to general taxation and borrowing."[66] Opposing the new clause Economic Secretary Richard Fuller said:

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61 HC Deb 11 October 2022 c58, c61
62 as above cc59-60
63 as above c63
64 as above cc71-2
65 as above cc74-5
66 HC Deb 11 October 2022 c87

> The Chancellor and the Government are committed to fiscal sustainability, ensuring that debt to GDP falls over the medium term, and the Chancellor will set out further details in his medium-term fiscal plan on 31 October. [...] [The] broader context of the medium-term fiscal plan in the round is the right way to assess these changes, not via the specific measures in new clause 1.[67]

The new clause was rejected by 257 votes to 190.

Following its consideration by the House of Commons the Bill was given a second and a third reading in the House of Lords on 17 October,[68] and received Royal Assent on 25 October.[69]

[67] as above c95

[68] HL Deb 17 October 2022 cc967-991

[69] House of Commons, Votes and Proceedings No.59 (PDF), 25 October 2022

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