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National Insurance Contributions Bill : Committee Stage Report

Bill No 79 of 2010-11

RESEARCH PAPER 10/83 14 December 2010

The *National Insurance Contributions Bill* increases the rates of National Insurance contributions (NICs) paid by employees, employers and the self-employed from April 2011 – and provides for the regional employer contributions Holiday for new businesses. The Bill was published on 14 October and given a second reading in the Commons on 23 November. It was considered in Public Bill Committee in four sittings between 2 and 9 December. It was not amended.

This paper provides a summary of the Bill's scrutiny in the House to date. An introduction to the Bill is provided by the Library paper prepared for the Bill's second reading debate (Library Research paper 10/76, 17 November 2010).

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Summary

The *National Insurance Contributions Bill 2011-12* contains two measures: it increases all the rates of National Insurance contributions which are paid by employees, employers and the self-employed by 1 percentage point from April 2011, and it introduces a three-year regional National Insurance Holiday for new businesses. The first of these measures had been announced in two stages by the Labour Government in its Pre-Budget Reports in 2008 and 2009, and was confirmed in the Coalition Government's first Budget on 22 June 2010. It is estimated to raise just over £9 billion in 2011/12.

The National Insurance Holiday for new businesses was also announced in the June 2010 Budget. The scheme is open to any new business set up from the date of the Budget to 5 September 2013. Under the scheme employers are allowed to deduct the amount of NICs that they would pay on employee earnings for up to ten employees taken on during their first year of business. This deduction is capped at £5,000 per employee. It is estimated that this tax relief will cost £940 million over its three year life. The scheme is *not* UK-wide: new businesses located in London, the south-east and the eastern-region are not eligible to apply. This reflects the Government's objective in setting up the scheme: to encourage new entrepreneurs to set up in business in areas with a high proportion of public sector employment.

The Bill was given a second reading in the Commons on 23 November without a vote. In general there was cross-party support for both of the measures in the Bill. Debate focused on the coverage of the Holiday, and the case for extending it across the country or targeting it more closely to areas of deprivation or relatively high unemployment.

The Bill was considered in Public Bill Committee in four sittings between 2 and 9 December. No changes were made to the Bill.

Oral evidence was taken at the Committee's first sitting. Over the other three sittings there were several divisions on Opposition amendments: specifically, amendments to

- extend the Holiday geographically to cover the whole of the UK;
- allow non-trading charities to claim relief under the Holiday; and,
- permit new businesses to aggregate more than one part-time post into a claim for a single full-time employee.

All these amendments were negatived on division.

The Opposition also tabled an amendment to provide for most of the increase in receipts from the rise in NICs rates to go to the NHS rather than into the NI Fund. They chose to withdraw the amendment at the conclusion of debate but indicated that they would want to return to this issue at the Report stage of the Bill.

1 Introduction

In the March 2010 Budget the then Chancellor Alistair Darling announced that all the rates of National Insurance contributions (NICs) charged on employees, employers and the self-employed would be increased by 1 percentage point from April 2011. Alongside this change the ‘primary threshold’ – the level of earnings at which employees start to pay NICs – would be increased significantly, so that employees earning up to £20,000 a year would be unaffected by the rate rise. Taken together these measures were estimated to raise just under £6.0 billion in 2011/12.[1]

This tax increase was strongly criticised by the Opposition and many in the business community for the impact it would have on employers’ incentives to take on workers, and the threat it might pose to economic recovery. In its General Election manifesto the Conservative Party proposed recycling the proceeds from this measure by increasing the ‘secondary threshold’ – the level of employee earnings at which employers start to pay the tax – with an additional increase in the primary threshold. The establishment of the Coalition Government resulted in both the Conservatives and Liberal Democrats giving up some elements of their respective manifestoes to make a joint agreement. In the area of personal tax, the new Government announced that it would substantially increase the personal allowance from April 2011, a measure taken from the Liberal Democrat manifesto. This would then be funded in part by not proceeding with the Conservative proposal for a higher primary threshold – though the Party’s proposal for a higher secondary threshold would go ahead.

In his first Budget the Chancellor George Osborne announced the rates of NICs would go up by 1% from April 2011 as anticipated, along with the increase in the primary threshold proposed by the Labour Government, and the increase in the second threshold set out in the Coalition Agreement. The cost of the higher secondary threshold would be £3.13 billion in 2011/12 – in effect, this halved the Exchequer yield from the previous Government’s NICs increase. In addition the Chancellor proposed a new scheme to relieve new businesses of the NICs they would have to pay for taking on new staff: under the ‘NI Holiday’ a new business would be exempt for up to £5,000 of employer NICs for each of the first 10 employees hired in their first year of life. The scheme would run for three years only, and was estimated to cost £940m in total. Only those regions outside London, the south-east and the eastern-region would be eligible, to encourage private sector jobs in areas which were relatively reliant on public sector employment. Mr Osborne also announced that the personal allowance would rise by £1,000 to £7,475 from April 2011 – which would cost about £3.5 billion in its first year.[2]

The *National Insurance Contributions Bill 2010-11* implements two elements of this package of changes to personal taxation: the rise in NICs rates and for the NI Holiday for regional new businesses. Changes to NI thresholds can be made by secondary legislation, which has not been laid before the House as yet. It is anticipated that provision to set the personal allowance for next year will be included in the *Finance Bill 2011*.

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1 *Budget 2010* HC 451 March 2010 p121, p140 (Table A2 : items b-e; Table A11 : items m-r). The 1% higher NICs rates were estimated to raise £9.04 billion, while the higher primary threshold was projected to cost £3.07 billion.

2 *Budget 2010* HC 61 June 2010 p40 (Table 2.1 : items 10-12)

2 Second reading : 23 November 2010

The Exchequer Secretary David Gauke introduced the Bill. He acknowledged that the Bill would increase NICs rates by 1% from April 2010, as announced by the previous Government, but went on to argue that the approach taken by the Coalition Government would mitigate the impact of this rate increase on jobs:

> I am sure that Members will remember that reversing the most significant impacts of those rate rises was a key issue at the general election … In June, we announced our plan to reverse the most damaging aspects of Labour's jobs tax. There was a choice how best to do this-for example, we could have cancelled the rate and threshold rises-but we have chosen the option that best protects low earners. In the emergency Budget, my right hon. Friend the Chancellor confirmed that national insurance contribution rates would rise by 1%, that the personal allowance would increase by £1,000 from next April, and that the employer national insurance contribution threshold would rise by £21 a week plus indexation.[3]

In his Budget the Chancellor had also announced an increase in the standard rate of VAT from 17½% to 20% from 4 January 2011. This is projected to raise £12.1 billion in 2011/12. When challenged by Andrew Love (Labour) about the comparative effect that this VAT increase would have on jobs, Mr Gauke said, "most economists take the view that in terms of the impact on jobs, increasing employers' national insurance contributions is far more damaging than any increase in VAT."[4]

The Minister went on to discuss the NI Holiday and suggested that it was "vital" to provide "additional support" to those the areas covered by the scheme. Several Members questioned the design of the scheme: whether it should not extend to the south-east (John Baron, Conservative), whether it should not cover existing micro businesses (Stewart Hosie, SNP), and whether it should not apply to deprived areas within the excluded areas (Penny Mordaunt, Conservative). In response to these points Mr Gauke said:

> At a time when we cannot rely on massive public spending, and when the public sector will have to find economies, it is perfectly reasonable that we have adopted the approach of focusing on areas where there is high dependence on the public sector … The focus of the policy has always been on start-up businesses. It is an attempt to encourage new businesses to be set up, given where we are in the economic cycle and the need to encourage private sector growth … If we were to choose precisely where the policy applied on a much more closely defined geographical basis, we would have difficulties such as distortive behaviour, problems in enforcing the policy, the bureaucracy that may be involved, the need to establish where a company's principal place of business was, and the difficulty of policing the scheme. Also, labour markets tend to be somewhat larger than constituency or even local authority areas.[5]

The Minister went on to note that extending the scheme across the UK would increase its cost "by around 70% - in other words, £600 million over the course of three years." He also explained that to date HM Revenue & Customs had received around 1,000 applications from new businesses to join the scheme "but we expect more as awareness of the policy becomes greater and as businesses contact their professional advisers."[6]

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3 HC Deb 23 November 2010 c193

4 HC Deb 23 November 2010 c194

5 HC Deb 23 November 2010 c195

6 HC Deb 23 November 2010 c196, c197. In answer to a PQ at this time the Minister broke down the £600 million estimate between: Greater London £250 million, the South East £250 million, and the East of England £160m (HC Deb 22 November 2010 c86W).

Speaking for the Opposition, David Hanson confirmed the party's support for the rise in NICs rates as the Opposition "want to ensure that we protect services and support our economy." Mr Hanson went on to welcome the principle of the NI holiday, but argued that it was not "being proposed fairly, honestly or openly" as it would not "help the poorest and most deprived areas of the UK, which in great part are excluded from the scheme":

> The question that the Minister needs to reflect on, here or in Committee, is how we should split the national insurance holiday cake. There are many ways of doing that, but his way is unfair to the areas of greatest need, to the areas with the highest public sector employment, and to areas that contain seas of prosperity as well as deprivation …. we will take every opportunity in Committee to try to persuade the Minister to look at more imaginative schemes, which might use the same amount of money in different ways, or extend the holiday to areas where it would be a valued resource and help reduce unemployment in the constituencies in the south-east, London and the east that most need that.[7]

The remainder of the debate was very much focused on the NI Holiday, with several Members criticising its scope. Mike Gapes (Labour/Co-op) argued that the proposals were "inherently discriminatory" in excluding London, while Barry Gardiner (Labour) suggested excluding London was "incoherent" because "it denies those potential businesses the benefits that will be made available in parts of the country that have been proven not to be able to utilise them."[8] Stephen Pound (Labour) argued that the design of the scheme was "ferociously complicated … the minute we try to set up those complicated differentials, there are immense problems." Michael Fallon (Conservative) noted that "in four or five years' time if [the Holiday] worked particularly well" its scope might be extended in a variety of ways – for example, its longevity, its geographical reach, or the numbers of new employees it covered. Anne Marie Morris (Conservative) and Julian Sturdy (Conservative) both suggested the Government might consider extending the scheme to existing micro businesses, as Mr Sturdy put it, "over the course of the next year or when the financial position allows."[9]

Winding up for the Opposition, Chris Leslie argued the Holiday was "complex" because of its limited lifetime and restricted scope, showing "crude discrimination" against London, the south-east and the east of England. In response the Economic Secretary, Justine Greening, suggested the scheme should be seen in a wider context, in relation to the other changes being made to NICs and the Government's general approach to business taxation:

> The Bill contains two important measures: an increase in national insurance contributions and a regional employer national insurance contributions holiday for new businesses. Both are part of the Government's plan to reduce the burden of labour taxation, reducing obstacles for those who want to recruit and retain staff. It is worth stressing that the clauses are part of a much wider package of reforms to help businesses and ensure that Britain is open again for business … We want an overall package that supports business across the board, while retaining an element of support targeted at the regions that we think need to benefit most from the next economic upturn. That is what the Bill is doing.[10]

The House approved the Bill for second reading without a vote.

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7 HC Deb 23 November 2010 c198, c200, c202, c205

8 HC Deb 23 November 2010 c208, c215

9 HC Deb 23 November 2010 c223, c207, c214

10 HC Deb 23 November 2010 c227, c229, c230, c232

3 Committee stage : 2-9 December 2010

3.1 Evidence

The Committee held one evidence session on 2 December when it heard evidence from the British Chambers of Commerce (BCC), the Federation of Small Business (FSB), the chief executive of Wenta (an enterprise agency), officials from the Treasury & HMRC, as well as the Exchequer Secretary David Gauke. The session focused on the NI Holiday: the impact the scheme might have and the question of its scope – and in particular, whether it should cover the whole of the UK.

The Holiday was welcomed by both Steve Hughes, economic adviser at the BCC, and Priyen Patel, a policy adviser at the FSB. "For the time we are in, and with the fiscal constraints that the Treasury are working under, we think the Bill is very good. The principle of the idea is very good", said Mr Patel – to which Mr Hughes said, "there is not much to add to that."[11] On the geographical scope of the Holiday Mr Patel suggested that extending it UK-wide "would obviously be very beneficial … in a perfect world", while Mr Hughes emphasised the cost of doing so, in the light of which "it seems natural that if any areas were to be excluded it would be [the ones chosen by the Government]."[12]

Both witnesses suggested that it would be hard to say whether the Holiday by itself would boost employment. Mr Patel cited a survey of FSB members before the election in which "60% said that a cut in employee costs would incentivise them to take on employees. However, it is important to remember that businesses will not employ someone for the sake of it; there has to be that demand [from its customers]."[13] The question of targeting the scheme to areas of deprivation was raised, and Mr Hughes argued this would be counterproductive: "the straightforward nature of the scheme in the regions where it exists far outweighs the complexity of implementing it at a very targeted sub-regional level."[14] Chris Pichion, chief executive of Wenta, raised doubts about the impact of the Holiday, suggesting businesses would find the bureaucracy of making a claim a "turn-off", but on the grounds of equity argued that "if you are going to run such a scheme, it should apply across the country; you either do it as a whole or not at all."[15]

The Exchequer Secretary reiterated the Government's case for restricting the Holiday to the regions: "as we accept the principle of regional policy, and we also accept that resources are constrained, we have taken the view that we should target the scheme at those regions excluding the three [specified in the Bill]." When challenged by David Hanson about the exclusion of London, Mr Gauke said:

> If we were to include London within the scheme, it might help start-up businesses as a whole, but I am not sure that that is the most effective way to deal with such pockets of deprivation in London. I think that there may be other ways of doing that, whether that be through the regional growth fund or welfare reform, which are more likely to be effective in tackling deprivation in London.[16]

The Minister was also asked about whether the Holiday would boost employment, and he suggested that it would be "quite difficult" to make an assessment of the behavioural impact of the scheme at this point: "A common-sense approach would suggest that it will have an

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11 PBC 2 December 2010 c3
12 *op.cit.* c4
13 *op.cit.* c9
14 *op.cit.* c17
15 *op.cit.* c19
16 *op.cit.* c33

impact, but, of course, what we are looking at here is bringing through a dynamic impact of a tax cut. There is always a degree of uncertainty about that, so we have been relatively cautious."[17] Stella Creasy (Labour/Co-op) asked a series of questions on the Bill's impact assessment which had estimated the 'behavioural impact' of the new tax relief would add £40m to its total cost; to Ms Creasy this suggested the scheme would be subject to a considerable amount of dead weight.[18] David Owen, head of national insurance policy at HM Treasury, explained that this estimate referred to the scheme distorting incentives, resulting in "people taking up the scheme who were not really intended to do so" – rather than the scheme resulting in employers taking on more employees. The point was clarified in a memorandum the department submitted after the evidence session:

> The type of effects which are classified as direct behavioural effects include (i) business fragmentation, for example new businesses with many staff setting up as multiple separate entities in order to avoid being affected by the limit of ten employees; (ii) existing businesses closing down and starting up again in order to qualify as new; (iii) businesses choosing to locate in targeted areas where they would not otherwise have done so. Our assessment is that our compliance plans, together with the limited duration of the holiday, will limit such effects. However, we cannot guarantee there will be no such effects. The scale of potential losses is hard to quantify, but our working assumption, which was scrutinised and certified by the Office for Budgetary Responsibility, was to allow for around £40m of costs associated with direct behavioural effects over the holiday period.
>
> Additionally, there are <u>indirect</u> behavioural and dynamic effects. These include businesses setting up which would not otherwise have done so, or employing people where, bearing in mind supply and demand for labour, such jobs would not otherwise have been created. They also include effects from improved rates of business survival. Such effects are likely to be beneficial to the Exchequer overall, through an increase in tax revenues, even though such an increase will not include the employer National Insurance Contributions that would have been due in the absence of the holiday.[19]

Several Members raised concerns about the administration of the scheme, and its take-up to date. In response Sam Mitha, assistant director at HM Revenue & Customs, made two interesting points: first, the application process for businesses was relatively simple as it had been designed in the light of the operation of an earlier NI holiday some years before:

> Obviously, when the new Government came in and said that they wanted to introduce the NICs holiday, we looked very closely at the past experience of running a holiday. The present NICs holiday is quite different from the original scheme, which was confined to people who had been unemployed. It included a number of features which are obviously not replicated in the present arrangements, because they had had an impact on people's individual national insurance liabilities. … … in terms of simplicity, the new scheme is a completely different kettle of fish from the [earlier] scheme … which … had an unhappy record …
>
> We have a system whereby new businesses that want to take advantage of the holiday are invited to send in an online application form unless they are in receipt of state aid, in which case they need to fill in a manual application form. The application form simply requires them to provide some basic information such as their reference numbers, the

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17 PBC 2 December 2010 cc 30-31

18 *op.cit.* cc41-43 (Qs 139-148)

19 Public Bill Committee, *National Insurance Contributions Bill Written Evidence NI 07: Additional evidence from HM Treasury*, 9 December 2010 para 3-5

> name of the business, the date the business started, the business address, the postcode and the region or country in which the business is located, and to certify that they have read the guidance on Business Link.
>
> The significance of asking for this information is that it enables us to tell very quickly whether the business qualifies. So, for example, if the business started before 22 June—the date of the emergency Budget—we could immediately notify them that they are not eligible. The intention is then to operate what we call a "process now, check later" system. We notify them as quickly as possible that they are eligible for the holiday, and that they can legitimately start withholding payment of NICs if they are eligible. More fundamentally, it gives them an incentive straight away in terms of their disbursements. One of the things that we took into account in the design of the scheme was that the lifeline for small businesses is cash flow.[20]

Members also raised concerns that only 1,100 businesses had made an application so far, even though the department had forecast that 400,000 businesses would do so over the Holiday's three year life. In response Mr Mitha said that this was not surprising, given the general experience of any new business:

> To be absolutely honest, we had always worked on the assumption that we would not get very many applications to begin with, because anybody setting up a new business is obviously going to be focused on keeping their head above water and on their business. There is a cycle to how new businesses approach HMRC. They need to approach HMRC to set up their pay-as-you-earn schemes if they are planning to take on employees. They need to find out what their record-keeping obligations are. But the majority of small businesses rely on their professional advisers for information about what they need to do and when they need to do it …
>
> I reckon we will get a large number of applications when people come to make remittances, because employers have to make remittances on the pay-as-you-earn that they have deducted from payments to employees. At that time, their professional advisers will probably tell them that they need to make an application if they want to withhold part of the payment. Similarly, when they come to do their annual accounts they will be told that they need to think about the fact they are entitled to this relief. But that is not to say that they will not already have factored it into decisions about the number of employees they take on.[21]

The Committee also received written evidence from a small number of other organisations. This raised concerns about the targeting of the scheme – specifically the exclusion of London and the South-East – and more generally, the impact on employers from the rise in NICs rates, irrespective of the proposed increase in thresholds. Although the Committee did not consider the rise in NICs rates at any length, a memorandum submitted by the Treasury gives some estimates showing that *relative* to the plans set out by the Labour Government, the Coalition's decision to raise the secondary threshold would mean "employers are better off by £150 for every employee earning above the threshold." Similarly the decision to increase the personal allowance at the same time as these NICs changes would mean "about 22m basic rate taxpaying individuals will see the amount they pay overall in income tax and NICs reduced, whereas for about 5m individuals, this amount will increase."[22]

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20 PBC 2 December 2010 cc29-30, c35. The operation of an NI Holiday for employers by the Conservative administration in the late 1990s is discussed in the background Library paper on the Bill (Research Paper 10/76, p24).

21 *op.cit.* cc43-44

22 PBC, *NICs Bill Written Evidence NI 03: HM Treasury*, 2 December 2010 para 10, 8

3.2 Debate on clauses

Increasing the rates of NICs

Clauses 1 & 2 increase the rates of NICs for employees, employer and the self-employed by 1 percentage point. Both clauses were subject to a short debate. The Opposition approved of this tax increase, as Chris Leslie suggested, being "necessary given the wider fiscal and economic climate." Mr Leslie went on to ask about the Government's position on the size of the surplus of the NI Fund and its use. Mr Gauke, the Exchequer Secretary acknowledged that the surplus was projected "to be £50bn for 2010-11" but that the Government had no plans to amend the workings of the Fund.[23]

When challenged by Mr Leslie about the Government's presentation of its NICs reforms, given that the 1% rate rise was going ahead, Mr Gauke argued that the Government had "looked at the best way to stop the damaging tax on jobs, and the most effective way of doing that is by raising the thresholds in exactly the way that we are proposing." The Minister went on to confirm that secondary legislation would set the thresholds for NICs for the coming year, and that, as is normal, indexation would use the RPI measure of inflation:

> The regulations that will increase the thresholds will be laid in late January, which is the same as would have happened under previous Governments. That will coincide with the laying of the Department for Work and Pensions benefits uprating regulations and the Government Actuary's report on the changes. The primary threshold is increasing to £139 a week in April 2011. The secondary threshold—in other words, the employers' threshold—is increasing to £136 a week. The hon. Gentleman also asked whether the indexations, which were announced in a ministerial statement last week, will be increased by RPI. I will save him getting out his calculator, because the answer is yes.[24]

Mr Leslie raised the issue of the NI Fund again in the debate on **Clause 3**. A significant part of the proceeds from NICs goes to the NHS and not into the NI Fund: this fraction is set by a statutory formula. In April 2003 a 1% additional rate of NICs on employees and the self-employed was introduced, and at this time the statutory formula was amended, so that all of the receipts from these new rates went to the NHS. In turn, **clause 3** amends this formula so that the extra receipts from the 1% rise in the additional rates go to the NI Fund. Mr Leslie put down an amendment to alter the allocation, so that, in effect, 90% of the receipts from the additional rates would go to the NHS.

Opposing the amendment, the Exchequer Secretary argued that changing the formula posed an unnecessary risk to the financial viability to the Fund:

> The Government and, as far as I am aware, the previous Labour Administration when announcing the increases in the pre-Budget reports of 2008 and 2009, did not at any stage announce that the 1% increases are specifically for the NHS. The Government have said that they will increase NHS spending in real terms in each year of the Parliament. We can afford to do so without additional funding from the national insurance contributions increases as proposed by the amendment.
>
> In the emergency Budget on 22 June, the Chancellor announced that from April next year we will re-link the basic state pension to earnings. Pensioners will also be

[23] PBC 7 December 2010 c51, 53

[24] *op.cit.* c56, c57. The statement setting out NICs thresholds for 2011/12, as well as income tax allowances for that year, was given on 2 December 2010 (HC Deb c85WS).

> protected by the triple lock, which will guarantee each and every year a rise in the basic state pension in line with earnings, prices or a 2.5% increase, whichever is greater. I know that this is a point that we debated earlier, but although the national insurance fund is currently in surplus, the commitment makes it sensible for the whole of the 1% increase to be channelled into the national insurance fund rather than the NHS.[25]

Mr Leslie withdrew the amendment, adding that the Opposition would want to "return to the argument on Report."[26]

The NI Holiday

Clause 4 sets the scope of the NI Holiday and was debated at some length. Speaking for the Opposition David Hanson welcomed the proposal as "innovative" but criticised the design of the scheme. He supported a series of amendments to remove the general exclusion of London, the South-East & Eastern Regions, to use constituencies as the relevant boundary for eligibility, and targeting the scheme on those constituencies with either the highest unemployment or highest percentage of public sector employment. Mr Hanson argued that on the basis of either of these measures, many constituencies in the excluded regions were deserving of this tax relief. If the Government had concerns about the cost of a UK-wide scheme, then it should simply cap the amount of money it was willing to spend:

> I am simply asking [the Minister] to make the scheme a national scheme and to make it fair so that all those constituencies like Walthamstow can access it. If that means that the scheme runs for two years instead of three, so be it. If that means that the scheme runs for three years but is capped at £940 million and when that money is gone, it is gone, so be it … The Minister could retain the existing amount of resource for the scheme and spread it over a thinner base to encourage new businesses in those areas. There is no logic for him, based on deprivation, on unemployment or on the concerns of public sector employment, to exclude three regions which have a higher level of public sector employment, a higher level of deprivation and a higher level of unemployment.[27]

An alternative would be to empower the Minister to amend the scheme during its lifetime, so that it applied to specific local government areas, in the light of circumstances.

In response the Minister acknowledged the force of the argument, particularly from those Members representing constituencies that would not be eligible. He went on to reiterate the Government's rationale for the scheme, and to make the case that extending its scope while capping its cost would be both unfair and administratively complex:

> The difficulty with the fixed-amount approach … [is that] we have to look from the viewpoint of someone who wants to set up a business and is planning and is aware of this particular scheme and wants to make use of it. Imagine the situation if, having spent several months preparing to start a business, shortly before they did so, the person discovered that the scheme had run out of money. Imagine if someone who already had a business was benefitting from the national insurance contributions holiday and had taken on a number of employees and then, six months through, with 10 employees benefitting, the Government announced that the scheme had run out of

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25 *op.cit.* cc 62-3

26 *op.cit.* c65

27 *op.cit.* c70

> money. We would have fundamentally undermined the whole policy, because we would have created a degree of uncertainty.
>
> As we hear constantly, businesses want certainty on how their tax system works. If we want the scheme to have a beneficial behavioural impact, that degree of uncertainty within it would substantially undermine it. It would also cause considerable administrative costs and difficulties for Her Majesty's Revenue and Customs in monitoring where the money was being spent and in identifying at which point all the £940 million had been spent, especially because much of that information may not come to light until afterwards. Although I understand the reasons why the hon. Gentleman suggests that this holiday could be done on a national basis and still remain within the cost envelope that we have identified, it is not a practical solution.[28]

Mr Gauke went on to argue that using constituency boundaries would be an inaccurate way of targeting need:

> I have to accept that, as we have targeted this, there are border issues but were we to break it down even further those border issues would be exacerbated … working patterns do not necessarily reflect constituencies or even local authorities and to some extent, particularly when we look at London, the south-east and the eastern region, not even regions … A point that I would make more broadly in some of the discussions when we look at London, unemployment rates and dependency on the public sector is that the London labour market is substantial and expands and includes much of the home counties in the eastern region and the south-east. We would face great difficulties with borders if we had a holiday scheme that was designed on the basis of constituencies or local authorities.[29]

When asked about take-up the Minister noted the anticipated costs of the policy - £50 million for 2010-11, £230 million for 2011-12 and £180 million for 2012-13 – "gives some indication of the likely profile ... the cost starts relatively slowly and picks up over the course of 2011-12 and 2012-13. That is what we anticipate and more information will be published on that."[30]

In the event Mr Hanson put one of the Opposition's amendments – to extend the scheme to the excluded regions – to the vote, and it was defeated by 9 votes to 7.

Clause 5 defines what constitutes a 'new business' for the purposes of the Holiday, restricting this, under **clause 5(6)**, to a business that is a trade, profession or vocation. restricting. The Opposition put down an amendment to extend eligibility to *non-trading* charities on the grounds, as Chris Leslie argued, that the provisions "discriminate against charities." Several Members supported this argument - Stella Creasy (Lab/Co-op), for example, suggesting that "the Government are missing a trick by excluding any sector that we know has a capacity for job creation." By contrast Richard Harrington (Conservative) argued that it would not be relevant to extend the scheme this way: "charities receive many other benefits such as tax–free status and … most charitable start-ups do not actually have employees at all" or would have staff on work experience who "do not work the hours or receive the salary to attract national insurance."[31] The Minister also opposed the amendment as it would "not support our objective of encouraging new entrepreneurs to set up in business in areas with a high proportion of public sector employment." The amendment was put to the vote and defeated by 8 votes to 7.

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[28] PBC 7 December 2010 cc83-4
[29] *op.cit.* c86
[30] *op.cit.* c100
[31] *op.cit.* c115, c106, c102

The Committee went on to briefly debate **Clause 5** as a whole. In answer to David Hanson, the Minister confirmed the Holiday fitted into the general workings of the NICs regime, so that fraudulent applications would be subject to penalties, and "the standard NICs appeals procedure" would apply to businesses who wished to challenge an application being refused.[32]

Clause 6 defines what a "qualifying employee" is under the scheme, limiting any claim from a new businesses to their first 10 employees only. The Opposition put down an amendment to allow businesses to treat two or more part-time employees as a single person for the purposes of this relief given that, as Chris Leslie argued, "many start-ups will employ gradually and will take on part-time staff." In response the Minister noted that limiting any claim to 10 employees would benefit nearly all new businesses, whether their staff were part-time or not, and amending the test in this way would be both administratively complex and open to abuse:

> Most new businesses are unlikely in their first year of business to take on a large number of employees; we estimate that a typical business hires an average of two employees in its first year. That will come as no surprise given that on a number of occasions we have debated our estimate that there will be 400,000 employers and 800,000 employees. Only a few thousand new firms per year are likely to employ more than 10 workers, which is less than 2% of the firms it is thought will benefit from the scheme. We have set the number of employees to whom the holiday can apply at 10, which ensures that employers with part-time staff are not penalised and can take full advantage of the holiday.
>
> … Going down the route suggested would add to the complexity for employers because the national insurance contribution system does not distinguish between full-time and part-time staff. It is based on earnings paid to a single person holding a single employment. Therefore, we would immediately have a problem in defining full-time staff for the purposes of the holiday. We would have to amend the legislation to allow for the splitting of the £5,000 holiday limit per employee between two or more employees, adding to the complexity for employers and HMRC compliance checks. The amendment could potentially create incentives for new businesses to make full-time employees work part-time, in order maximise the NIC holiday savings.[33]

Despite these objections the Opposition put the amendment to the vote, and it was defeated by 8 votes to 7.

The remaining clauses of the Bill proved uncontroversial, and were approved without a vote.

On **clause 8** – which sets the mechanism for claiming relief – the Opposition tabled an amendment to make it a statutory requirement for applications to be answered in 3 months, and a new clause – **new clause 5** – to require HMRC to take on new staff to operate the scheme. The Minister opposed both, on the grounds that as nearly all applications were submitted online, they were being answered within 48 hours, and that, in his words, "HMRC is able to administer the holiday without adversely affecting other activities."[34] Both the amendment and the new clause were withdrawn.

32 *op.cit.* c118
33 PBC 7 December 2010 cc 121-2
34 PBC 9 September 2010 c136

New clauses

The Committee went on to consider three new clauses tabled by the Opposition. **New Clause 1** would have required the Treasury to set a fixed budget for the scheme and present an annual report on its take-up. It was debated briefly with **new clause 6**, which would have required a review of the scheme six months after the Bill received Royal Assent to consider its extension to existing micro-businesses. Speaking in support of both David Hanson argued that a fixed budget was important, as it was impossible to say if take-up might be much higher than anticipated; if it proved otherwise the Minister should have the power to extend the scheme to ensure its success.

The Minister opposed both new clauses on the grounds that limiting the budget would undermine business' confidence in the scheme; he went on to argue that a higher-than-expected take-up did not pose a major threat to the Exchequer:

> We are talking about £940 million over the course of the next three years. That is not insubstantial, but we have to put that in the context of the fact that the Government raise approximately £50 billion a year through employers' national insurance contributions. The estimate of £940 million has been scrutinised and verified by the independent Office for Budget Responsibility and it means that we will raise £940 million less than we would otherwise have raised. It has been asked what would happen if the take-up is enormous and we have far more businesses taking this measure up in respect of far more employees. That scenario would suggest that we would have identified a successful dynamic effect and, as a consequence, more people would be in employment and paying income tax, employees' national insurance contributions and VAT …
>
> The Government are committed to increasing the transparency of tax policy making and of the tax system more generally. To that end I am happy to undertake to provide, to the House and to the public, updates after the end of the tax year on the operation of the scheme, including information at regional level.[35]

Finally the Committee briefly considered **new clause 4**, moved by Chris Leslie, to place a statutory duty on the department to ensure its published guidance included website links on the scheme. Following Mr Gauke's assurance that this was already the case, he withdrew the new clause, and the Committee concluded its proceedings by approving that the written evidence it had received on the Bill should be printed.

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[35] PBC 9 September 2010 c148

Appendix : Members of the Public Bill Committee

Chairs
Mr Graham Brady
Mr George Howarth
Jim Sheridan

Members
Alexander, Heidi (Lewisham East) (Lab)
Bingham, Andrew (High Peak) (Con)
Birtwistle, Gordon (Burnley) (LD)
Brown, Lyn (West Ham) (Lab)
Campbell, Mr Gregory (East Londonderry) (DUP)
Creasy, Stella (Walthamstow) (Lab/Co-op)
Gauke, Mr David (Exchequer Secretary to the Treasury)
Goodwill, Mr Robert (Scarborough and Whitby) (Con)
Hancock, Matthew (West Suffolk) (Con)
Hanson, Mr David (Delyn) (Lab)
Harrington, Richard (Watford) (Con)
Hopkins, Kelvin (Luton North) (Lab)
Leslie, Chris (Nottingham East) (Lab/Co-op)
Opperman, Guy (Hexham) (Con)
Shuker, Gavin (Luton South) (Lab/Co-op)
Stride, Mel (Central Devon) (Con)
Vickers, Martin (Cleethorpes) (Con)
Williams, Stephen (Bristol West) (LD)

Committee Clerks
Simon Patrick
Sarah Thatcher