



NATIONAL INSURANCE CONTRIBUTIONS (EMPLOYER PENSIONS CONTRIBUTIONS) BILL 2025

Executive Summary

- The Bill treats employer pension contributions that are made pursuant to optional remuneration arrangements, such as salary sacrifice arrangements as earnings subject to employer and employee national insurance contributions, where they exceed the specified limit, which will initially be set as £2,000.
- Limiting salary sacrifice will affect basic rate taxpayers more, pound for pound, than higher and additional rate taxpayers, but the sums involved are likely to be larger overall for higher earners.
- Legislating now for a change taking effect in 2029 provides welcome certainty, but many practical details are yet to be confirmed. It will be important to resolve these not later than April 2028 as decisions on pension salary sacrifice tend to be long-term ones. Consultation and co-design will be essential.
- This change is likely to cause some employers to withdraw pensions salary sacrifice as an option. The long-term impact on provision for retirement should be carefully considered.
- This change will focus greater attention on what is and is not an 'optional remuneration arrangement'. This is not clear cut. In particular, greater clarity is needed as to which 'conversations' between employer and employee regarding pay and pension provision could give rise to an optional remuneration arrangement.
- There are significant practical issues around how the annual £2,000 limit should be applied to weekly and monthly paid employees, and employees with multiple employments in the tax year. If there is a single annual cap the requirement to coordinate across multiple concurrent and / or consecutive employments would be administratively challenging as well as creating concerns over financial privacy.

1. Background

- 1.1. A pensions salary sacrifice occurs where an employee enters into a formal contractual agreement with their employer to reduce their salary in return for the employer making a pension contribution (or increased pension contribution) on their behalf. Usually, for every £1 sacrificed the employer increases their contribution by £1, although some employers will contribute a greater sum to reflect the reduction in their employer National Insurance contributions (NICs) liability.
- 1.2. Currently, under a pensions salary sacrifice arrangement, no employee (primary) or employer (secondary) Class 1 NICs are payable on the salary sacrificed amount. This means that employers do not pay the 15% secondary Class 1 NIC contribution on this amount and

employees save either 8% (if they earn under the upper threshold – effectively equivalent to the UK's higher rate income tax threshold) or 2% (if they earn above the upper threshold – that is, effectively, they are higher or additional rate taxpayers).

- 1.3. One 'benefit' of a pensions salary sacrifice can be to reduce earnings liable to National Insurance for student loan repayment purposes (as liability to repay student loans is, for employees, based on their earnings liable to National Insurance). Thus, employees with student loans can 'save' up to a further 9% through a pensions salary sacrifice.
- 1.4. Additionally employers with Apprenticeship Levy liabilities can reduce those liabilities (by 0.5% of the salary foregone by the pensions salary sacrifice).

2. Overview of the Bill

- 2.1. The Bill creates a power for the Treasury to apply a primary (employee) and secondary (employer) Class 1 NICs charge where employer pension contributions are made via salary sacrifice arrangements that exceed £2,000 per annum (with power to amend that figure), with effect from 6 April 2029.
- 2.2. Clause 1(1) inserts new sub-sections 6A to 6E into Section 4 of the Social Security (Contributions and Benefits) Act 1992 (SSCBA 1992).
- 2.3. Sub-section 6A provides for employer pension contributions made pursuant to optional remuneration arrangements to be treated as remuneration for NIC purposes.
- 2.4. Sub-section 6B provides for the Treasury to include in Regulations that amounts not exceeding a specified limit (see Clause 1(4)) should not be treated as remuneration for NIC purposes.
- 2.5. Sub-section 6C provides for the Treasury to include in Regulations how the annual (tax year) contributions limit (of £2,000) should apply to weekly or monthly paid employees.
- 2.6. Sub-section 6D provides for the Treasury to include in Regulations how to determine the time at which employer pension contributions subject to these charges are to be treated as remuneration liable to NICs and the amount of the pension contribution to be treated as remuneration.
- 2.7. Sub-section 6E is an interpretation section that provides for the meanings used for benefits-in-kind in the Income Tax (Earnings and Pensions) Act 2003 to apply here.
- 2.8. Clause 1(2) provides for Treasury regulations to be approved by the affirmative resolution procedure.
- 2.9. Clause 1(3) provides that these changes take effect from 6 April 2029 (for the 2029/30 tax year onwards).
- 2.10. Clause 1(4) provides that the Regulations will initially specify the limit as being at least £2,000, in accordance with the Budget announcement, and also provides the power for the limit to be subsequently amended by the Treasury.
- 2.11. Clause 2 makes the same changes as Clause 1 but for Northern Ireland.
- 2.12. Clause 3 provides for the Bill to apply across the UK, its commencement date, and its title.

3. Impact of the legislation

- 3.1. Employees that are basic rate taxpayers benefit more, pound for pound, from pension salary sacrifice than their higher and additional rate taxpayer counterparts, due to the

main rate of NIC being 8% compared to 2% on earnings above the upper threshold, so they will also lose out more under this legislation, pound for pound, where their pension salary sacrifice exceeds the £2,000 limit. However higher earners are likely to contribute more to their pension than lower and middle earners, so the actual NIC increases under this legislation may be higher for higher and additional rate taxpayers due to the larger amounts they are likely to pension salary sacrifice.

- 3.2. Similarly, basic rate taxpayers gain more from the £2,000 limit (maximum NIC saving for a basic rate taxpayer is £160) than higher or additional rate taxpayers (maximum National Insurance saving is £40), although again this is affected by the amount of the pension salary sacrifice.
- 3.3. The changes will disproportionately impact employees with student loans who earn above the repayment threshold, as it will reduce their ability to reduce their student loan repayments through pensions salary sacrifice.
- 3.4. In respect of the Apprenticeship Levy, pensions salary sacrificed contributions above the £2,000 cap will now be included in determining whether the employer's pay bill has exceeded the annual threshold of £3 million, and where this is the case, these contributions will be liable to the 0.5% levy.
- 3.5. It is likely that the added employer NIC cost of this measure will cause some employers to withdraw pensions salary sacrifice as an option. This could be to the detriment of an employee's overall retirement savings. Some employers have already made the conscious decision not to operate pension salary sacrifice or only allow senior employees to participate (due to National Minimum Wage impacts) and this change is likely to lead to more employers withdrawing the option. The long-term effects of this on people's retirement provision should be investigated and considered.

4. CIOT comments on the draft legislation

4.1. ***Interaction of the Bill long title and introduction, and Sub-section 6A – Unclear scope***

The Bill's long title and introduction states "... so that amounts of salary sacrificed for employer pensions contributions pursuant to optional remuneration are liable to national insurance contributions.". This implies the scope of the Bill is limited to salary sacrifice arrangements, rather than all optional remuneration arrangements. However, clause 1(1) Sub-section 6A(b) provides for "... if section 228A(5) of that Act [ITEPA 2003] had effect...". Section 228A of ITEPA 2003 effectively subjects all 'optional remuneration arrangements' to income tax. It provides for two types of optional remuneration arrangement to be taxed: Type A and Type B. Type A arrangements are typically salary sacrifice arrangements. Type B arrangements are typically flexible benefit arrangements (for example, an employee has a 'pot' to apply towards benefits such as extra holiday, pension contributions, etc). The long title and introduction of the Bill suggests that only pension salary sacrifice under "Type A" optional remuneration arrangements is to be liable to national insurance but the wording of Sub-section 6A(b) implies that both Type A and Type B arrangements will be subject to this change. This difference should be clarified.

4.2. ***Sub-section 6A – What is an optional remuneration arrangement?***

While the optional remuneration arrangements legislation has been in place since 2017 and HMRC has provided guidance on its scope, this change will significantly increase focus on what is and is not an optional remuneration arrangement. Pensions salary sacrifice is perhaps the most widely used benefit-in-kind. Clear guidance and examples will be needed to understand which pay arrangements fall in scope of the new rules. For example:

- *Collective bargaining*

Where there are collective bargaining arrangements and, for example, on the table are two options, one for, say, a 5% pay increase plus keeping employer pension contributions at 8% and the second for a 4% pay increase with increased employer pension contributions of 10%, and the workers agree the latter, we would assume this would not constitute an optional remuneration arrangement even though the employees have given up ‘cash’ pay for an employer pension contribution. But is this correct?

- *Senior employees, directors and executives*

It is not uncommon for annual pay negotiations to take place between senior employees and directors, and their direct seniors / HR. Or for executive directors’ pay to be agreed through a board’s remuneration committee. This may include discussion with the employee / director / executive about salary, bonuses and benefits, including pension contributions. If discussions include increasing employer pension contributions in return for, say, a lower pay increase or bonus, prima facie there could be an optional remuneration arrangement. Clarity on which circumstances would be within scope of the legislation would be helpful.

- *New employees*

It would be normal during the hiring process to discuss a prospective new employee’s expectations as regards salary and benefits. This is likely to include a discussion on both pay levels and pension contributions. Until such time as a formal contract with stated pay and benefits is offered we would not expect such discussion to cause an optional remuneration arrangement to come into effect. But is this correct?

- *Terminations*

It is not uncommon for termination settlements to provide for a lump sum employer pension contribution in lieu of any other claim for pay the employee may have. Or for the excess over the first £30,000 of a termination payment to be agreed to be paid direct to the pension scheme by the employer. Is this an optional remuneration arrangement?

To summarise, greater clarity is needed as to which ‘conversations’ between employer and employee regarding pay and pension provision could give rise to an optional remuneration arrangement.

There is also a question of fairness, in that some employees, for example, new hires and executives, may be better placed to arrange their remuneration package more efficiently as regards pay and pension contributions than others. That was always the advantage of pensions salary sacrifice, it allowed employees to tailor their pension contributions to meet their particular circumstances in the most efficient way.

It should not be the case that for two employees receiving the same pay and their employer making the same pension contributions, for one to find their arrangement is within scope of the optional remuneration arrangements legislation and the other not so.

4.3. **Sub-section 6B – Unclear wording**

Another issue requiring clarification is the proposed wording: “*provision for amounts not exceeding the contributions limit for a tax year not to be so treated* [as remuneration for National Insurance (NICs) purposes]” (words in [...] added for clarity). This could be read as implying that if the pensions contributions limit is exceeded the whole of the contribution is to be treated as remuneration for NIC purposes. That is not the policy intention. The intention is that employer pensions contributions by way of salary sacrifice up to the contributions limit will not be treated as remuneration for NICs purposes but that such

employer contributions over the contributions limit will be so. We think this could be made clearer.

4.4. ***Sub-section 6C – Multiple employments etc.***

NIC is applied based on the earnings period (usually a week or month for most employees) rather than annually for the tax year (except for directors who have an annual earnings period). Also, National Insurance on employment earnings is usually calculated for each employment separately (unless the employers are connected). This difference between annual cumulative totals (as applies for income tax purposes) and the weekly / monthly earnings period applied for NICs purposes creates practical issues which need resolving. In essence, these issues come down to how the £2,000 per annum limit will be applied across pay periods and to multiple employments.

While these issues should be included in Regulations it is important to understand now what the intention is. Early engagement with HMRC regarding the technical aspects of implementing this change, alongside a full consultation and scrutiny of the secondary legislation will be essential.

We provide some examples of the issues to be addressed below:

- *Monthly paid employee*

If an employee is paid monthly, do you apply 1/12th of the £2,000 annual threshold to each month's salary sacrificed earnings, or do you wait until the month in the tax year in which the cumulative salary sacrificed earnings exceed £2,000?

Similarly, where an employee is paid an annual bonus alongside their monthly salary, it may be that the relevant earnings period for NIC purposes for the bonus is a year (as opposed to a month for the 'normal' salary), so if that bonus is 'pension salary sacrificed' can you apply the whole £2,000 limit at that point?

- *Change of employment*

If an employee changes employment part way through the year, and has entered into a pensions salary sacrifice arrangement with both their old and new employer, does the amount salary sacrificed in the old employment carry over to the new employment? Or can the employee benefit from two separate £2,000 caps? If the former, how is the information to be passed from the old to the new employer? There are no provisions for such information exchanges within current HMRC processes and there would be concerns around financial privacy: passing information on personal pension contributions from one employer to another would be a significant concern and if this were to be required it may discourage some from participating in pension schemes.

- *Multiple concurrent employments*

If an employee has two or more concurrent employments will the £2,000 annual cap be split between each employment or can an employee benefit from two or more separate £2,000 caps (one for each employment)?

There are potential issues around financial privacy here, since an employee's pensions salary sacrificed contributions from one employment would have to be shared with all other employments for which a pensions salary sacrifice does or may occur. Many employees may not want an employer to know about their other employments and the financial arrangements they have in place in relation to them.

- *Bonus waivers*

Where an employee enters into a bonus waiver (an agreement where an employee relinquishes their right to receive a bonus) in exchange for an increased employer pensions contribution, how will this be treated? The bonus waiver means the employee has no legal right to the bonus so there is nothing to sacrifice. HMRC's view of such arrangements would be helpful. We would expect to see employers withdrawing pensions salary sacrifice arrangements as a consequence of this change (some employers have already made the conscious decision not to allow pensions salary sacrifice or only allow senior employees to participate (due to NMW impacts) but hitherto have permitted bonus waivers). It is crucial to understand how HMRC view bonus waivers so that employers can consider the impact on these arrangements (and whether to extend such arrangements to lower paid employees).

Overall, if there is a single cap, coordinating information exchanges between a multitude of employers during a year to limit pension salary sacrifice NIC savings where there are concurrent or consecutive employments during a year would be an administrative nightmare (even assuming concerns around passing an employee's personal financial data between employers can be addressed).

4.5. *Clause 1(3)* - Implementation process

The deferral of the implementation date to 2029 is welcome. It provides time to consult on the Regulations and for guidance to be agreed as to how to implement this change in payrolls. This co-design approach to the operation of the change is welcome. However, it will be important to agree how this change is to operate well ahead of 2029 (and no later than April 2028) in order that employees can make appropriate financial decisions about their pensions savings. Certainty is needed for financial decisions to be made in good time and which, generally, only change upon life events.

4.6. *Clause 1(4)* - £2,000 contributions limit

There is no provision within the Bill for automatic increases to the contributions limit in line with inflation. It will be important to keep the limit under review to ensure it is not eroded by time and remains relevant. The summary 'impact on individuals' indicates about 56% (around 4.3 million people) are unaffected by this change. This number will decrease in time unless the limit is increased to adjust for inflation.

4.7. Penalties

While the Bill and Explanatory Notes make no reference to penalties, we hope HMRC will commit to penalty easements in the first year, as they have with other changes, should employers make inadvertent mistakes with the application of the cap as they get to grips with some of the practical complexities.

5. The Chartered Institute of Taxation

- 5.1. The Chartered Institute of Taxation (CIOT) is the leading professional body in the United Kingdom concerned solely with taxation. The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.

- 5.2. The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries. The CIOT's comments and recommendations on tax issues are made in line with our charitable objectives: we are politically neutral in our work.
- 5.3. The CIOT's 20,000 members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.

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The Chartered Institute of Taxation
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