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NAVIGATING THE NATIONAL INSURANCE RISE.

What NEC4 users
need to know

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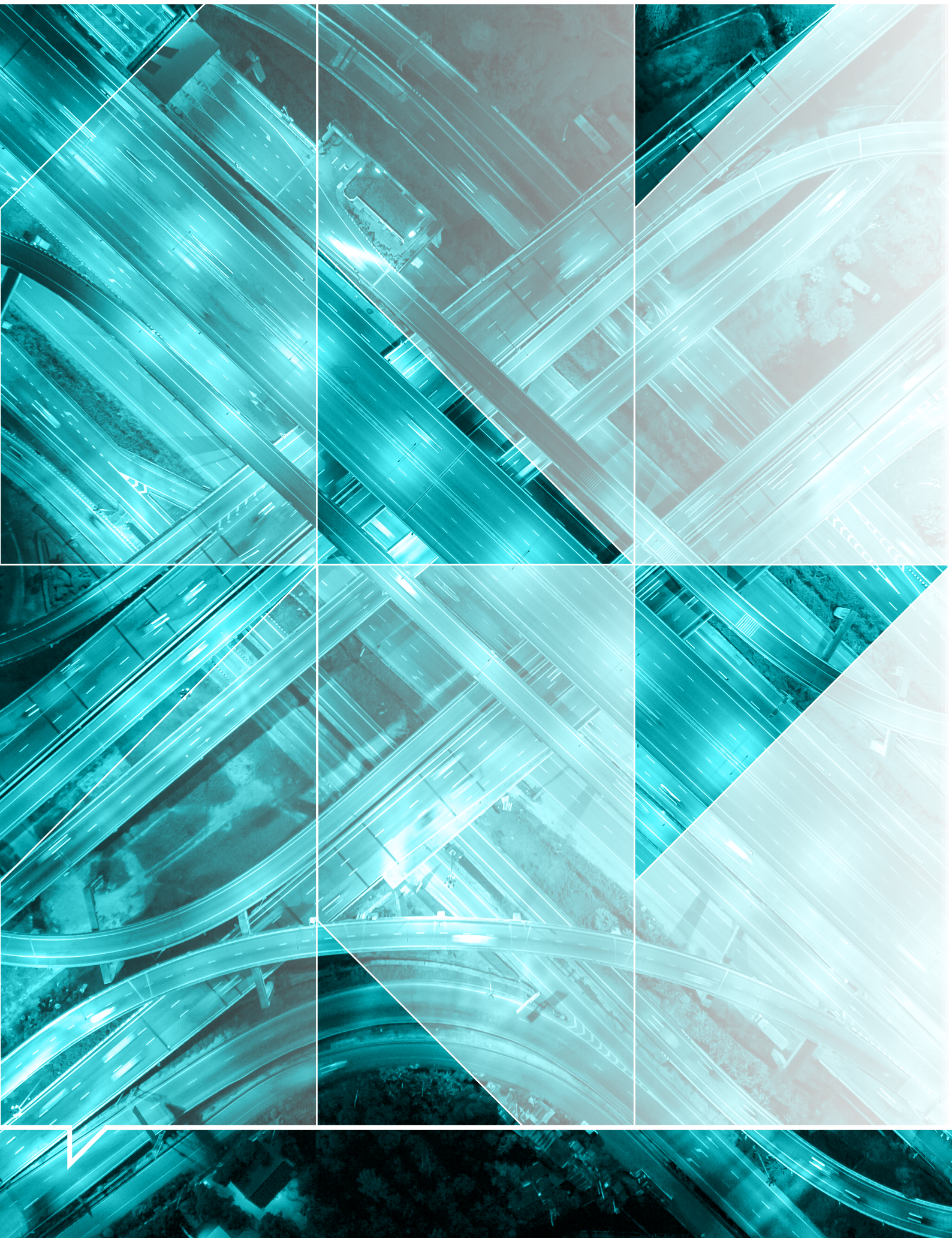
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The 2024 Autumn Budget brought in a number of changes that will impact employment costs in the UK. From national minimum and living wage increases, statutory maternity, paternity, adoption, and shared parental pay increases, statutory sick pay increases, adjustments to National Insurance Contributions (NIC) to tweaks in the NIC Employment Allowance, employers are facing some big changes.

This article will focus on one of the key changes – the adjustments to employer NICs – and how NEC4 users will need to stay ahead of the game.

We'll break down how this forthcoming change affects your contracts and offer tips on managing the impact.

Navigating the National Insurance Rise. What NEC4 users need to know



The 2024 Autumn Budget announced changes to employer NICs, including a reduction in the Class 1 Secondary Threshold from £9,100 to £5,000 and an increase in the Secondary Class 1 rate from 13.8% to 15%.

The changes, due to take effect from 6th April 2025, are outlined in the NICs (Secondary Class 1 Contributions) Bill 2024-25, which is currently passing through Parliament and awaiting Royal Assent as of mid-March 2025.

Once implemented, the changes to employer NICs will increase people employment costs. For projects delivered under an NEC4 Engineering and Construction Contract (ECC), several factors must be considered to determine who bears the cost increase.

The *Client* will bear the cost increase for its own employees, but the situation may differ for the *Contractor*. The first consideration is which main option clause has been selected.

If main option A or B is selected, which are priced contracts, the amount paid to the *Contractor* is based on either:

- the lump sum prices, as stated in the Activity Schedule, for completed activities (main option A), or
- the lump sums and the amounts obtained by multiplying the rates by the quantities for the items in the Bill of Quantities for completed work (main option B).

The *Contractor* will only be reimbursed for the additional cost of employing people (whether directly, or via the supply chain) if the change in law constitutes a compensation event.

If the selected main option clause is C, D, E, or F, payment to the *Contractor* will be based on Defined Cost, as outlined in the Schedule of Cost Components.

The Schedule of Cost Components includes the cost of people directly employed by the *Contractor*, covering contributions, levies, or taxes imposed by law (item 13(i)). It also covers amounts paid for people not directly employed (item 14) and payments to Subcontractors (item 41). It is worth noting that changes to Class 2 and Class 4 NICs for self-employed individuals, effective from April 2024, will not result in any additional costs for those not directly employed by the *Contractor* (item 14) at this time.

The *Contractor* will therefore be reimbursed for the additional costs of NICs for directly employed people, as well as for those people employed via Subcontractors as part of Defined Cost. If the selected main option clause is C or D, the target will only be adjusted for the additional cost of employing people (whether direct, or via the supply chain) if the change in law constitutes a compensation event.

It should be noted that if the selected main option clause was either E or F, the *Contractor* is required to prepare forecasts of the total Defined Cost for the whole of the *works* in consultation with the *Project Manager* at the intervals stated in Contract Data part 1 (clause 20.4). Whilst any changes made to the forecast since the previous forecast need to be explained, compensation events are not necessary to change the forecast.

Regardless of the main option clause selected, a change in the law is only a compensation event if secondary option clause X2 is included in the *conditions of contract*.

Secondary option clause X2 states that "A change in the law of the country in which the Site is located is a compensation event if it occurs after the Contract Date. If the effect of a compensation event which is a change in the law is to reduce the total Defined Cost, the Prices are reduced."

Consequently, if secondary option clause X2 is included, a change in the law will be a compensation event if:

- the change in the law is in the country in which the Site is located, and
- the change in the law occurs after the Contract Date.

If the Site is in the UK and the contract was entered into before the NICs (Secondary Class 1 Contributions) Bill 2024-25 receives Royal Assent, the change in law would be an admissible compensation event.

If a change in law, such as the change to employer NICs, is known before the contract is entered into and secondary option clause X2 is not included, the *Contractor* should factor the additional cost into the tendered total of the Prices.

If secondary option clause X2 is included, the *Contractor* should discuss the proposed compensation event with the *Client*. Although the increase from the changes should be excluded from the tendered total of the Prices (if entering into an agreement prior to the date of Royal Assent) and notified as a compensation event once the contract is signed, open and regular dialogue should help avoid any misunderstandings. Alternatively, the Parties may agree to include the impact in the tendered total of the Prices. And hence the *Project Manager* (and the Parties) should determine that the increased cost is already accounted for in the tendered total, and therefore conclude that the compensation event has no (further) impact on Defined Cost.

Once it is confirmed that secondary option clause X2 is included and the change to employer NICs qualifies as a compensation event, the *Contractor* should notify the *Project Manager* (clause 61.3), as the event does not result from an instruction, notification, certificate, or change in decision by the *Project Manager* or *Supervisor*. Such notification should be provided within eight weeks.

The *Project Manager* may suggest that the *Contractor* was aware of the event when it was announced in the Autumn Budget of 2024, and therefore suggest the compensation event is time-barred. However, the eight-week time bar in clause 61.3 begins when the *Contractor* becomes aware that the event has occurred. For primary legislation, such as Acts of Parliament, the change in the law only occurs once the Bill has received Royal Assent.

Once the *Project Manager* notifies the *Contractor* that the event is a compensation event and instructs them to submit quotations, the cost impact should be assessed based on its effect on Defined Cost (clause 63.1).

The cost effect of the changes to employer NICs will be the increased NI costs the *Contractor* must pay for all people working on the project from 6th April 2025 until planned completion.



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Where main option C, D, E, or F is selected, the Schedule of Cost Components is used to assess compensation events. As stated above, the cost of people directly employed by the *Contractor*, which includes contributions, levies or taxes imposed by law, and payments to Subcontractors are all included in the Schedule of Cost Components.

However, where main option A or B is selected, the Shorter Schedule of Cost Components is used to assess compensation events.

Under the Short Schedule of Cost Components, payments to Subcontractors are included (item 41), while the cost of people is calculated by multiplying the applicable People Rate in Contract Data Part 2 by the time spent on work under the contract.

The *Contractor* should discuss the assessment of the compensation event with the *Project Manager* to agree on how the effect on Defined Cost should be calculated. Options may include calculating an extra over amount per person for the total increased cost of employing people or adjusting each of the People Rates to account for the changes to employer NICs as per the example calculation.

In either case, depending on the size and duration of the project, forecasting the number of people who will be working on the project may be challenging. In accordance with clause 63.8, assessment of a compensation event can include cost risk allowances for matters with a significant chance of occurring, such as the risk of changes in the number and mix of people over the project's duration.

However, if the effects are too uncertain to forecast reasonably, clause 61.6 allows the *Project Manager* to state assumptions about the compensation event when instructing the *Contractor* to submit quotations.

While the above advice is based on the NEC4 ECC, the same principles apply to other NEC4 contracts. However, before assessing who bears the cost impact of the changes to employer NICs, the specific contract should be reviewed to fully understand the conditions and any amendments or *additional conditions of contract*. =

NEC4 Defined Cost / People Rates Adjustment: Example Additional Employer NI Contribution Calculation (Post-April 2025)

Current NI (Employer):

Salary	=	£40,000.00		
Employer NI Rate and Secondary Threshold	=	13.80%	for earnings above	£9,100.00
Earnings subject to NI	=	£40,000.00 - £9,100.00	=	£30,900.00
Employer NI Contribution (current)	=	£30,900.00 x 13.80%	=	£4,264.20

New NI (Employer - April 2025):

Salary	=	£40,000.00		
NEW Employer NI Rate and Threshold	=	15.00%	for earnings above	£5,000.00
Earnings subject to NI	=	£40,000.00 - £5,000.00	=	£35,000.00
Employer NI Contribution (new)	=	£35,000.00 x 15.00%	=	£5,250.00

Additional Cost to the Employer in NI: = £5,250.00 - £4,264.20 = £985.80 / Year

Impact on NEC4 People Rate:

a. Total Contracted Hrs/Yr prior to deductions (52wks x 40hrs/wk)	=	52.00	x	40.00	=	2080.00
b. Deduction for Holiday Allowance (25 Days x 8 Hrs / Day)	=	-25.00	x	8.00	=	-200.00
c. Deduction for Statutory Holiday's (UK = 8 Days x 8 Hrs / Day)	=	-8.00	x	8.00	=	-64.00
d. Deduction for Sickness & Training (6 Days x 8 Hrs / Day)	=	-6.00	x	8.00	=	-48.00
e. Chargeable Hours worked per year (sum of a to d)	=				=	1816.00 Hrs / Year
Chargeable Days worked per year (e. divided by 8 Hrs / Day)	=				=	227.00 Days / Year

Impact on NEC4 Defined Cost / People Rate (extra over costs): = £985.80 / 1816.0 = £0.54 / Hour

= £985.80 / 227.0 = £4.34 / Day



About the Author

Ian Hedley is a Chartered Quantity Surveyor (MRICS) and NEC® practitioner with extensive expertise across civil engineering, utilities, power, and nuclear sectors. He advises on procurement strategies, contract formation, contract management, dispute avoidance, and leads NEC3/NEC4 training workshops. Ian serves as Solomons' in-house NEC lead and has significant experience in managing contracts and fostering high-performing teams on complex projects.

A dedicated professional with a passion for supporting and developing others, Ian supports quantity surveyors on the RICS APC programme and is a registered RICS APC assessor. He also served as the North East Chair of the Controls and Skills Authority (formerly ACostE) for nine years until the early part of 2025.

With proven people and commercial management skills, Ian excels at building client relationships and solving problems effectively. Ian helps clients to develop commercial and contractual best practices that align with strategic goals, focusing on managing risks, opportunities, and improving governance. As a member of the Solomons board of directors, he focuses on team management, delegation, accountability, and service standards. His background in contracting, consultancy, and client-side experience further enhances his approach.

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