EXPLANATORY MEMORANDUM TO

THE INCOME TAX (ACCOMMODATION ALLOWANCES OF ARMED FORCES) REGULATIONS 2023

2023 No. 570

1. Introduction

1.1 This explanatory memorandum has been prepared by His Majesty's Revenue and Customs on behalf on His Majesty's Treasury and is laid before the House of Commons by Command of His Majesty.

2. Purpose of the instrument

2.1 This instrument ensures that payments made by the Ministry of Defence to service personnel under the 2022 Contribution in Lieu of Council Tax ("CILOCT") Rebate Scheme are exempt from income tax.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 Payments of "accommodation allowances" to members of the armed forces of the Crown are exempted from income tax by section 297D of the Income Tax (Earnings and Pensions) Act 2003. Section 297D(2)(c) contains a power enabling the Treasury to specify in regulations further conditions a payment must meet in order to qualify as an "accommodation allowance".

6.2 Payments made under the CILOCT Rebate Scheme are currently taxable as "employment income" pursuant to Section 62 or Section 201 of the Income Tax (Earnings and Pensions) Act 2003.

6.3 This instrument is to ensure that payments made under the CILOCT Rebate Scheme are exempt from income tax. It also ensures that no liability to National Insurance contributions (NICs) arises on the payments as a result of the corresponding disregard for the purposes of calculating Class 1 NICs in paragraph 12D of Part 8 of Schedule 3 to the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004).

6.4 This instrument applies retrospectively from 11 July 2022.

7. Policy background

What is being done and why?

7.1 On 3 February 2022 the Government announced a £150 Council Tax rebate for households in Council Tax bands A to D to help with the cost of living. Payments made under the Council Tax rebate scheme are exempt from income tax.

7.2 Service personnel living in Ministry of Defence provided accommodation are exempt from paying Council Tax and instead make payments to the Ministry of Defence through an alternative arrangement called CILOCT.

7.3 Service personnel paying CILOCT were not eligible for the Council Tax rebate and the Ministry of Defence and His Majesty's Treasury set up an alternative scheme in which one-off payments of £150 were made by the Ministry of Defence to relevant service personnel.

7.4 This instrument ensures that payments made under the CILOCT Rebate Scheme are exempt from income tax, ensuring equal treatment for service personnel compared to the general council tax paying population and continuing the policy of exempting service personnel accommodation expenses from tax.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 There are no plans for consolidation as this is a standalone instrument.

10. Consultation outcome

10.1 No formal consultation exercise was conducted as this instrument effectively continues an existing exemption.

11. Guidance

11.1 No guidance is required for this instrument as guidance has already been provided by Ministry of Defence on the assumption that the CILOCT rebate payments would not be taxable.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 A Tax Information and Impact Note has not been prepared for this instrument as it contains no substantive changes to tax policy.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 There are no plans to monitor or review the instrument.

14.2 The instrument does not include a statutory review clause because of a tax exemption in section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015.

15. Contact

15.1 Mark Davies at His Majesty's Revenue and Customs, Telephone: 03000 593180 or email: mark.davies6@hmrc.gov.uk can be contacted with any queries regarding the instrument.

15.2 Phil Batchelor, Deputy Director for Income Tax Policy, at His Majesty's Revenue and Customs can confirm that this Explanatory Memorandum meets the required standard.

15.3 Victoria Atkins MP, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.