EXPLANATORY MEMORANDUM TO

THE INCOME TAX (CONSTRUCTION INDUSTRY SCHEME) (AMENDMENT) REGULATIONS 2016

2016 No. 348

1. Introduction

1.1 This explanatory memorandum has been prepared by the Commissioners for Her Majesty's Revenue and Customs ("HMRC") and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument amends the Income Tax (Construction Industry Scheme) Regulations 2005 (S.I. 2005/2045) ("the principal Regulations") which provide the operational detail of the Construction Industry Scheme (CIS).

2.2 This instrument requires contractors to file monthly returns (from April 2016) and to verify the tax status of their sub-contractors (from April 2017) using an approved method of electronic communications unless the contractor is either a person whose religious beliefs preclude the use of electronic communications or is a person in respect of whom HMRC has made a direction on the basis that it is not practicable for that contractor to use an approved method of electronic communications ("the excepted groups").

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 Regulation 2(2) amends the definition of "approved method of electronic communications" in regulation 2 of the principal Regulations to include references to CIS Online for Contractors and PAYE Online for Agents.

4.2 Regulation 2(3) and 2(4) amend regulations 4 and 6 of the principal Regulations to require contractors to file their monthly returns to HMRC and to verify the tax status of their sub-contractors using an approved method of electronic communications unless the contractor is within one of the excepted groups.

4.3 Regulation 2(5) amends regulation 28 of the principal Regulations to reduce the minimum turnover that certain firms and companies have to meet to be registered for gross payment status and regulation 2(6) makes a consequential amendment to regulation 29 of the principal Regulations.

4.4 Regulation 2(7) substitutes a new Table 3 in regulation 32 of the principal Regulations which prescribes the circumstances in which a sub-contractor will be taken to have complied with the obligations set out in paragraph 4(1), 7(1) or 12(1) of Schedule 11 to the Finance Act 2004.

5. Extent and Territorial Application

5.1 The extent of this instrument is the United Kingdom.

5.2 The territorial application of this instrument is the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

What is being done and why

7.1 The purpose of these measures is to reduce the costs on both businesses and HMRC by making the Construction Industry Scheme simpler to administer. It will achieve this by moving more transactions online and by simplifying the process for sub-contractors who wish to apply for and maintain gross payment status (i.e. to receive payments without deduction on account of tax).

7.2 Gross payment status helps businesses improve their cash flow and reduces the administrative burdens for both businesses and HMRC in claiming repayments after the end of the tax year.

7.3 The majority of contractors already carry out their transactions with HMRC on line. However, it is recognised that not all contractors will be able to do so due to religious beliefs or as a consequence of other circumstances such as age or ill health. Contractors who contact and satisfy HMRC that they fall into one of these categories will be able to continue filing returns and verifying the tax status of their sub-contractors by contacting the HMRC Construction Industry Scheme helpline.

Consolidation

7.4 There are currently no plans to consolidate the Income Tax (Construction Industry Scheme) Regulations 2005.

8. Consultation outcome

8.1 HMRC carried out a formal consultation between June and September 2014 on improving the Construction Industry Scheme.

8.2 A response document was published on 10 December 2014. A copy is available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/384729/1049_-_Improving_CIS_-_responses_summary_final_version_v2.pdf

8.3 A draft of this instrument was published for consultation on 9 December 2015. As a consequence of the consultation, the entries in the Table in regulation 32 of the principal Regulations have been further amended.

9. Guidance

9.1 Information on these changes has been sent to contractors who currently file on paper.

9.2 Guidance on the changes made by this instrument will be published on Gov.uk from April 2016.

10. Impact

10.1 There will be no impact on charities or voluntary bodies or on businesses who currently carry out their transactions with HMRC using approved electronic methods of communications. Contractors who do not currently use electronic methods of communications will be required to do so unless they are within the excepted groups.

10.2 The impact on the public sector is limited but where the public sector is acting as a contractor it will be required to use approved methods of electronic communications.

10.3 A Tax Information and Impact Note covering this instrument was published on 10 December 2014 and is available on the HMRC website at https://www.gov.uk/government/publications/improving-the-operation-of-the-construction-industry-scheme. This remains an accurate summary of the impacts that apply to this instrument.

11. Regulating small business

11.1 The legislation will apply to all contractors irrespective of size. Therefore, the legislation applies to activities that are undertaken by small businesses.

11.2 No specific action is proposed to minimise regulatory burdens on small businesses.

11.3 An open consultation was held between 27 June and 22 September 2014 which included a package of proposals to simplify the operation of the Construction Industry Scheme for all business, large and small. Contractors may use the free HMRC online filing application which is supported by an Online Services Helpdesk available to guide and offer advice to new online filers. The free online filing application also enables contractors to verify the tax status of their subcontractors.

12. Monitoring & review

12.1 HMRC will monitor the effectives of this instrument to ensure that Government objectives of simplifying the administration of the Construction Industry Scheme are met.

13. Contact

13.1 Andy Thomas at HMRC Tel: 03000 589714 or email: andy.thomas@hmrc.gsi.gov.uk can answer any queries regarding the instrument.