EXPLANATORY MEMORANDUM TO

THE INCOME TAX (CONSTRUCTION INDUSTRY SCHEME) (AMENDMENT) REGULATIONS 2026

2026 No. 289

1. Introduction

1.1 This Explanatory Memorandum has been prepared by His Majesty's Revenue and Customs (HMRC) and is laid before the House of Commons by Command of His Majesty.

2. Declaration

2.1 Dan Tomlinson MP, Exchequer Secretary to the Treasury confirms that this Explanatory Memorandum meets the required standard.

2.2 Lucy Morgan, Deputy Director for the Pay As You Earn (PAYE) and the Construction Industry Scheme (CIS) Regime at HMRC confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Sanna Kauser at HMRC can be contacted by email at the following address with any queries regarding the instrument: cisconsultations@hmrc.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The instrument requires contractors whose business includes construction operations to file a nil return if they have not paid any subcontractors in a tax month. A nil return is not required if they have notified HMRC in advance that they will not make any contract payments that month or they have not previously made contract payments.

4.2 It also exempts payments made to local authorities or public bodies from the scope of the Construction Industry Scheme (CIS).

Where does the legislation extend to, and apply?

4.3 The extent of this instrument (that is, the jurisdictions which the instrument forms part of the law of) is the United Kingdom.

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

5. Policy Context

What is being done and why?

Nil returns

5.1 In 2015 the obligation to file a return when contractors had not made payments to subcontractors was removed to reduce administrative burdens on contractors. However, this relied on contractors voluntarily telling HMRC that they had not made any payments to subcontractors in a month to prevent an erroneous penalty from being charged.

5.2 User research shows that administrative burdens were not in fact reduced by the 2015 changes. Compliant contractors either continued to file nil returns or appeal the automatic penalty issued. Many contractors do not file a nil return, notify HMRC of periods of inactivity, or respond to penalties. This results in significant penalty related debt, which in many cases may not be due because the contractor had not made payments to subcontractors during the tax month.

5.3 The measure amends the Income Tax (Construction Industry Scheme) Regulations 2005 (the CIS Regulations) by adding the requirement for contractors, whose business includes construction operations, to make returns to HMRC when they have not made any payments to sub-contractors in a tax month (a nil return) unless the contractor notifies HMRC that they will make no payments for the tax month.

Exception for payments to public bodies

5.4 The measure also allows local authorities and certain public bodies to receive payments without deductions being withheld as these bodies were not the intended target of the CIS. It exempts contract payments to these bodies from the scope of the scheme.

What was the previous policy, how is this different?

Nil returns

5.5 Since the obligation to file a nil return was revoked from legislation in 2015, a contractor who had not made any payments to subcontractors during the tax month was not required to submit a nil return and related penalties for failing to file were not due.

Exception for payments to public bodies

5.6 The CIS requires contractors to make deductions from payments to subcontractors, and report and pay these over to HMRC, unless the subcontractor holds Gross Payment Status. As an administrative easement HMRC, knowing these bodies were not the intended target of the CIS, created an Extra Statutory Concession that allows certain public bodies to be treated as holding Gross Payment Status so they can receive construction contract payments without deductions. Exempting payments to public bodies from the CIS will mean this Extra Statutory Concession is no longer needed and it can be removed.

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument exercises the powers conferred by section 60(7) and 70 of the Finance Act 2004 and section 98A(1) of the Taxes Management Act 1970.

6.2 This instrument amends the CIS Regulations by introducing an obligation to file nil returns in certain circumstances in regulation 4 and adding a new regulation 24ZA (payments made to public bodies) to exempt payments made to public bodies from the CIS.

Why was this approach taken to change the law?

Nil returns

6.3 Section 70(2) of the Finance Act 2004 provides for regulations to require a return to be made where no payments have been made in the period to which the return relates. These regulations are required to reinstate this filing obligation by amending

regulation 4 of the CIS regulations, that sets out a contractor's filing obligations. Therefore, it is appropriate to modify this regulation to add the requirement to file a nil return.

Exception for payments to public bodies

6.4 Section 60(7) of the Finance Act 2004 allows exceptions to payments that fall within the scope of the CIS to be prescribed in regulations. These regulations build on the current approach of setting out these exceptions within Part 4 of the CIS regulations.

7. Consultation

Summary of consultation outcome and methodology

7.1 Draft regulations were published on the gov.uk website[1] for consultation from 6 January to 3 February 2026. The government received 7 responses from representative bodies, accountancy and law firms and an individual. Revisions have been made to the draft regulations following the feedback received, in order to deliver the intended effect.

8. Applicable Guidance

8.1 HMRC will publish guidance in the Construction Industry Scheme Reform Manual available on the gov.uk website.[2]

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A Tax Information and Impact Note covering this instrument will be published on the gov.uk website.[3]

Impact on businesses, charities and voluntary bodies

9.2 The impact on business, charities or voluntary bodies is negligible. One-off costs for these businesses will include familiarisation with the new rules. There are not expected to be any continuing costs.

9.3 The legislation does impact small or micro businesses. These businesses are within the scope of the CIS rules within the Finance Act 2004. As these regulations should not increase administrative burdens on businesses and ensure that the CIS can be administered effectively it is essential that these regulations apply to small and micro businesses.

9.4 The impact on the public sector reduces burdens on public sector organisations that receive construction contract payments. One-off costs for these organisations will include familiarisation with the new rules. There are not expected to be any continuing costs.

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1 Consultation: https://www.gov.uk/government/consultations/construction-industry-scheme-proposed-simplification-and-administrative-amendments
2 Construction Industry Scheme Reform Manual: https://www.gov.uk/hmrc-internal-manuals/construction-industry-scheme-reform
3 Tax Information and Impact Note: https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is to keep the instrument under review through ongoing contact with industry representative groups.

10.2 The instrument does not include a statutory review clause. This instrument amends United Kingdom tax legislation and therefore falls within the exceptions at section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

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

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").