EXPLANATORY MEMORANDUM TO

THE INCOME TAX (PAY AS YOU EARN) (AMENDMENT NO. 2) REGULATIONS 2026

2026 No. 610

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 Income Tax Administration Directorate, at HMRC confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Craig Maffey at HMRC can be contacted by email at the following address with any queries regarding the instrument: payepolicyteam@hmrc.gov.uk. Alternatively, the department can be contacted by telephone: 03000 517956.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This statutory instrument amends the Income Tax (Pay As You Earn) Regulations 2003 (S.I. 2003/2682) ("the PAYE Regulations") to enable HMRC to determine an individual's tax code for the purpose of collecting the Winter Fuel Payment Charge.

4.2 The amendment enables HMRC to determine an individual's tax code to ensure that income tax payable in respect of the Winter Fuel Payment Charge for a tax year is deducted from PAYE income paid to that individual during that year.

4.3 The provision adopts an approach consistent with regulation 14B of the PAYE Regulations, which applies in relation to the High Income Child Benefit Charge and enables the Winter Fuel Payment Charge to be collected through PAYE during the tax year.

Where does the legislation extend to, and apply?

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

4.5 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?

5.1 Finance Act 2026 ("FA 2026") introduced a new income tax charge equal to the full value of a Winter Fuel Payment received by pensioners with total income over £35,000. The charge applies for the 2025-26 and subsequent tax years.

5.2 The policy supports the Government's objective of targeting support at those who need it most. The £35,000 threshold is broadly in line with average earnings and well above the income level of pensioners in poverty, balancing support for pensioners with fairness to the taxpayer.

5.3 This instrument supports the efficient collection of the Winter Fuel Payment Charge by enabling HMRC to collect the charge through PAYE in the tax year to which it relates. This allows the charge to be recovered through PAYE tax codes over the course of the tax year in which payment is made, providing a more timely and administratively efficient method of collection. Without this amendment, HMRC would not be able to adjust the individual's tax code so that the charge is collected through PAYE throughout the tax year in which it arises.

5.4 The amendment aligns the treatment of the Winter Fuel Payment Charge with that of the High Income Child Benefit Charge, for which the PAYE Regulations already provide for collection through an individual's tax code during the tax year.

What was the previous policy, how is this different?

5.5 Before this instrument, the PAYE Regulations did not contain a provision enabling HMRC to determine a tax code to collect income tax arising from the Winter Fuel Payment Charge in the tax year to which the charge relates.

5.6 As a result, the charge would generally be collected through Self Assessment or through PAYE coding adjustments made after the end of the relevant tax year.

5.7 This change allows the charge to be collected in-year through PAYE, aligning its treatment with comparable liabilities and reducing reliance on Self Assessment or adjustments after the end of the relevant tax year.

6. Legislative and Legal Context

How has the law changed?

6.1 The Winter Fuel Payment Charge was legislated for via paragraph 1 of Schedule 10 to FA 2026 which amended Part 10 of the Income Tax (Earnings & Pensions) Act 2003 ("ITEPA"). Paragraph 3(3) of Schedule 10 to FA 2026 contains an amendment to section 684 ITEPA that provides the power for the PAYE Regulations to include provision securing the recovery of income tax payable, and the repayment of amounts overpaid in respect of the Winter Fuel Payment Charge for a tax year, by virtue of the new section 681I of ITEPA.

6.2 This instrument amends the PAYE Regulations by inserting a new regulation 14BA. That provision enables HMRC to determine an individual's tax code to secure, through PAYE, the recovery of income tax payable, and the repayment of amounts overpaid in respect of the Winter Fuel Payment Charge for a tax year. An individual may object to a tax code adjustment by contacting HMRC or by making a formal objection under regulation 18 of the PAYE Regulations.

Why was this approach taken to change the law?

6.3 This approach has been taken to ensure that the Winter Fuel Payment Charge can be collected efficiently and in a timely manner through the PAYE system in the tax year to which the liability relates.

6.4 By providing for recovery through PAYE coding, the amendment builds on an established framework within the PAYE Regulations, in particular the approach taken in regulation 14B, rather than introducing a new standalone mechanism.

6.5 Aligning the treatment of the Winter Fuel Payment Charge with that of the High Income Child Benefit Charge promotes consistency in the treatment of comparable liabilities and supports a coherent approach to PAYE coding, while maintaining existing safeguards.

6.6 Alternative approaches were considered, including reliance on Self Assessment as the primary mechanism for reporting and payment, or collection through PAYE coding adjustments made after the end of the tax year. Those approaches would not have enabled the liability to be collected in-year and would have been less aligned with existing PAYE collection mechanisms for comparable liabilities. The approach taken was therefore considered the most effective means of achieving in-year collection through an established and well understood legislative framework and provides an easier customer journey for affected individuals.

7. Consultation

Summary of consultation outcome and methodology

7.1 No formal consultation was undertaken for this instrument. The instrument makes provision for the collection through PAYE of a charge already legislated for in primary legislation and aligns the collection mechanism with an existing PAYE coding framework.

8. Applicable Guidance

8.1 HMRC guidance on the collection of Winter Fuel Payments liabilities through PAYE tax code adjustments has been published on the GOV.UK website.[1]

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A Tax Information and Impact Note covering the measure was published on 26 November 2025 alongside clause 55 and Schedule 10 to the Finance (No. 2) Bill 2025. It is available on the GOV.UK website.[2]

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because this instrument applies to individual PAYE customers.

9.3 The legislation does not impact small or micro businesses.

[1] Guidance: https://www.gov.uk/guidance/paying-back-the-winter-fuel-payment
[2] Tax Information and Impact Note: https://www.gov.uk/government/publications/income-tax-charge-on-winter-fuel-payments

9.4 There is no, or no significant, impact on the public sector because this instrument applies to individual PAYE customers.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is through HMRC's compliance and reporting systems, including PAYE and Self Assessment data. Opt-out rates and behavioural responses will be tracked. HMRC will use that data to assess the operation of the measure and keep its effectiveness under review.

10.2 The instrument does not include a statutory review clause because in accordance with the requirements of the Small Business, Enterprise and Employment Act 2015, it is made in relation to the imposition of a tax, duty, levy or other charge.

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").