EXPLANATORY MEMORANDUM TO

THE INCOME TAX (TAX TREATMENT OF SCOTTISH CARER SUPPLEMENT AND EXEMPTION OF CARER'S ADDITIONAL PERSON PAYMENT) REGULATIONS 2026

2026 No. 93

1. Introduction

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

2. Declaration

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

2.2 Paul Phillips, on behalf of the Deputy Director for Income Tax Policy, at HMRC can confirm that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Keshini Jayasekera at HMRC can be contacted by email at the following address with any queries regarding the instrument: Keshini.jayasekera@hmrc.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The purpose of this instrument is to exempt from income tax payments made under the Scottish Government's Carer's Additional Person Payments. The instrument also confirms the Scottish Carer Supplement as a taxable social security benefit.

Where does the legislation extend to, and apply?

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

4.3 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?

Scottish Social Security Payments

5.1 Social security payments are administered by a number of different government departments and the devolved administrations in the United Kingdom.

5.2 The tax treatment of social security payments is legislated for in income tax legislation, and the tax treatment of each new payment should be confirmed when introduced.

5.3 The Scottish Government's updated Fiscal Framework 2023 ("the Fiscal Framework")[1] underpins the powers over tax and welfare that are devolved to Scotland through the Scotland Act 1998. The Fiscal Framework states that a new benefit introduced by the Scottish Government will not be deemed to be income for tax purposes, unless it 'tops up' a taxable benefit.

Carer's Additional Person Payment

5.4 The Scottish Government is introducing the Carer's Additional Person Payment in Scotland as a new social security payment from March 2026. Carer's Additional Person Payment will be available to carers who have more than one substantive care role, with the purpose of recognising the impact this can have on a carer's health and wellbeing.

5.5 Under current taxation principles, payments made under Carer's Additional Person Payment will be chargeable to income tax covered by the 'annual payments' provisions in part 5, chapter 7 Income Tax (Trading and Other Income) Act 2005 ("ITTOIA").

5.6 As payments made under Carer's Additional Person Payment could be taxable under the annual payment rules, the Government is clarifying the tax treatment of these payments as a non-taxable social security benefit to adhere to the Fiscal Framework.

Scottish Carer Supplement

5.7 The Scottish Government is introducing the Scottish Carer Supplement in Scotland as a new social security payment in March 2026 to replace Carer's Allowance Supplement, a top up payment for Carer Support Payment.

5.8 The UK Government legislated to confirm that Carer's Allowance Supplement is a taxable social security benefit in the Finance Act 2019. The Scottish Carer Supplement will be administered by Social Security Scotland; it will be paid as a regular four weekly or weekly amount, alongside regular Carer Support Payments.

5.9 The Scottish Carer Supplement is replacing Carer's Allowance Supplement, which is taxable as a social security benefit. Therefore, the Scottish Carer Supplement will also be taxed as a social security benefit, to ensure consistency with UK payments and adhere to the Fiscal Framework.

What was the previous policy, how is this different?

5.10 Carer's Additional Person Payment is being introduced from March 2026. This instrument will confirm that payments will not be subject to income tax.

5.11 Scottish Carer Supplement is being introduced from March 2026. This instrument will confirm that payments will be subject to income tax.

5.12 There are no substantial changes to welfare policy made by this instrument.

6. Legislative and Legal Context

How has the law changed?

6.1 Section 13 of the Finance Act 2020 contains a power for the Treasury, by regulations, to amend Chapter 4 or 5 of Part 10 of Income Tax (Earnings and Pensions) Act 2003

[1] The Scottish Government's updated Fiscal Framework 2023: https://assets.publishing.service.gov.uk/media/64c390e3f921860014866718/Fiscal_Framework_Agreement.pdf

("ITEPA 2003"), so as to provide that no liability to Income Tax arises on social security benefits of a description specified in the regulations (section 13(1)).

6.2 Section 27 of the Finance (No. 2) Act 2023 contains a power for the Treasury, by regulations, to amend Chapter 3 of Part 10 of ITEPA 2003, so as to provide that a specified devolved social security benefit is chargeable to income tax (section 27(1)).

6.3 The instrument will amend Chapter 5 of Part 10 of ITEPA 2003 by inserting Carer's Additional Person Payment into Part 1 of Table B in section 677, which will have the effect of wholly exempting this social security benefit from income tax.

6.4 The instrument will also amend Chapter 3 of Part 10 of ITEPA 2003 by inserting Scottish Carer Supplement into Table A at section 660, which will have the effect of confirming that Scottish Carer Supplement is taxable as a social security benefit, and amending section 661.

6.5 Regulation 2(1) and (2) refer to regulations 14A and 14B of the Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023. These Regulations will commence on 15th March 2026 by virtue of regulations 1 and 3 of the Carer's Assistance (Miscellaneous and Consequential Amendments, Revocation, Transitional and Saving Provisions) (Scotland) Regulations 2025.

Why was this approach taken to change the law?

6.6 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 No formal consultation exercise has been held on the tax treatment of Carer's Additional Person Payment as these changes are wholly relieving to the taxpayer.

7.2 No formal consultation exercise was held on the taxation of Scottish Carer Supplement, as this replaces another social security benefit which is taxable.

8. Applicable Guidance

8.1 Guidance will be provided via the body administering the payment.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

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

Impact on businesses, charities and voluntary bodies

9.2 There is no significant, impact on business, charities or voluntary bodies because these payments are made to a small number of individuals. Therefore, there are no wider impacts on businesses, charities or voluntary bodies.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no significant impact on the public sector because these payments are made to approximately one hundred and forty thousand individuals living in Scotland. Therefore, there are no wider impacts on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

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

10.2 The instrument does not include a statutory review clause because it does not make or amend regulatory provisions that relate to business activity.

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 resolution 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").