EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992 (MODIFICATION OF SECTION 4A) ORDER 2026

2026 No. 341

1. Introduction

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

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

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

2.2 Peter Downing, Deputy Director for Employment Status, Intermediaries and Coronavirus Job Retention Scheme Legacy, at HMRC confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Andrew Lewis at HMRC can be contacted by email at the following address with any queries regarding the instrument: Andrew.Lewis2@hmrc.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 Legislation was introduced in the Finance Act 2026 to amend Part 2 of the Income Tax (Earnings and Pensions) Act 2003 ("ITEPA 2003"). The legislation introduced changes to make employment agencies or end clients jointly and severally liable for any tax required to be accounted for under the Pay As You Earn ("PAYE") provisions, where an umbrella company forms part of a labour supply chain.

4.2 Joint and several liability will allow HMRC to pursue an employment agency for any payroll taxes that a non-compliant umbrella company fails to remit to HMRC on their behalf. The end client will be liable if contracting directly with an umbrella company.

4.3 This instrument will allow the Treasury to make regulations providing the same treatment for National Insurance contributions ("NICs").

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 Great Britain.

4.5 The territorial application of this instrument (that is, where the instrument produces a practical effect) is Great Britain.

4.6 A separate Statutory Instrument and Explanatory Memorandum has been provided for Northern Ireland.

5. Policy Context

What is being done and why?

5.1 Umbrella companies are employment intermediaries that employ workers on behalf of agencies and end clients. Many umbrella companies operate diligently, supporting their employees and providing convenience and administrative benefits for agencies. However, too many are used to facilitate non-compliance including tax avoidance and tax fraud. This incurs significant losses for taxpayers and can leave workers with unexpected tax bills. In addition to causing significant harm to workers and taxpayers, non-compliant umbrella companies undercut compliant firms, threatening the viability of those businesses that do the right thing, as well as the functioning of the market itself.

5.2 Employment agencies can decide which businesses enter their labour supply chains, and they have the power to prevent illegitimate operators from entering the market. The government believes that making those who can control labour supply chains legally responsible for ensuring that PAYE is properly accounted for will improve compliance in the market.

5.3 At Autumn Budget 2024 the government announced that it would bring forward legislation to change who has responsibility to account for PAYE where a non-compliant umbrella company is used in a labour supply chain to engage a worker. It is the government's assessment that this option will most improve outcomes for workers, support a level playing field for compliant businesses, and protect taxpayers from the significant losses to the Exchequer.

What was the previous policy, how is this different?

5.4 This Order amends section 4A of the Social Security Contributions and Benefits Act 1992 ("SSCBA") in consequence of the insertion of Chapter 11 of Part 2 of ITEPA 2003 by the Finance Act 2026.

5.5 Section 4A enables regulations to be made with regard to structures aimed at avoiding NICs. The scope of section 4A has previously been extended to make provision to enable the Class 1 NICs position to be aligned with the PAYE position for Managed Service Companies in 2007.

5.6 Umbrella companies are employers and are required to operate PAYE on payments of employment income made to their employees. Other parties in the labour supply chain, such as employment agencies, do not currently hold any liability under these arrangements. This Statutory Instrument will provide the Treasury with a power to further widen the scope of section 4A to umbrella companies.

6. Legislative and Legal Context

How has the law changed?

6.1 This Order provides the Treasury with a power to treat a person as jointly and severally liable, with an umbrella company, for NICs payable in respect of earnings provided to or for the benefit of a worker, where that person is already jointly and severally liable under Chapter 11 of Part 2 of ITEPA 2003.

6.2 It further permits regulations to make provision for the recovery of such contributions from a jointly liable person.

6.3 In addition, where an individual is treated for income tax purposes, by virtue of section 61Z1 of ITEPA 2003, as holding an employment with a purported umbrella

company, regulations may secure that payments or benefits of a specified description are treated as earnings for NICs purposes, that the individual is regarded as employed in relation to those payments or benefits, and that the purported umbrella company is treated as the secondary contributor in respect of those payments or benefits. Paragraphs (b) and (c) of article 2 of this Statutory Instrument make consequential amendments to subsections (3) and (4) of section 4A of the SSCBA.

Why was this approach taken to change the law?

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

7. Consultation

Summary of consultation outcome and methodology

7.1 The previous government consulted on this policy between June and August 2023.

7.2 The consultation made proposals with the aim of gathering responses from stakeholders about the most effective way to address issues of tax and employment rights non-compliance by umbrella companies. In an effort to reduce tax non-compliance, the government consulted on three options intended to change the incentives that exist within the temporary labour market and encourage greater due diligence by those companies that choose to use umbrella companies in their labour supply chains.

7.3 The government published a response to the consultation in March 2025. It outlined the proposed options the previous government put to stakeholders in 2023 and summarised responses received. It presented the government's position on the proposals and outlined the action the government is taking to reduce non-compliance in the umbrella company market.

7.4 The consultation was well received by many stakeholders who welcomed government action to level the playing field within the temporary labour market. The government worked with stakeholders to review and refine the legislation included in the Finance Act 2026 ahead of the new rules coming into effect in April 2026.

7.5 The consultation, alongside the government's response, can be found on GOV.UK website.[1]

8. Applicable Guidance

8.1 HMRC has published guidance which can be found on the GOV.UK website.[2]

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A Tax Impact and Information Note covering this instrument was published on 26 November 2025 and can be found on the GOV.UK website.[3]

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[1] Consultation Outcome: Tackling non-compliance in the umbrella company market: www.gov.uk/government/consultations/tackling-non-compliance-in-the-umbrella-company-market.

[2] PAYE rules for labour supply chains that include umbrella companies from 6 April 2026: https://www.gov.uk/guidance/paye-rules-for-labour-supply-chains-that-include-umbrella-companies-from-6-april-2026

[3] Tax Information and Impact Note Policy Paper 26 November 2025: https://www.gov.uk/government/publications/paye-changes-for-the-umbrella-company-market/umbrella-company-market-changes-to-income-tax-rules-to-tackle-non-compliance

Impact on businesses, charities and voluntary bodies

9.2 The impact on business, charities or voluntary bodies is that organisations that choose to engage workers through umbrella companies will need to take steps to ensure that PAYE is operated correctly on payments made on their behalf. HMRC has published guidance to support businesses.[4] This may mean that businesses face additional administrative costs, however it is dependent on what course of action a business chooses to take.

9.3 The legislation does impact small or micro businesses.

9.4 Small and micro businesses that choose to engage workers through umbrella companies will need to take steps to ensure that PAYE is operated correctly on payments made on their behalf.

9.5 The impact on the public sector is that public sector organisations that choose to engage workers through umbrella companies will need to take steps to ensure that PAYE is operated correctly on payments made on their behalf.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is through normal audit activity and regular communication with affected taxpayer groups.

10.2 The instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 This instrument comes into force less than 21 days after it was laid, which is of particular interest to the Joint Committee on Statutory Instruments. This is necessary in order that the consequential Social Security Contributions (Umbrella Companies) Regulations 2026 can come into force on 6 April 2026. The Finance Act 2026 introduces new PAYE rules for businesses that use umbrella companies from 6 April 2026. The government is committed to aligning the NICs position with the PAYE position. This instrument is required to achieve this and is dependent on the Finance Act 2026. Therefore it was necessary for that Act to be granted Royal Assent before the instrument could be laid. Due to the short period of time between Royal Assent of the Finance Act 2026 and 6 April 2026, it was not possible to comply with the 21-day rule.

12. European Convention on Human Rights

12.1 The Exchequer Secretary to the Treasury has made the following statement regarding Human Rights:
"In my view the provisions of the Social Security Contributions and Benefits Act 1992 (Modification of Section 4A) Order 2026 are compatible with the Convention rights.".

[4] Guidance on Responsibilities for employment businesses working with umbrella companies: https://www.gov.uk/guidance/responsibilities-for-employment-businesses-working-with-umbrella-companies

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").