

EXPLANATORY MEMORANDUM TO
THE INCOME TAX (CARE LEAVER'S APRENTICESHIP BURSARY PAYMENT)
REGULATIONS 2020

2020 No. 922

1. Introduction

- 1.1 This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs (HMRC) and is laid before the House of Commons by Command of Her Majesty.
- 1.2 This explanatory memorandum contains information for the Select Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 These regulations provide for an income tax exemption for certain bursary payments made by the Education and Skills Funding Agency (ESFA) to care leavers starting an English statutory apprenticeship ("the care leaver's apprenticeship bursary payment").

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

- 3.1 The instrument will apply in relation to any payments made on or after 29 September 2020. In relation to payments that have already been made since the scheme came into effect, but before this instrument comes into force, HMRC will exercise its collection and management discretion and will refrain from collecting any income tax due on those payments.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales.
- 4.2 The territorial application of this instrument is England.

5. European Convention on Human Rights

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

6. Legislative Context

- 6.1 Section 11(1) of the Finance Act 2020 (c. 14) inserted a new section 254A into ITEPA (the Income Tax (Earnings and Pensions) Act 2003), providing for a new income tax exemption for the care leaver's apprenticeship bursary payment. However, section

254A requires certain conditions and definitions to be prescribed for the purposes of establishing the precise scope of the exemption.

- 6.2 The care leaver's apprenticeship bursary payment is regarded as a payment of earnings, and therefore income tax would be payable on these earnings under Part 2 of ITEPA. Equally, the payment would ordinarily be liable to National Insurance contributions (NICs) from both the employer and the apprentice, due to section 6 of the Social Security Contributions and Benefits Act 1992.
- 6.3 To avoid this outcome, these regulations are being introduced, alongside the Social Security (Contributions) (Amendment No. 4) Regulations 2020 (S.I. 2020/923) to allow the care leaver's apprenticeship bursary payment to be exempt from income tax, and disregarded for the purpose of NICs.
- 6.4 The instrument prescribes various conditions and definitions relating to the care leaver's apprenticeship bursary payment for the purposes of section 254A of the ITEPA. It is the first exercise of the powers under this provision.

7. Policy background

What is being done and why

- 7.1 In August 2018, ESFA, which is an executive agency sponsored by the Department for Education, introduced a one-off £1,000 bursary payment to individuals, aged between 16 and 24, who are in or who have left the care of a local authority, and which is payable upon their starting an English statutory apprenticeship.
- 7.2 Young people leaving care can experience additional barriers to getting an apprenticeship. The care leaver's apprenticeship bursary payment helps to cover some of the additional costs incurred in the first year of their apprenticeship as learners transition into the workplace for their practical studies. It is estimated that between 200 and 500 individuals will receive a care leaver's apprenticeship bursary payment each year.
- 7.3 Individuals are generally liable to pay income tax, and individuals and employers are both liable to pay Class 1 NICs, on payments that derive from an employment. This includes individuals who are employed as apprentices, and so the income tax exemption from earnings and S.I. 2020/923 will ensure that individuals receiving the care leaver's apprenticeship bursary payment receive the full benefit of the payment.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

- 9.1 There are no plans for consolidation as this is a stand-alone instrument.

10. Consultation outcome

- 10.1 No formal consultation exercise has been held as this is a minor change which is wholly relieving to the taxpayer. However, the Department for Education and ESFA who are responsible for making care leaver's apprenticeship bursary payments have been consulted as stakeholders during the drafting of these regulations.

11. Guidance

- 11.1 Guidance will be available on the gov.uk website when the regulations come into effect at: <https://www.gov.uk/guidance/expenses-and-benefits-for-apprenticeship-bursaries-for-care-leavers>.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A Tax Information and Impact Note covering this instrument was published on 11 March 2020 and is available on the gov.uk website at:
<https://www.gov.uk/government/publications/income-tax-and-national-insurance-exemptions-for-bursary-payments-to-care-leavers/income-tax-and-national-insurance-exemptions-for-bursary-payments-to-care-leavers>

It remains an accurate summary of the impacts that apply to this instrument.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses who operate eligible apprenticeship schemes.
- 13.2 No specific mitigating action is proposed to minimise regulatory burdens on small businesses.
- 13.3 The basis for the final decision on what action to take to assist small businesses is that the legislation does not impose new requirements on small businesses. It was therefore considered that no mitigating action was required, as it is a wholly relieving measure.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is to monitor and review it, as appropriate, within the context of the wider tax framework.
- 14.2 This measure will be monitored through information collected by ESFA and kept under review through regular communication with affected taxpayer groups.
- 14.3 These regulations do not include a statutory review clause because of a tax exemption in section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015.

15. Contact

- 15.1 Sheikh Hossain at HMRC, telephone: 03000 563895 or email: Sheikh.hossain@hmrc.gsi.gov.uk, can be contacted with any queries regarding the instrument.
- 15.2 Jackie McGeehan, Deputy Director for Income Tax Policy, at HMRC, can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Rt Hon Jesse Norman MP, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.