

**EXPLANATORY MEMORANDUM TO**  
**THE INCOME TAX (CONSTRUCTION INDUSTRY SCHEME) (AMENDMENT)**  
**REGULATIONS 2024**

**2024 No. 308**

**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 Nigel Huddleston MP, Financial Secretary to the Treasury confirms that this Explanatory Memorandum meets the required standard.
- 2.2 Lucy Morgan, Deputy Director for Tax Administration at HMRC confirms that this Explanatory Memorandum meets the required standard.

**3. Contact**

- 3.1 Isobelle Byrne at HMRC, email: cisconsultations@hmrc.gov.uk can be contacted with any queries regarding the instrument.

**Part One: Explanation, and context, of the Instrument**

**4. Overview of the Instrument**

*What does the legislation do?*

- 4.1 This instrument exempts certain payments made by landlords to tenants from the scope of the Construction Industry Scheme (CIS).
- 4.2 It also sets out the prescribed VAT obligations, and the exceptions to those obligations which HMRC will overlook for the purposes of removing or refusing gross payment status (GPS).

*Where does the legislation extend to, and apply?*

- 4.3 The extent of this instrument (that is, the jurisdiction(s) 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?*

- 5.1 Following engagement with HMRC's Construction Forum, on Tax Administration and Maintenance Day 2023, the Government published the consultation: Construction Industry Scheme reform, proposing compliance and simplification changes to the CIS, and inviting suggestions on ways the CIS could be simplified and digitalised further.

- 5.2 In the Summary of Responses to the consultation published at Autumn Statement 2023, the Government committed to alleviate certain administrative burdens by removing most payments made by landlords to tenants from the scope of the CIS.
- 5.3 The measure delivers this by introducing a new regulation in the Income Tax (Construction Industry Scheme) Regulations 2005 (the CIS Regulations) to exempt certain payments made by landlords to tenants from the definition of contract payments, and therefore place them outside the scope of the CIS.
- 5.4 The measure also supplements changes introduced by Finance Act 2024 which adds compliance with VAT obligations to the statutory compliance test for being granted, and for keeping, GPS.
- 5.5 The measure sets out the compliance obligations in relation to VAT that must be met to receive and retain GPS and ensures minor VAT compliance failures will not result in GPS refusal or removal. It does this by amending the regulation within the CIS Regulations that sets out the prescribed compliance obligations and the failures that HMRC will overlook. The exceptions proposed for VAT are in line with the allowances made for other taxes.

*What was the previous policy, how is this different?*

- 5.6 Previously, only inducement payments made by commercial landlords to tenants were outside the scope of the CIS (reverse premiums). Payments made in respect of building works that are the responsibility of the landlord were within the scope of the CIS. Under the measure other payments are now exempt, principally those intended primarily for the benefit and use of the tenant that occupies or will occupy the property.
- 5.7 The statutory compliance test previously only checked compliance with certain CIS, PAYE, Corporation Tax Self-Assessment and Income Tax Self-Assessment obligations. For each of these taxes, compliance failures that HMRC would overlook are set out in the CIS Regulations. VAT is now added to the compliance test for GPS.

## **6. Legislative and Legal Context**

*How has the law changed?*

- 6.1 This instrument exercises the powers conferred by section 60(7) and 73(1), (2) and (3) of, and paragraphs 4(3), 8(2) and 12(2) of Schedule 11 to, the Finance Act 2004.
- 6.2 The instrument amends CIS Regulations by adding a new regulation 20A (payments made by landlord to tenant) and VAT prescribed obligations and exceptions to regulation 32 (compliance test).

*Why was this approach taken to change the law?*

- 6.3 Having carefully considered consultation respondents' views, this approach was taken because it builds on the approach to payments excepted from the scope of CIS and the prescribed obligations and minor compliance errors that HMRC will overlook when refusing or removing GPS.

## 7. Consultation

### *Summary of consultation outcome and methodology*

- 7.1 Draft regulations were published on gov.uk<sup>1</sup> for consultation from 2 December 2023 to 9 January 2024. The Government received 2 responses from real estate owners, 4 responses from representative bodies and 13 from accountancy or law firms. 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 online<sup>2</sup>.

## **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 gov.uk<sup>3</sup>.

### *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 reduce administrative burdens on businesses and ensure that the compliance tests do not apply where there are minor compliance failures it is essential that these regulations apply to small and micro businesses.
- 9.4 There is no, or no significant, impact on the public sector.

## 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.

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<sup>1</sup> <https://www.gov.uk/government/consultations/construction-industry-scheme-cis-proposed-amendments>

<sup>2</sup> <https://www.gov.uk/hmrc-internal-manuals/construction-industry-scheme-reform>

<sup>3</sup> <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>

**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”).