

**EXPLANATORY MEMORANDUM TO THE
INCOME TAX (CONSTRUCTION INDUSTRY SCHEME) REGULATIONS 2005**

2005 No. 2045

1. This explanatory memorandum has been prepared by HM Revenue and Customs and is laid before the House of Commons by Command of Her Majesty.

This memorandum contains information for the Select Committee on Statutory Instruments.

2. Description

2.1 These Regulations provide operational detail of the new Construction Industry Scheme. They replace the regulations governing the current scheme (SI 1993/743, as amended). Many provisions of the existing regulations relating to payment and recovery of sums deducted under the scheme are carried over into these regulations.

2.2 The Regulations provide for the registration of sub-contractors for gross or net payment, the verification of sub-contractors payment status by contractors and the making of monthly returns by contractors. They also provide for certain persons and payments to be excepted from certain provisions of the scheme.

3. Matters of special interest to the Select Committee on Statutory Instruments]

The Regulations will come into force on a day appointed by the Commissioners for Her Majesty's Revenue and Customs by notice in the London, Edinburgh and Belfast Gazettes, which will not be before 6 April 2006.

4. Legislative Background

4.1 These Regulations are being made under powers conferred by section 205 of the Finance Act 2003, sections 60(7), 62(3), (6) and (7), 63(1), 65(2), 66(2) and (9), 68, 69, 70, 71, 73 and 75 of, and paragraphs 2, 3(1) and (3), 4(3) and (5), 6, 7(1) and (3), 8(2), 10, 11(1) and (4), 12(2), 15 and 16 of Schedule 11 to the Finance Act 2004 and section 98A(1) and 113(1) of the Taxes Management Act 1970.

4.2 The primary legislation introducing the new scheme is contained in sections 57 to 77 of, and schedules 11 and 12 to, the Finance Act 2004. This will replace the scheme currently set out in sections 559 to 567 of the Income and Corporation Taxes Act 1988, as amended. The scheme will come into effect on a day to be appointed by notice, but not before 6 April 2006.

4.3 The Commissioners for Revenue and Customs Act 2005 establishes HM Revenue and Customs (HMRC) by bringing together HM Customs & Excise and the Inland Revenue into a single non-ministerial government department.

4.4 References in enactments to the old bodies of Commissioners and to the old style of officers are to be read as if they were references to Her Majesty's

Commissioners for Revenue and Customs and officers of Revenue and Customs respectively (section 50(1) and (2)).

5. Extent

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Regulations are subject to annulment and do not amend primary legislation. Accordingly, the Financial Secretary to the Treasury is satisfied that no statement as to compatibility with the Convention rights is required.

7. Policy background

7.1 The policy objectives, set out in the consultation document entitled "*The Inland Revenue and the Construction Industry: Working together for a New Scheme*" published in November 2002, were

- To reduce the regulatory burden of the scheme on construction businesses;
- To improve the level of compliance by construction businesses with their tax obligations;
- To help construction businesses to get the employment status of their workers right.

7.2 To meet these objectives the new scheme:

- ***replaces the registration card and tax certificates with a verification service.*** This will dispense with the need for sub-contractors holding a CIS4 registration card or CIS6 tax certificate to travel to present their documents in person to the contractor.
- ***introduces a new employment status declaration.*** The declaration, which will be part of the monthly return, is designed to highlight the fact that all those who engage workers must consider the employment status of those they engage
- ***replaces the vouchers in the current scheme with monthly returns.*** Vouchers and end of year returns under the current scheme represent a large administrative burden on the industry. The monthly return will also allow the option of electronic submission.

7.3 The new scheme will require sub-contractors to register for gross (subject to certain conditions) or net payment, although sub-contractors registered under the current scheme will simply be carried over into the new scheme. A contractor engaging a sub-contractor must verify with HMRC whether to make payment gross or net. Where a contractor has a recent connection with the sub-contractor he need not verify. HMRC will notify any change in the payment status of the sub-contractor to any contractor who has engaged that sub-contractor in the current or previous two years. Each month, the contractor will be required to make a return, including a nil return, of all payments made to sub-contractors in that month.

8. Impact

A final Regulatory Impact Assessment was prepared for the Construction Industry Scheme provisions contained in Finance Bill 2004.

9. Contact

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