

EXPLANATORY MEMORANDUM TO
THE INCOME TAX (EXEMPTION OF SOCIAL SECURITY BENEFITS)
REGULATIONS 2024

2024 No. 287

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 Nigel Huddleston MP, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.
- 2.2 Philip Batchelor, Deputy Director for Income Tax Policy, at HM Revenue and Customs can confirm that this Explanatory Memorandum meets the required standard.

3. Contact

- 3.1 Mizanur Rahman at HM Revenue and Customs email: Mizanur.Rahman@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 The purpose of this instrument is to exempt two new social security benefits from income tax. This includes the payments made under the Scottish Government's Parental Transitions Support scheme and payments made under the Department for Work and Pensions Jobs Plus Pilot.

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 assemblies 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 one should be confirmed when introduced.

- 5.3 The Scottish Government’s updated Fiscal Framework 2023 (“the Fiscal Framework”) 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.

Parental Transitions Support scheme

- 5.4 The Scottish Government is introducing the Parental Transitions Support scheme in Scotland. Under current taxation principles, payments made under the Parental Transitions Support scheme would be chargeable to income tax covered by the ‘reason of employment’ provisions in section 201 Income Tax (Earnings and Pensions) Act 2003 (“ITEPA”).
- 5.5 As payments made under the Parental Transitions Support scheme would be taxable, the Government is clarifying the tax treatment of this scheme as a non-taxable social security benefit in order to comply with the Fiscal Framework.

Jobs Plus Pilot scheme

- 5.6 The Department for Work and Pensions is introducing the Jobs Plus Pilot. Payments from the Pilot are available for employed and self-employed individuals. Payments will include: a one-off £1000 ‘back to work’ bonus payment, a £40 per week ‘in-work’ credit and ‘transition to work’ support in the form of a reimbursement of non-direct expenses.
- 5.7 Under current taxation principles, the ‘back to work’ bonus payments and the ‘transition to work’ reimbursement of non-direct expenses would be chargeable to income tax covered by the ‘reason of employment’ provisions in section 201 ITEPA 2003 for employed individuals and subject to income tax under trading income tax rules in section 5 of Income Tax (Trading and Other Income) Act 2005 for self-employed individuals.
- 5.8 The £40 per week ‘in work’ credit is exempt under current taxation principles, for employed and self-employed individuals.
- 5.9 As the ‘back to work’ bonus and non-direct expenses payments made under the Jobs Plus Pilot would be taxable, the Government is clarifying the tax treatment of this scheme as a non-taxable social security benefit.

What was the previous policy, how is this different?

- 5.10 The Parental Transitions Support scheme is being introduced from 1 April 2024. This instrument will confirm that payments will not be subject to income tax.
- 5.11 The Jobs Plus Pilot scheme is being introduced from 1 April 2024. This instrument will confirm that payments will not be subject to income tax.

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 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 The instrument will amend and modify Chapter 5 of Part 10 of ITEPA 2003 by inserting reference to payments made under the Parental Transitions Support scheme,

and payments made under the Department for Work and Pensions Jobs Plus Pilot into Part 1 of Table B at section 677, which will have the effect of wholly exempting these social security benefits from income tax.

Why was this approach taken to change the law?

6.3 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 as these changes are wholly relieving to the taxpayer.

8. Applicable Guidance

8.1 Guidance will be provided via the bodies administering the schemes.

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 seven thousand individuals. 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 Nigel Huddleston MP, the Financial Secretary to the Treasury, has made the following statement regarding Human Rights:

“In my view the provisions of the Income Tax (Exemption of Social Security Benefits) Regulations 2024 are compatible with the Convention rights.”

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”).