

EXPLANATORY MEMORANDUM

THE OVERSEAS LIFE INSURANCE COMPANIES REGULATIONS 2004 No.2200

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

2. Description

2.1 The regulations modify and update existing corporation tax legislation applying to overseas life insurance companies – those companies which are not resident in the United Kingdom but carry on life assurance business in the UK through a permanent establishment. They also substitute in appropriate places in the relevant legislation the word “permanent establishment” for “branch or agency” as a result of the general substitution of that term by section 153 Finance Act 2003.

3. Legislative Background:

3.1 Sections 148 to 155 Finance Act 2003 (c. 14) made a number of significant changes to the taxation of non-resident companies carrying on business in the United Kingdom. Section 156 of that Act contains powers to modify the enactments relating to corporation tax having effect in relation to overseas life insurance companies, including power to make provision in place of, and in consequence to repeal or revoke, all or any of the enactments relating to corporation tax that make provision in relation to overseas life insurance companies.

3.2 This is the first use of a power under section 156 Finance Act 2003.

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

3.1 None

5. Extent

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 The Financial Secretary to the Treasury has made the following statement regarding Human Rights:

In my view the provisions of the Overseas Life Insurance Companies Regulations 2004 are compatible with the convention rights

7. Policy Background

7.1 There is in UK tax law a very substantial and complex body of statute that deals with the taxation of companies carrying on life assurance business (“the life tax provisions”). By sections 97 to 103 Finance Act 1993 and subsequent provisions, the life tax provisions are modified substantially for the case of a non-resident company (“the OLICs provisions”) – see in particular Schedule

19AC of the Income & Corporation Taxes Act 1988. Whenever the life tax provisions are themselves amended (usually in every Finance Act, and in particular by Schedule 33 Finance Act 2003), the OLICs provisions also have to be amended in primary legislation. Since 1993 there has been a steady decline in the number of non-resident life assurance companies, with the number of active companies being in single figures, and the trend is likely, for regulatory reasons, to continue downwards.

- 7.2 Even with such a small number of companies, it is necessary to have at least two alternative systems in some areas, to deal with those companies subject to regulation by the FSA and the subject only to home state regulation in accordance with the EC Life Insurance Directive.
- 7.3 Accordingly, the opportunity was taken in Finance Act 2003 to provide a power (section 156) to enable the OLICs provisions to be updated by regulation. This follows the precedent in section 463 ICTA 1988 which gives powers to enable the life tax provisions to be modified in the case of friendly societies carrying on life assurance business
- 7.4 There is little or no public interest in the policy given the number of companies affected, but the regulations have been the subject of informal consultation with interested parties.
- 7.5 The change is politically and legally unimportant

8. Impact:

- 8.1 There is no impact on business. Charities and voluntary bodies are not affected by the regulations.
- 8.2 There is no Exchequer impact.

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