

EXPLANATORY MEMORANDUM TO

THE OVERSEAS LIFE INSURANCE COMPANIES REGULATIONS 2006

2006 No.3271

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

2. Description

2.1 The regulations replace the Overseas Life Insurance Companies Regulations SI 2004/2200 as amended and set out all the modifications required to the Corporation Tax Acts as apply to UK resident companies carrying on life assurance business to make them work appropriately for Overseas Life Insurance Companies (OLICs) – insurance companies resident outside the UK which carry on life assurance business in the UK through a permanent establishment (PE).

2.2 In some cases they make different provision for EEA firms and Treaty firms – non-resident companies carrying on life assurance business through a PE in the UK which either have a “passport right” under Schedule 3 to the Financial Services and Markets Act 2000 (FISMA) or are regulated by their home state regulator, and not the Financial Services Authority.

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

3.1 None.

4. Legislative Background

4.1 These regulations are made under section 156 Finance Act 2003.

5. Extent

5.1 The instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 The Economic Secretary to the Treasury (Ed Balls MP) has made the following statement regarding Human Rights:
“In my view the provisions of the Overseas Life Insurance Companies (Amendment) Regulations 2006 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.

- 7.2 Finance Act 2003 provided a power (section 156) to enable the OLICs provisions to be updated by regulation. This was done by SI 2004/2200, and those regulations were amended by SI 2005/3375.
- 7.3 Preparation of a further round of amendments to SI 2004/2200 led to the view that it would be more helpful to practitioners to use the power in section 156 to produce a free standing set of regulations modifying primary legislation and other secondary legislation directly rather than through the filter of provisions such as Schedule 19AC ICTA which themselves deem other legislation to be modified.
- 7.4 Accordingly these regulations replace SI 2004/2200 as well as making further modifications arising from Finance Act 2006 and other measures.
- 7.5 It is not appropriate to amend tax law otherwise than through legislative change, so no alternative avenues of achieving the objective have been explored.
- 7.6 There has been consultation on the regulations with firms acting for the (very few) companies to which the regulations apply and with industry representative bodies.
- 7.7 Guidance on the taxation of overseas life insurance companies generally is provided in HMRC's Life Assurance Manual.

8. Impact

- 8.1 A Regulatory Impact Assessment has not been published for this instrument.
- 8.2 There is no impact on business.

9. Contact

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