

EXPLANATORY MEMORANDUM TO
THE FINANCE ACT 2011, SECTION 88 (APPOINTED DAY) ORDER 2011

2011 No. 2934 (C.106)

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs on behalf of Her Majesty's Treasury, 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. **Purpose of the instrument**

The instrument appoints a day (30th December 2011) for the coming into force of amendments to section 1 of the Provisional Collection of Taxes Act 1968 (c. 2) ("PCTA") made by section 88 of the Finance Act 2011 (c. 11).

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

The Finance Act 2011 does not prescribe any parliamentary procedure for the instrument. However, s.114(3) of the Finance Act 2003 (c. 14) provides that a statutory instrument containing any order made by the Treasury under Part 4 of that Act, or any other enactment relating to stamp duty land tax (including any passed after that Act), is subject to annulment in pursuance of a resolution of the House of Commons. The instrument is made under an enactment (section 88 of the Finance Act 2011) that empowers the Treasury to bring into force a provision amending section 1 of the PCTA, and that section applies to stamp duty land tax (among other taxes and duties). For that reason, the instrument has been laid before the House of Commons.

4. **Legislative Context**

The PCTA gives temporary statutory effect to resolutions of the House of Commons which renew, vary or abolish certain taxes and duties. Such resolutions enable the renewal and collection of income tax on a provisional basis in the period between the end of the tax year and the enactment of the annual Finance Act (usually several months later). This is necessary because income tax expires at the end of each tax year and is renewed for the following tax year by the Finance Act. Resolutions having statutory effect under the PCTA can also serve other purposes, such as enabling the provisional collection of taxes and duties at new rates set on Budget day. Without such resolutions, collection at the new rates could not occur before the enactment of the Finance Act (which makes the necessary legislative changes).

5. Territorial Extent and Application

The instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not itself amend primary legislation, no statement is required.

7. Policy background

- *What is being done and why*

The move to parliamentary sessions running from spring to spring, rather than autumn to autumn, means that Parliament may be prorogued each year between the Budget, when resolutions are passed, and the enactment of the Finance Act. Without the amendments to the PCTA made by section 88 of the Finance Act 2011, resolutions having statutory effect under the PCTA would lose that effect on prorogation (and revenue collected under the resolutions would have to be repaid). The purpose of the amendments to the PCTA is to ensure that this does not happen, and that the Act continues to allow the collection of income tax, and certain other taxes and duties, on a provisional basis, whilst maintaining appropriate safeguards and allowing time for adequate parliamentary scrutiny. The instrument brings the amendments into force.

- *Consolidation*

This is not a consolidating measure.

8. Consultation outcome

There has been no consultation on the instrument.

9. Guidance

There is no guidance accompanying the instrument.

10. Impact

A Tax Information and Impact Note covering the amendments to the PCTA was published on 23rd March 2011 and is available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>.

11. Regulating small business

The amendments to the PCTA are an important part of wider tax legislation but do not apply directly to small business and impose no regulatory burden.

12. Monitoring & review

HMRC will monitor the working of the PCTA as amended.

13. Contact

Robert Sanford at HMRC, Tel: 0207 147 2362 or email: robert.sanford@hmrc.gsi.gov.uk, can answer any queries regarding the instrument on behalf of Her Majesty's Treasury.