

EXPLANATORY MEMORANDUM TO

THE FINANCE ACT 2004, SECTIONS 38 TO 45 AND SCHEDULE 6 (CONSEQUENTIAL AMENDMENT OF ENACTMENTS N0.2) ORDER 2004

S.I. 2004 No. 3269

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 This Order makes an amendment to the Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendments of Enactments) Order 2004 SI 2004/2310 to correct an error in paragraph 20 of the Schedule to that Order.
3. **Matters of Special interest to the Select Committee on Statutory Instruments**
 - 3.1 None.
4. **Legislative Background**
 4. These regulations are being made under powers conferred by Section 46 of the Finance Act 2004.
5. **Extent**
 - 5.1 The instrument applies to all of the United Kingdom.
6. **European Convention on Human Rights**
 - 6.1 The Paymaster General (Dawn Primarolo) has confirmed that advice provided to her confirms that the provisions of this draft Order are compatible with the European Convention on Human Rights.
7. **Policy Background**
 - 7.1 As part of the process of Corporation Tax Reform, the Finance Act 2004 enacts substantial changes to the treatment of expenses of companies that do not relate to a trade or property business – management expenses, and to the similar rules for the expenses of companies carrying on life assurance business.
 - 7.2 The main changes in that Act rewrote sections 75 and 76 Income & Corporation Taxes Act 1988 (“ICTA”). Other Corporation Tax legislation in ICTA and elsewhere contains a number of references to provisions of the old sections 75 and 76. SI 2004/2310 amended those references to bring them into line with the new sections 75 and 76. The provisions amended included section 592(4) of ICTA dealing with tax relief for pension contributions. As part of the rewriting of that subsection, the provisions in it relating to deductions for the

purposes of Case I of Schedule D (trades) were recast. But they were recast in a way that did not properly reproduce the effect of the original rules.

This Order corrects that error and restores the effect to that it originally had, with effect from 1 April 2004.

8. Impact

8.1 A Regulatory Impact Assessment has not been published for this instrument.

8.2 The regulations will have no impact on the public sector.

9. Contact

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