

**EXPLANATORY MEMORANDUM TO
THE OVERSEAS LIFE INSURANCE COMPANIES (AMENDMENT)
REGULATIONS 2005**

2005 No.3375

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 amend the Overseas Life Insurance Companies Regulations SI 2004/2200 to provide an appropriate tax treatment for “Treaty firms” – non-resident companies carrying on life assurance business through a permanent establishment in the UK which do not have a “passport right” under Schedule 3 to the Financial Services and Markets Act 2000 (FISMA), but which 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 (Ivan Lewis MP) has made the following statement regarding Human Rights:

“In my view the provisions of the Overseas Life Insurance Companies (Amendment) Regulations 2005 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.
- 7.3 These regulations fill a gap in SI 2004/2200. Those regulations cater for OLICs which are authorised by the FSA and for those companies (EEA firms) which are authorised by their home state regulator to carry on direct insurance business and so have a “passport” to carry on business in the UK without FSA authorisation.
- 7.4 Recently some regulators in other EEA states have begun to regulate reinsurers, and as a result they qualify for authorisation as “Treaty firms” within Schedule 4 to FISMA. SI 2200/2004 does not cater for Treaty firms, and these regulations now insert the relevant references to such firms in those regulations.

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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