

EXPLANATORY MEMORANDUM TO
THE INSURANCE COMPANIES (CORPORATION TAX ACTS)
(MISCELLANEOUS AMENDMENTS) ORDER 2006

2006 No. 3270

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 Order modifies the Corporation Tax Acts ("CT Acts") as they apply to companies carrying on life assurance business insurance companies
3. **Matters of Special interest to the Select Committee on Statutory Instruments**

None
4. **Legislative Background**

The Order is made primarily so that the CT Acts work correctly following a reorganisation made by the Financial Services Authority ("FSA") to its Handbook, and the implementation by the FSA of the EC reinsurance Directive (2005/68/EC). It also corrects errors and fill gaps.
5. **Extent**

The instrument applies to all of the United Kingdom.
6. **European Convention on Human Rights**

The Economic Secretary to the Treasury (Ed Balls MP) has made the following statement regarding Human Rights:

"In my view the provisions of the Insurance Companies (Corporation Tax Acts) (Miscellaneous Amendments) Order 2006 are compatible with the Convention rights."
7. **Policy Background**
 - 7.1 Section 431A(1) of the Income and Corporation Taxes Acts 1988 ("ICTA") (as amended by paragraph 1 Schedule 11 Finance (No. 2) Act 2005) provides that an Order may be made amending the primary legislation applying to companies carrying on life assurance business where that is necessary as a result of changes made to, or under powers in, the Financial Services and Markets Act 2000.
 - 7.2 The power is needed because much of the tax legislation applying to such companies is based on the FSA's Rules in its Prudential Sourcebooks, and these Sourcebooks change frequently.
 - 7.3 Section 431A(3) ICTA allows an Order to be made to amend the "apportionment rules" applying to such companies.

- 7.4 In addition section 46 Finance Act 2004 allows legislation relating to expenses to be amended as a result of the enactment of sections 38 to 45 of that Act.
- 7.5 This Order makes a number of different amendments. It
- changes references to the Integrated Prudential Sourcebook (PRU) so that they become references to the Insurance Prudential Sourcebook (INSPRU) and the General Prudential Sourcebook (GENPRU) as appropriate
 - excludes certain reinsurance companies authorised as Insurance Special Purpose Vehicles (SPVs) from the legislation applying generally to companies carrying on life assurance business
 - corrects minor errors in the expenses legislation in section 76 ICTA and in section 431(2ZC) ICTA
 - clarifies previous amendment to sections 444AC and 444AD ICTA
 - amends the apportionment rules applying where a company carrying on life assurance business is charged to tax under the Controlled Foreign Companies legislation in Chapter 5 Part 17 ICTA.
- 7.6 It is not appropriate to amend tax law otherwise than through legislative change, so no alternative avenues of achieving the objective have been explored.
- 7.7 The proposals included in the regulations have been the subject of consultation with the insurance industry.
- 7.8 Guidance on the Order will be included in HMRC's Life Assurance Manual

8. Impact

- 8.1 A Regulatory Impact Assessment has not been published for this instrument as no impact on the private or voluntary sector is foreseen
- 8.2 Articles 4(2)(b) and (c) and Article 10 will prevent substantial volatility in the tax treatment of Insurance SPVs. Article 8 prevents an inappropriate double restriction of tax relief. The other provisions will have no Exchequer impact.

9. Contact

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