

EXPLANATORY MEMORANDUM TO

**THE POST OFFICE HORIZON COMPENSATION AND INFECTED BLOOD
INTERIM COMPENSATION PAYMENT SCHEMES (TAX EXEMPTIONS AND
RELIEF) REGULATIONS 2023**

2023 No. 184

1. Introduction

- 1.1 This explanatory memorandum has been prepared by His Majesty’s Revenue and Customs (HMRC) and is laid before the House of Commons by Command of His Majesty.
- 1.2 This memorandum contains information for the Select Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 The purpose of the instrument is to exempt three compensation payments, with retrospective effect, from income tax (IT) and capital gains tax (CGT), and relieve two compensation payments, with retrospective effect, from inheritance tax (IHT). This includes: Overturned Historical Convictions (OHC) payments, made from 22 July 2021; Group Litigation Order (GLO) payments, made from 1 August 2022; and payments made under the Infected Blood Interim Compensation Payment Scheme (IB), from 28 October 2022.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

- 3.1 Schedule 15 to the Finance Act 2020 (“FA 2020”) conferred on the Treasury the power to make regulations to exempt compensation payments made by or on behalf of the government or a public authority from income tax (IT) and capital gains tax (CGT) and relieve them from inheritance tax (IHT). These regulations can be made with retrospective effect.

4. Extent and Territorial Application

- 4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.
- 4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. European Convention on Human Rights

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

6. Legislative Context

- 6.1 Schedule 15 FA 2020 contains a regulation-making power for the Treasury, by regulations, to provide that no liability to IT, CGT and IHT arises on “qualifying payments”. This includes compensation payments made by or on behalf of the government or a public authority where they are specified in regulations made by the Treasury by Statutory Instrument.
- 6.2 This instrument is being made to set out the tax treatment of three types of compensation payments: OHC, GLO and those made under the IB scheme. These are recognised as qualifying payments under Paragraph 2(5) of Schedule 15 FA 2020.
- 6.3 The instrument will provide that all three payments are exempt from IT and CGT under Paragraphs 3(5) and 4(3)(c) of Schedule 15 FA 2020, respectively, and that the OHC and IB scheme payments are relieved from IHT under Paragraph 5(7) of Schedule 15 FA 2020. The exemptions will be with retrospective effect and will be wholly relieving from the date of their respective introductions.

7. Policy background

What is being done and why?

Overtured Historical Conviction (OHC) Payments

- 7.1 Post Office Limited (POL), a wholly government-owned company, have set up OHC payments to compensate postmasters who were wrongfully prosecuted as a result of errors within Horizon IT software and have had their criminal convictions overturned.
- 7.2 Funding for OHC is provided fully by central government, but payments are being made by POL. Interim payments commenced from 22 July 2021.
- 7.3 Without this instrument, parts of OHC payments would be subject to tax. Elements relating to loss of earnings would be chargeable to IT. Most payments are exempt from CGT. IHT may otherwise be payable when the recipient dies, depending on their overall estate.
- 7.4 The government wishes to clarify the tax treatment of the payments so that individuals know that they do not need to report receipt of the payments to HMRC.
- 7.5 An exemption will reduce the administrative burden on individuals so that their payments are full and final.

Group Litigation Order (GLO) Payments

- 7.6 The then Department for Business, Energy and Industrial Strategy (BEIS), which is now the Department for Business and Trade (DBT), as the 100% shareholder of POL, set up GLO payments to compensate postmasters who were not convicted following the Horizon errors, but successfully litigated POL, yet received only a fraction of their settlements as a result of legal fees.
- 7.7 Funding for GLO is provided fully by central government, and payments are being made by DBT and have previously been made by BEIS. Interim payments commenced from 1 August 2022.
- 7.8 Without this instrument, parts of GLO payments would be subject to tax. IT and CGT may be due on elements of payments, depending on their nature. For instance,

elements relating to loss of earnings would be chargeable to IT. IHT may otherwise also be payable.

- 7.9 The government wishes to clarify the tax treatment of the payments so that, as with OHC, claimants can receive full and final payments, without having to re-engage with government to pay any tax due, thereby reducing administrative burdens.
- 7.10 An exemption from IHT has not been sought because it would be an inconsistent departure from the usual tax treatment, given that the main purpose of GLO is to put individuals back in the financial position they otherwise would have been in.

Infected Blood Interim Compensation Payment Scheme Payments

- 7.11 The government has arranged interim payments to compensate those victims of infected blood, and their bereaved partners, to alleviate their immediate suffering.
- 7.12 The interim payments are available to both those currently registered to one of the four IB support schemes (one for each UK nation) and those who register between now and the inception of any future scheme.
- 7.13 Payments of £100,000 have been made since 28 October 2022, across the UK, to around 4,000 people currently registered. These are being made regardless of any other payments received under previous or current schemes.
- 7.14 Current financial support schemes in place are exempt from IT and CGT but not from IHT. Payments under previous IB support schemes do not receive relief from IHT but have been exempt from IT.
- 7.15 The government has clarified the tax treatment of the interim payments so that the recipients know they do not need to report the payments to HMRC.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

- 9.1 There are no plans for consolidation.

10. Consultation outcome

- 10.1 No formal consultation exercise has been held as these are minor changes which are wholly relieving to the taxpayer.

11. Guidance

- 11.1 Guidance will be provided via the bodies administering the schemes.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A Tax Information and Impact Note has not been prepared for this instrument because it contains no substantive changes to tax policy.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 There are no plans to monitor or review the instrument.
- 14.2 The instrument does not include a statutory review clause because it does not make or amend regulatory provisions that relate to business activity.

15. Contact

- 15.1 Naeem Kaiyum at HM Revenue and Customs (telephone: 03000 538454 or email: naeem.kaiyum@hmrc.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Philip Batchelor, Deputy Director for Income Tax Policy, at HM Revenue & Customs can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Victoria Atkins MP, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.