

EXPLANATORY MEMORANDUM TO
THE RELIEF FOR RESEARCH AND DEVELOPMENT (CONTENT OF CLAIM NOTIFICATIONS, ADDITIONAL INFORMATION REQUIREMENTS AND MISCELLANEOUS AMENDMENTS) REGULATIONS 2023

2023 No. 813

1. Introduction

1.1 This explanatory memorandum has been prepared by His Majesty's Revenue and Customs and is laid before the House of Commons by Command of His Majesty.

2. Purpose of the instrument

2.1 These Regulations specify the information to be provided by companies in support of their claims for research and development tax reliefs ("R&D tax reliefs").

2.2 The Regulations also introduce a requirement for digital filing of all amendments to Corporation Tax returns where the Corporation Tax returns contain a claim to one of the R&D tax reliefs. The digital filing requirement does not extend to customers who have statutory protections allowing for provision of paper returns.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

3.1 None.

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 The Finance (No. 2) Act 2023 ("the Act") introduces new requirements for companies that claim R&D tax reliefs to notify their intention to claim relief within six months of the end of the period of account to which the claim relates, and to provide additional information in support of the claim.

6.2 Taxpayers are required to submit Corporation Tax Returns digitally; however, they are not currently required to submit amendments to Corporation Tax Returns digitally. These Regulations amend existing Regulations that deal with digital provision of information and introduce a new requirement for companies that are claiming R&D tax reliefs to submit any amendments to their Corporation Tax Returns digitally.

7. Policy background

What is being done and why?

- 7.1 These Regulations deliver on the government's commitment to tackle high levels of error and fraud within the R&D tax regimes by improving the standard of information that companies are required to provide upfront in support of their claims, and by requiring the information in a form that can allow for improved risk assessment. These requirements will have effect from 08 August 2023.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union or trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 There are no plans to consolidate the amended instrument in the immediate future.

10. Consultation outcome

- 10.1 No consultation on this instrument has been undertaken.
- 10.2 A consultation took place from 3 March to 2 June 2021 and addressed the need for anti-abuse measures in the R&D regimes (see 3.10 on):
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/965501/Condoc - RD review .pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/965501/Condoc_-_RD_review_.pdf).
- 10.3 Draft legislation on the primary powers was published on 22 June 2022 and follow up engagement with key stakeholders explored the practicalities of introduction of additional administrative requirements for claimants.
- 10.4 The House of Lords inquiry into the R&D regimes in November 2022 also considered the issue of abuse in the regimes, as well as proposed anti-abuse measures.

11. Guidance

- 11.1 Guidance in relation to this change will be incorporated into His Majesty's Revenue and Customs Corporate Intangibles Research and Development Manual [Corporate Intangibles Research and Development Manual - HMRC internal manual - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/965501/Condoc_-_RD_review_.pdf).

12. Impact

- 12.1 This measure is expected to have significant impact on the administrative burden of approximately 90,000 businesses claiming R&D tax reliefs. One-off costs would include familiarisation with the changes and updating systems to reflect them. Continuing costs could include a requirement to provide additional information to HMRC in the company tax return.
- 12.2 Customer experience could be affected as the measure amends R&D tax credit legislation and requires additional information to support a claim. This will be addressed by clear guidance to advise of changes, and by communications including through HMRC's stakeholder forum: The Research & Development Communications Forum.
- 12.3 This measure is not expected to impact on civil society organisations.

- 12.4 There is no, or no significant, impact on the public sector.
- 12.5 A Tax Information and Impact Note covering this instrument will be published on the website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 No specific action is proposed to minimise regulatory burdens on small business.
- 13.3 The basis for the final decision on what action to take to assist small businesses is that mitigating actions are not appropriate as the underlying policy intention is require customers to provide additional information upfront to verify the validity of their claims to R&D tax reliefs. This is in response to high levels of error and fraud in the regime and is a proportionate action.

14. Monitoring & review

- 14.1 No specific monitoring or review is proposed for this measure.
- 14.2 The instrument does not include a statutory review clause in accordance with the requirements of the Small Business, Enterprise and Employment Act 2015 because the legislation relates to tax, and so there is no obligation to include such a clause in accordance with section 28(3)(a) of the Small Business, Enterprise, and Employment Act 2015.

15. Contact

- 15.1 Iona Stevenson at His Majesty's Revenue and Customs. Telephone: 03000535619 or email: Iona.Stevenson@hmrc.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Laura Cunningham, Deputy Director for Innovation & Growth, at His Majesty's Revenue and 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.