EXPLANATORY MEMORANDUM TO

THE AUTHORISED SURPLUS PAYMENTS CHARGE (VARIATION OF RATE) ORDER 2024

2024 No. 335

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.

2. Declaration

2.1 Bim Afolami MP, Economic Secretary to the Treasury confirms that this Explanatory Memorandum meets the required standard.

2.2 Andrew Edwards, Deputy Director for Pensions Policy, at HMRC confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Steve Darling at HMRC Telephone: 03000 562533 or email: pensions.policy@hmrc.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument reduces the authorised surplus payments charge from 35% to 25%.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. Policy Context

What is being done and why?

5.1 This instrument will reduce the amount of tax due on the authorised surplus payment from 35% to 25% from 6 April 2024. This is known as the authorised surplus payment charge. This measure was part of a package of pension reforms announced at Autumn Statement 2023 to provide better outcomes for savers, drive a more consolidated pensions market and enable pension funds to invest in a diverse portfolio.

What was the previous policy, how is this different?

5.2 Previously, the authorised surplus payment charge was set at 35% and this instrument reduces the charge to income tax to 25%.

6. Legislative and Legal Context

How has the law changed?

6.1 An authorised surplus payment (section 177 of the Finance Act 2004) is a payment that can be made under the tax rules for registered pension schemes. The only schemes that are likely to have surplus funds are occupational pension schemes. A surplus can occur where a scheme has more funds than needed to meet its total liabilities to its members, or the scheme does not want to provide benefits in excess of the limits set out in the scheme rules. Authorised surplus payments are made by the scheme administrator to the sponsoring employer and currently attract a charge of 35% (section 207(4)). Any amount paid above the surplus would be an unauthorised payment. Section 207(5) provides power for regulations to change the rate of charge in respect of the authorised surplus payment. This instrument amends section 207(4) to reduce the charge to 25% from 6 April 2024.

Why was this approach taken to change the law?

6.2 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 This is a consequential change to ensure the correct tax outcome and therefore no consultation was deemed necessary.

8. Applicable Guidance

8.1 The Pension Tax Manual provides guidance on authorised surplus payments and an update to this guidance will be made to coincide with the regulations taking effect.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A Tax Information and Impact Note covering this instrument is published on gov.uk[1].

Impact on businesses, charities and voluntary bodies

9.2 This legislation is expected to have a negligible impact on businesses who administer occupational pension schemes, with one-off costs to include familiarisation with the change, but there are not expected to be continuing costs. There is no expected impact on charities or voluntary bodies.

9.3 The legislation does not impact small or micro businesses.

9.4 The impact on the public sector is the same as on the private sector. The legislation is expected to have a negligible impact on businesses who administer occupational pension schemes with some one-off costs, but there are not expected to be continuing costs.

[1] https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation will be to keep it under review through communication with pension scheme administrators who operate occupational pension schemes.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 The Economic Secretary to the Treasury has made the following statement regarding Human Rights:

"In my view the provisions of The Authorised Surplus Payments Charge (Variation of Rate) Order 2024 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").