

EXPLANATORY MEMORANDUM TO
THE RESEARCH AND DEVELOPMENT (CHAPTER 2 RELIEF) REGULATIONS
2024

2024 No. 348

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 Nigel Huddleston MP, Financial Secretary to the Treasury confirms that this Explanatory Memorandum meets the required standard.
- 2.2 Laura Cunningham, Deputy Director for Innovation & Growth, at HMRC confirms that this Explanatory Memorandum meets the required standard.

3. Contact

- 3.1 Iona Stevenson at HMRC Telephone 03000 535619 or email iona.stevenson@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 The regulations specify that affected companies (those with a registered office in Northern Ireland) are not subject to any restrictions on relief for overseas research and development (R&D) expenditure and may claim R&D relief under Chapter 2 Part 13 CTA 2009 up to a limit of £250,000 in any three year period.

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 Northern Ireland.

5. Policy Context

What is being done and why?

- 5.1 These regulations deliver on the Government's commitment at Spring Budget 2023 to provide higher rates of support to loss-making Small or Medium Sized Enterprises (SMEs) which have a high R&D expenditure intensity. However it recognises the particular market conditions in Northern Ireland, removing restrictions on overseas R&D expenditure. This will be worth approximately £0.6 million a year to Northern Ireland companies. A limit on relief will be applied to protect against the fiscal risk from the more generous treatment of overseas expenditure.

What was the previous policy, how is this different?

- 5.2 The Government announced its intention to introduce additional support for R&D intensive, loss-making SME companies at Spring Budget 2023 and legislation was introduced in Finance Act (FA) 2024. This restricted relief for overseas expenditure on contracted out R&D, and on externally provided workers.

6. Legislative and Legal Context

How has the law changed?

- 6.1 These regulations, made under powers included in FA 2024, make additional provision for customers with registered office addresses in Northern Ireland.

Why was this approach taken to change the law?

- 6.2 These are detailed changes applying to a particular group of customers. To maintain future flexibility and ensure they meet their purpose, these provisions are being made by regulations.

7. Consultation

Summary of consultation outcome and methodology

- 7.1 No consultation on this instrument has been undertaken as the impacts of the instrument are assessed as being minimal.
- 7.2 A technical document¹, outlining the additional support, was published on 15 March 2023. Consultation on the additional support took place following its announcement at Spring Budget 2023.
- 7.3 Subsequent legislation addressed comments received on the design, including on the details of the “intensity ratio”, which governs whether a company may claim the relief. A provision was also made to provide certainty for companies with a fluctuating ratio by permitting them to qualify where they qualified in the previous period. The Government also took account of comments in reducing the intensity threshold from the level of 40% (which applied from April 2023) to 30% (from April 2024).

8. Applicable Guidance

- 8.1 HMRC will publish guidance on the additional support as soon as possible on gov.uk.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

- 9.1 A full Impact Assessment has not been prepared for this instrument because, of the 200 companies in scope of the regulations, only a very small fraction (estimated around five companies) of those will be potentially affected by the £250,000 cap on relief. Combined with the flexibility to claim support on contracting spending overseas, this instrument will result in more support overall for Northern Ireland companies.

¹ Technical Document Outlining Additional Support: <https://www.gov.uk/government/publications/additional-tax-relief-for-research-and-development-intensive-small-and-medium-sized-enterprises/technical-note-additional-tax-relief-for-research-and-development-intensive-small-and-medium-enterprise>

Impact on businesses, charities and voluntary bodies

- 9.2 There is no, or no significant, impact on business, charities or voluntary bodies because of the 200 companies in scope of the regulations, only a very small fraction of those will be potentially affected by the restrictions on relief. Overall these changes amount to more support for NI companies.
- 9.3 The legislation does impact small or micro businesses.
- 9.4 The relief gives extra support to small and medium-sized companies which are loss-making and which carry out R&D.
- 9.5 There is no, or no significant, impact on the public sector because any changes to administer the relief will be delivered as part of wider reform of the R&D reliefs.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

- 10.1 Information on claims by companies will be used in future evaluations.
- 10.2 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.

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

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”).