EXPLANATORY MEMORANDUM TO

THE FINANCE ACT 2014, SCHEDULE 9 (CONSEQUENTIAL AMENDMENT) REGULATIONS 2016

2016 No. 74

1. Introduction

1.1 This explanatory memorandum has been prepared by HM Revenue and Customs on behalf of HM Treasury and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

2.1 In making changes to the tax treatment of employment-related securities for internationally mobile employees the Finance Act 2014 omitted to make a consequential amendment to section 809Z7(4A) of the Income Tax Act 2007. Section 809Z7(4A) of that Act currently refers to a repealed provision rather than to its replacement. The purpose of this instrument is to correct that error

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 The instrument is being made to effect a consequential amendment arising from the Finance Act 2014.

5. Extent and Territorial Application

5.1 The extent of this instrument is the United Kingdom.

5.2 The territorial application of the instrument is the United Kingdom.

6. European Convention on Human Rights

6.1 The Financial Secretary to the Treasury has made the following statement regarding Human Rights:

"In my view the provisions of The Finance Act 2014, Schedule 9 (Consequential Amendment) Regulations 2016 are compatible with the Convention rights."

7. Policy background

What is being done and why

7.1 The Finance Act 2014 made changes to the tax treatment of employment related securities for internationally mobile employees. That Act omitted to make a consequential amendment to section 809Z7(4A) of the Income Tax Act 2007. The consequence is that the definition of "foreign specific employment income" refers to a now repealed section rather than its replacement. This instrument makes that correction.

Consolidation

7.2 Not applicable.

8. Consultation outcome

8.1 No separate consultation exercise was conducted as this instrument corrects a minor drafting error in the original legislation and does not change the policy. The changes introduced by the Finance Act 2014 in respect of the tax treatment of employment related securities for internationally mobile employees won wide-ranging support in consultation during the summer of 2013[1] and the proposals were fine-tuned during consultation on draft legislation published in December 2013[2].

9. Guidance

9.1 HM Revenue and Customs published guidance on the tax treatment of employment related securities for internationally mobile employees in time for commencement of the new rules on 6th April 2015. No specific guidance is required for this instrument.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 A Tax Information and Impact Note covering this instrument was published on 10th December 2013 alongside the draft Finance Bill 2014 and is available on the website at https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins. It remains an accurate summary of the impacts that apply to this instrument.

11. Regulating small business

11.1 The legislation applies to activities that are undertaken by small businesses.

11.2 To minimise the impact of the requirements on small businesses (employing up to 50 people) the approach taken is to treat all businesses in the same way, considering that it is in practice unusual for small businesses to adopt the kind of arrangements affected by this instrument.

[1] https://www.gov.uk/government/consultations/office-of-tax-simplification-review-of-unapproved-share-schemes

[2] https://www.gov.uk/government/publications/finance-bill-2014-draft-legislation-overview-documents

12. Monitoring & review

12.1 This measure will be kept under review through communication with affected taxpayer groups.

13. Contact

13.1 Rufus Rottenberg at the HM Revenue and Customs Tel: 03000 558550 or email: rufus.rottenberg@hmrc.gsi.gov.uk can answer any queries regarding the instrument.