EXPLANATORY MEMORANDUM TO

THE INCOME TAX (ACCOMMODATION ALLOWANCES OF ARMED FORCES) REGULATIONS 2024

2024 No. 76

1. Introduction

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

2. Purpose of the instrument

2.1 The current law provides an income tax exemption on accommodation allowance for members of the armed forces and prescribes the conditions and definitions relating to accommodation allowance for the purposes of 297D(2)(c) and (3) of the Income Tax (Earnings and Pensions) Act 2003.

3. Matters of special interest to Parliament

Matters of special interest to the Joint 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 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 Section 8(1) of the Finance Act 2018 introduced a new income tax exemption for accommodation allowance payments to be made to the members of the armed forces in Section 297D of Income Tax (Earnings and Pensions) Act 2003. Section 297D (2) of Income Tax (Earnings and Pensions) Act 2003 defines an accommodation allowance.

6.2 Section 297D (2)(c) of Income Tax (Earnings and Pensions) Act 2003 contains a power enabling the Treasury to set out further conditions in Regulations which a payment must meet in order to qualify as an accommodation allowance for this purpose.

6.3 This instrument updates the existing income tax exemption so that it will apply to the accommodation allowance paid under the Joint Service Publication 464 Tri-Service Accommodation Regulations.

7. Policy background

What is being done and why?

7.1 In September 2019, the Ministry of Defence (MoD) launched the Future Accommodation Model pilot which moved some of their service personnel to private accommodation and a cash allowance was provided towards the costs of renting maintaining this accommodation.

Explanations

7.2 The pilot was facilitated by the introduction of legislation in Finance Act 2018 that provided for certain types of payments made to service personnel under the pilot known as 'accommodation allowances', to be exempt from income tax (section 297D Income Tax (Earnings and Pensions) Act 2003. This instrument continues the current tax position under which MoD provides accommodation free of income tax and national insurance to service personnel. There were separate Regulations laid that provided a National Insurance Contributions (NICs) disregard.

7.3 The MoD have decided to implement the Future Accommodation Model on a permanent basis across the UK. The scheme will formally launch on 11 March 2024.

7.4 The types of payments that will be included in the definition of accommodation allowance under the new offer can be found on the Joint Service Publication 464 Tri-Service Accommodation Regulations.

7.5 The overall purpose of this policy is to ensure service personnel that are newly enrolled or transferred to the new accommodation offer will be entitled to the income tax and NICs exemption on the accommodation and the dual accommodation expense.

7.6 Further details of the Future Accommodation Model can be found on the Joint Service Publication 464 Tri-Service Accommodation Regulations.

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 was conducted as this instrument effectively continues an existing exemption.

11. Guidance

11.1 Guidance will be available on gov.uk when the Regulations come into effect.

12. Impact

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

12.2 The impact on the public sector is limited to MoD personnel only. There will be limited impact to MoD personnel as this exemption effectively continues the existing employer provided living accommodation tax exemption.

12.3 A full Impact Assessment has not been prepared for this instrument because it contains no substantive change 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 The approach to monitoring of this legislation is to monitor and review it, as appropriate, within the context of the wider tax framework.

14.2 The instrument does not include a statutory review clause because of a tax exemption in section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015.

15. Contact

15.1 Policy, Employment & Expenses Team and His Majesty's Revenue and Customs email: employmentincome.policy@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 and Customs, can confirm that this Explanatory Memorandum meets the required standard.

15.3 Nigel Huddleston MP, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.