EXPLANATORY MEMORANDUM TO

THE POST OFFICE HORIZON SHORTFALL SCHEME AND GROUP LITIGATION ORDER COMPENSATION PAYMENTS (INHERITANCE TAX RELIEF) REGULATIONS 2023

2023 No. 1009

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.

1.2 This memorandum contains information for the Select Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 The purpose of this instrument is to relieve compensation payments, with retrospective effect, from inheritance tax (IHT). As announced through a written ministerial statement published on 29 June 2023, this includes Horizon Shortfall Scheme (HSS) payments, made from 1 May 2020, and Group Litigation Order (GLO) payments, made from 1 August 2022.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

3.1 Schedule 15 to the Finance Act 2020 ("FA 2020") conferred on the Treasury the power to make regulations to relieve compensation payments made by or on behalf of the government or a public authority from IHT. These regulations can be made with retrospective effect.

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 Schedule 15 to the FA 2020 contains a regulation-making power for the Treasury, by regulations, to provide that no liability to IHT arises on "qualifying payments". This includes compensation payments made by or on behalf of the government or a public authority where they are specified in regulations made by the Treasury by Statutory Instrument.

6.2 This instrument is being made to set out the tax treatment of HSS and GLO compensation payments for IHT. These are recognised as qualifying payments under Paragraph 2(5) of Schedule 15 FA 2020. The instrument will provide that the payments receive relief from IHT under Paragraph 5(7) of Schedule 15 FA 2020.

6.3 The relief will be with retrospective effect from 1 May 2020 for HSS payments, and 1 August 2022 for GLO payments.

7. Policy background

What is being done and why?

7.1 Post Office Limited (POL), a wholly owned government company, set up the HSS to compensate postmasters who repaid shortfalls that may have arisen due to faults in its Horizon IT system, and potentially also suffered consequential losses as a result. Additional top-up payments to compensate HSS claimants for amounts taxed at a higher rate are also made under the scheme.

7.2 As 100% shareholder of POL the then Department for Business, Energy and Industrial Strategy set up the GLO payments to compensate postmasters who were not convicted, but were part of the successful GLO against POL. The GLO compensation payments were made to rectify the fact that these postmasters received only a fraction of their settlements after the deduction of legal fees.

7.3 Payments made under the Post Office Overturned Convictions (OC) compensation scheme receive relief from IHT under Paragraph 5(7) of Schedule 15 FA 2020.

7.4 In order to better equalise the HSS and GLO tax position with the treatment of OC scheme payments the government announced on 29 June 2023, through a Written Ministerial Statement, that payments made under the HSS and GLO would also be relieved from IHT. Additionally, the personal representatives of estates who did not previously receive IHT relief in relation to HSS and GLO compensation payments were advised to contact HMRC to claim a refund of any IHT overpaid.

7.5 The government wishes to provide certainty and clarity of the IHT position and ensure that HSS and GLO compensation payments received by a person or the personal representatives of the estate of a person who has died are relieved from IHT.

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 has been held as these are minor changes which are wholly relieving to the taxpayer.

11. Guidance

11.1 Guidance will be provided via the body administering the scheme.

12. Impact

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

12.2 There is no, or no significant, impact on the public sector.

12.3 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 does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 There are no plans to monitor or review the instrument.

14.2 The instrument does not include a statutory review clause because it does not make or amend regulatory provisions that relate to business activity.

15. Contact

15.1 Al Hackney at HMRC by email: assetsresidencepolicy@hmrc.gov.uk with any queries regarding the instrument.

15.2 Sarah Kelsey, Deputy Director for Assets and Residence Policy, at HMRC 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.