

**EXPLANATORY MEMORANDUM TO
THE NON-RESIDENT COMPANIES (GENERAL INSURANCE BUSINESS)
(AMENDMENT) REGULATIONS 2008**

2008 No. 2643

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

2. Description

This instrument amends the Non-Resident Companies (General Insurance Business) Regulations 1999 (SI 1999/1408: “the 1999 Regulations”) to remove provisions no longer applicable as a result of changes to UK accounting practice used by insurance companies.

3. Matters of special interest to the Select Committee on Statutory Instruments

None

4. Legislative Background

4.1 Regulation 6 of the 1999 Regulations modified provisions of Chapter 5 of Part 17 (Controlled Foreign Companies – CFCs) of the Income and Corporation Taxes Act 1988 (“ICTA”) ICTA to cater for specific accounting practices applying to insurers.

4.2 These regulations cater for changes made in the Statement of Recommended Practice (SORP) published by the Association of British Insurers and accordingly revoke regulation 6 of the 1999 Regulations, which no longer reflects recommended accounting practice.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

7.1 The accounting standards applying to insurance companies include a Statement of Recommended Practice (SORP) published by the Association of British Insurers. A recent SORP recommended that the accounting method described in paragraph

52 of Schedule 9A to the Companies Act 1985 (“three year funded accounting”) should no longer be used.

- 7.2 The CFC legislation can apply to such companies which are not resident in the United Kingdom. In computing the chargeable profits of such companies UK accounting practice must be followed for tax purposes. This is so even if the companies use a method akin to that in paragraph 52 in drawing up its accounts in accordance with its own national accounting practice.
- 7.3 A draft of these Regulations has been circulated to appropriate bodies and persons within the insurance industry and their advisers.
- 7.4 Guidance on the changes will be incorporated in HMRC’s General Insurance Manual

8. Impact

- 8.1 A full and final Impact Assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.
- 8.2 There is no impact on the public sector.

9. Contact

Victor Baker at HM Revenue and Customs Tel: 020 7147 2616 or e-mail: victor.j.baker@hmrc.gsi.gov.uk can answer any queries regarding the instrument.