

**EXPLANATORY MEMORANDUM TO THE
INDIVIDUAL SAVINGS ACCOUNT (AMENDMENT) REGULATIONS
2005**

2005 No.609

1. This explanatory memorandum has been prepared by HM Treasury and is laid before the House of Commons by Command of Her Majesty.

2. Description

These regulations amend the Individual Savings Account Regulations 1998, as amended (in particular) by the Individual Savings Account (Amendment no. 2) Regulations 2004 number 2996. They correct a drafting defect in the “5% test,” which is used to identify if investments are cash-like or not, in its revised form introduced in 2004 to apply to investments formerly held in the ISA insurance component.

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

On the 7 December 2004 the Select Committee on Statutory Instruments raised a question concerning the application of the 5% test (which relates to a period of five years) to insurance policies made on or after 6 April 2004 but before 6 April 2005. The drafting has been revised to ensure that, in those circumstances, the test is a “once and for all” test, applied on 6 April 2005 only.

4. Legislative Background

These ISA Amendment regulations are required to clarify the interaction between regulation 4C(3)(a) and regulation 7(15) of the Individual Savings Account Regulations 1998 (as amended). The opportunity has also been taken to make technical drafting improvements to the 5% test.

5. Extent

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

These regulations are subject to annulment and do not amend primary legislation.

7. Policy background

- 7.1 Until 6 April 2005 the ISA regime allows individuals to save in up to three types of ISA component - cash or cash-like savings; investments in stocks and shares; or life insurance - without being subject to tax on

income or gains made on those savings. Each component is subject to different investment rules.

- 7.2 The Individual Saving Account (Amendment No. 2) Regulations 2004 remove the separate ISA life insurance component rules from 6 April 2005. From that date ISA life insurance products will qualify for the ISA stocks and shares component, subject to a 5% test. That 5% test is intended to limit products that provide a cash-like return to the ISA cash component, which has lower annual investment limits.
- 7.3 The intention is that those ISA life insurance policies taken out prior to 6 April 2005 will be allowed to continue to be held within the ISA and that if investors wish they can continue to contribute to those same policies from 6 April 2005. To achieve that regulation 4C of the Individual Savings Account Regulations 1998, as introduced by the Individual Savings Account (Amendment No. 2) Regulations 2004, provided transitional rules for those life insurance products to determine whether the policy should fall in the stock and shares or the cash component of the ISA.
- 7.4 Regulation 4C(2) of the Individual Savings Account (Amendment No. 2) Regulations 2004 allows all policies first purchased on or before 5 April 2004 into the stocks and shares component with no further test.
- 7.5 Regulation 4C(3) of the Individual Savings Account (Amendment No. 2) Regulations 2004 applies the 5% test to all life insurance policies first purchased between 6 April 2004 and 5 April 2005, on 6 April 2005, in order to determine whether those policies will be held in a stocks and shares or cash component.
- 7.6 These amending regulations clarify that, in the circumstances in paragraph 7.5, the test is applied on a once and for all basis on 6 April 2005.

8. Impact

No regulatory impact arises from these regulations as they impose no costs on business, charities or voluntary bodies. A regulatory impact assessment was published alongside S.I. 2004/2996 on 23 November 2004.

9. Contact

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