

**EXPLANATORY MEMORANDUM TO**  
**THE FINANCE ACT 2008 SECTION 135 (DISASTER OR EMERGENCY)**  
**ORDER 2008**

**2008 No. 1936**

1. This explanatory memorandum has been prepared by HM Revenue & Customs 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**

2.1. This Order is made in exercise of the powers conferred by section 135 of the Finance Act 2008 (“the Act”) and enables interest and surcharge on tax to be deferred following the floods that occurred in the UK during June and July 2007 as specified in this Order as a disaster of national significance.

2.2. Article 2 specifies that floods, caused by weather conditions, which occurred in the United Kingdom in June and July 2007 are a disaster which qualifies for relief under section 135 of the Act.

2.3. Article 3 specifies that the commencement date for the purposes of section 135(4)(a) of the Act is 1st June 2007.

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

None

**4. Legislative Background**

4.1. This Order is made in exercise of the powers conferred by section 135 of the Finance Act 2008.

4.2. Section 135(3) of the Act permits payment to be deferred without charge to interest and surcharge in the case of a disaster or emergency specified in an Order made that section.

4.3. The Treasury must be satisfied in accordance with section 135(9) of the Act that the disaster or emergency is of national significance.

4.4. Section 135(4) of the Act defines the period over which relief is extended.

## **5. Extent**

This instrument applies to all the United Kingdom.

## **6. European Convention on Human Rights**

This Order is subject to annulment and does not amend primary legislation. Accordingly the Financial Secretary is satisfied that no statement as to compatibility with the Convention rights is required.

## **7. Policy background**

7.1. Legislation was introduced in section 135 of the Finance Act 2008 to provide for a power allowing interest and surcharges payable to HM Revenue & Customs (HMRC) to be waived where events specified in an Order made under that section are designated as a national disaster or emergency.

7.2. This power is used here retrospectively, to meet the commitment the Government made on 25 July 2007 to waive interest and surcharges on tax paid late where agreement was reached to defer payment due to the severe floods that affected the UK in June and July of 2007 and which the Treasury are satisfied were a disaster of national significance.

## **8. Impact**

8.1. A full and final Impact Assessment has not been produced for this instrument as it has no impact on the private or voluntary sectors.

## **9. Contact**

Robert Horwill at HM Revenue & Customs Tel: 020 7147 2447 or e-mail: robert.horwill@hmrc.gsi.gov.uk can answer any queries regarding the instrument.