EXPLANATORY MEMORANDUM TO

THE GENERAL INSURANCE RESERVES (TAX) (AMENDMENT) REGULATIONS 2005

2005 No. 3289

1. This explanatory memorandum has been prepared by the Commissioners for Her Majesty's Revenue and Customs and is laid before the House of Commons by Command of Her Majesty.

2. Description

2.1 This instrument contains regulations modifying the General Insurance Reserves (Tax) Regulations 2001 (SI 2001 / 1757) to correct an ambiguity in those regulations, to reflect changes in the accounting standards for accounting in foreign currencies and to update references in the regulations to other legislation.

2.2 The regulations will have effect for periods of account ending on or after the regulations come into force.

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

3.1 None.

4. Legislative Background

4.1 The power to make the regulations is in section 107 of the Finance Act 2000.

5. Extent

5.1 The instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 Not applicable.

7. Policy Background

7.1 Legislation in section 107 Finance Act 2000 and regulation at SI 2001 / 1757 apply rules to the provision for future liabilities in the accounts of general insurers. These rules require the insurer to revisit the provision in each subsequent year to see if it was for the correct amount and to make a tax adjustment if the original provision proves to have been too large or too small.

7.2 The primary legislation allows an insurer to disclaim part of their provision for tax. There are rules that apply where they do so and the insurer uses losses or other tax reliefs to reduce their taxable profits in the same year. In such circumstances, an adjustment is made to the amount of the original provision when they revisit it to see if was too large or too small. The adjustment is made by Rule 8A of regulation 3 of the General Insurance Reserves (Tax) Regulations 2001 ("GIRTR") (SI 2001 / 1757).

7.3 An unintended and potentially unfair adjustment may be made to the original provision where the amount of losses or other reliefs were claimed and applied to the profits of that year were greater than the amount disclaimed. This instrument makes clear by an amendment to Rule 8A.3(b) that the adjustment shall be limited to the amount of the provision disclaimed.

7.4 This instrument also makes two changes to reflect changes to the accounting standard, and therefore to the tax rules in Finance Act 1993, that companies apply where their business is carried out partly in a foreign currency.

7.5 The main change is to amend regulation 5 of the GIRTR, which determines the currency in which the calculations required under the regulations must be carried out. It aims to achieve continuity with the existing regulation 5. To ensure that it does so it includes a clause allowing companies already making calculations in a foreign currency to continue to use the currency determined by the Regulation as it stood before this instrument, if this instrument would otherwise require the company to use a different currency.

7.6 A small change is made to Rule 9.3 of regulation 3 of the GIRTR to update the legislative cross-reference from 'sections 92 to 93A Finance Act 1993' to 'sections 92 to 92C Finance Act 1993'.

7.7 There has been informal consultation with the industry about these changes.

8. Impact

8.1 A Regulatory Impact Assessment has not been published for this instrument.

8.2 The regulations will have no Exchequer effect.

9. Contact

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