

EXPLANATORY MEMORANDUM TO
THE INCOME TAX (APPROVED EXPENSES) REGULATIONS 2015
2015 No. 1948

1. Introduction

1.1 This explanatory memorandum has been prepared by HM Revenue and Customs (HMRC) and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations define the approved way of calculating and paying or reimbursing standard meal allowances for the purposes of the new expenses exemption introduced by section 11 of the Finance Act 2015.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

3.1 This is the first use of the power contained in section 289A(6)(a) of the Income Tax (Earnings and Pensions) Act 2003.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 Section 11 of Finance Act 2015 introduced at section 289A of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA) a new exemption for expenses which are paid or reimbursed by an employer where the employee would be due a deduction under Chapters 2 or 5 of Part 5 of ITEPA. New subsection 289A(6)(a) contains a power enabling HMRC to set out an approved way of calculating or reimbursing standard meal allowances.

5. Extent and Territorial Application

5.1 This instrument extends to all of the United Kingdom.

5.2 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

What is being done and why

7.1 Where an employer pays or reimburses a qualifying expense to their employee, the payment should be taxed under PAYE and reported to HMRC at the end of the year

on a form P11D. Employees are then required to make a claim to HMRC for any tax relief that is due. Where there is no net difference in the amount the employer reports and the amount their employees can claim, the employer can make an application to HMRC for an agreement known as a 'dispensation'. A dispensation allows the employer to pay specified expenses to their employees without having to report them and without having to deduct tax and National Insurance contributions (NICs). This ensures employees receive the tax relief that they are entitled to without having to make a separate claim to HMRC.

- 7.2 Following a recommendation by the Office of Tax Simplification (OTS), section 11 of the Finance Act 2015 introduced a new exemption to replace dispensations. This means that, from 6 April 2016, employers will be able to pay specified expenses to their employees, tax and NICs free, without the requirement to obtain a dispensation from HMRC.
- 7.3 Although many employers will pay or reimburse actual expenses incurred by their employees, where amounts incurred are broadly similar in respect of the same expense, some employers pay or reimburse 'scale rates'. A scale rate is an agreed flat amount that must be no more than a reasonable reimbursement of the expense being incurred and must be evidenced by employers by way of a sampling exercise that has been agreed with HMRC. To relieve the employer of this administrative burden, HMRC introduced a set of 'benchmark' scale rates for subsistence payments which set out the maximum amount an employer can pay or reimburse without the need to conduct a sampling exercise.
- 7.4 These regulations provide for an approved way of calculating or reimbursing standard meal allowances for the purposes of the new expenses exemption and list the maximum amount of meal allowance payable for each day in respect of qualifying travel on that day.

Consolidation

- 7.5 There are no plans for consolidation as this is a stand-alone instrument.

8. Consultation outcome

- 8.1 In accordance with the Government's Tax Consultation Framework, draft Regulations were published on the HMRC website for comment from 8 July 2015 to 2 September 2015.
- 8.2 No changes to the Regulations were required following consideration of the comments received during the consultation.

9. Guidance

- 9.1 Guidance will be made available when the Regulations come into effect.

10. Impact

- 10.1 These Regulations made provision for consistency, fairness and a reduction in the administrative burden for businesses that pay or reimburse meal allowances for qualifying travel.
- 10.2 The impact on the public sector is the same as the administrative saving set out above.

- 10.3 A Tax Impact and Information Note (TIIN) for the Employee Benefits and Expenses Exemption was published on 10 December 2014 alongside the draft clauses and explanatory notes for Finance Bill 2015 and is available on the website at:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/385231/Administration_of_employee_expenses.pdf.
It remains an accurate summary of the impacts that apply to this instrument.
- 11. Regulating small business**
- 11.1 The legislation applies to activities that are undertaken by small businesses who will benefit from the administrative savings as other businesses.
- 12. Monitoring & review**
- 12.1 The Regulations will be monitored and reviewed, appropriate, within the context of the wider tax framework.
- 13. Contact**
- 13.1 Viv Howard at HM Revenue and Customs Telephone: 03000 586343 or email: employmentincome.policy@hmrc.gsi.gov.uk can answer any queries regarding the instrument.