

EXPLANATORY MEMORANDUM TO

THE INDIVIDUAL SAVINGS ACCOUNT (AMENDMENT) REGULATIONS 2016

2016 No. 16

1. Introduction

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

2. Purpose of the instrument

- 2.1 This instrument will enable certain subscriptions to be made to an Individual Savings Account (ISA) without counting towards the annual ISA subscription limit. It establishes “flexible accounts” (ISAs where savers can replace cash withdrawn from their account earlier in the tax year) and addresses cases in which a Help to Buy: ISA (H2B: ISA) saver closes their account and withdraws their savings to purchase a home, only for the intended purchase not to proceed. The instrument provides that in neither of these cases will the replacement of ISA savings count towards the annual ISA subscription limit, subject to certain conditions. Finally, this instrument makes a number of minor or consequential changes to the ISA rules that apply where subscriptions are made outside the annual limit.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

- 3.1 None.

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 ISA is a tax-advantaged savings product providing relief from tax to individuals. The ISA rules are set out in the Individual Savings Account Regulations 1998 (S.I. 1998/1870) (ISA Regulations) as amended.
- 4.2 ISA Regulation 4ZA specifies the annual ISA subscription limit, which is subject to certain exceptions in regulation 5D. ISA Regulation 4 contains general conditions for accounts, and provides, subject to modification by this instrument, that an individual may not subscribe to more than one cash ISA and one stocks and shares ISA in a tax year.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is the United Kingdom.
- 5.2 The territorial application of this instrument is 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 The changes in this instrument are designed to increase the flexibility and choice available to ISA savers, and support those saving for a deposit on their first home in a H2B: ISA.
- 7.2 This instrument will provide for the terms and conditions of an account (“flexible account”) to allow a saver to replace cash they have withdrawn from their ISA earlier in the tax year, without this replacement (“replacement subscription”) counting towards the annual ISA subscription limit (currently £15,240). Savers will be able to replace cash withdrawn from a previous year’s ISA savings in the account from which it was withdrawn, without breaching the condition at ISA Regulation 4 concerning the number of accounts an individual can subscribe to in a tax year.
- 7.3 This instrument will also provide for cases where a saver has closed a H2B: ISA and withdrawn their savings with a view to a home purchase, but this intended purchase does not proceed. Subject to certain conditions, a saver will be able to replace their savings in an ISA (by making an “additional permitted subscription” after the closure of a H2B: ISA) without this counting towards the ISA subscription limit, or breaching the condition at ISA Regulation 4 concerning the number of accounts an individual can subscribe to in a tax year.
- 7.4 These changes will not apply to Junior ISA accounts, which generally do not permit withdrawals to be made until the account matures.
- 7.5 The terms and conditions of ISA accounts will be able to provide for flexible accounts and additional permitted subscriptions after the closure of a H2B ISA in accordance with new ISA Regulations 5DDB and 5DDC provided by this instrument. Regulation 5D (concerning ISA subscriptions disregarded for the purpose of the annual subscription limit) will be amended to take account of such subscriptions.
- 7.6 Other consequential amendments will be made concerning these subscriptions and other ISA subscriptions that are disregarded for the purposes of the annual limit (Regulation 5D subscriptions). In particular, it will be possible in some circumstances for a saver to subscribe to more than one cash or stocks and shares ISA in a tax year, where they are eligible to make a Regulation 5D subscription. Elsewhere, minor changes will be made to the account-opening process, information requirements and qualifying conditions for certain Regulation 5D subscriptions.
- 7.7 ISA providers currently supply information on the amount that has been subscribed to an ISA during the tax year – both to HMRC (ISA Regulation 31) and to another provider on the transfer of an account (ISA Regulations 21 and 21A). These information requirements will be amended for flexible accounts, so that, for example, the ‘net’ (rather than total) subscriptions made to the account will be reported. Other changes will also be made to the information that ISA providers are required to supply to HMRC in relation to certain Regulation 5D subscriptions.

Consolidation

7.8 There are no plans to consolidate the ISA Regulations.

8. Consultation outcome

8.1 HM Revenue and Customs undertook a technical consultation on draft legislation in relation to flexible accounts and replacement subscriptions between 13 October and 8 November. Respondents were generally supportive of the proposal, but some called for modifications in certain areas. Since consultation, a number of minor changes have been made to the proposal, with the aim of increasing clarity of the legislation and ensuring a consistent legislative approach for Regulation 5D subscriptions, where appropriate. The changes in relation to H2B: ISA are based on the approach set out in the ISA Regulations for other Regulation 5D subscriptions and the H2B: ISA scheme rules, and consultation on these changes was not therefore necessary.

9. Guidance

9.1 HMRC's Guidance Notes for ISA providers will be updated to reflect the changes to the ISA rules. The Guidance Notes are available at <http://www.hmrc.gov.uk/isa/isa-guidance-notes.pdf>.

10. Impact

10.1 The impact on business is that the changes could affect around 400 banks, building societies or other financial institutions that provide ISAs. However, the cost of these changes is expected to mainly fall on those providers who choose to offer flexibility in their account terms and conditions; and those providers who choose to offer the H2B: ISA or to accept subscriptions outside the normal subscription limit. Overall the cost of these changes for businesses is expected to be negligible.

10.2 There is no impact on charities or voluntary bodies.

10.3 The impact on the public sector is expected to be negligible.

10.4 A Tax Information and Impact Note covering this instrument will be published on the website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>.

11. Regulating small business

11.1 The instrument applies to activities that are undertaken by small businesses.

11.2 No specific action is proposed to minimise regulatory burdens on small businesses.

11.3 The basis for the final decision on what action to take to assist small business is that no business will be required to make any changes to their processes as result of this instrument. Whether or not a business chooses to offer flexible accounts or H2B: ISA, or to accept subscriptions outside the normal subscription limit, will be a matter for the terms and conditions they offer customers.

12. Monitoring & review

12.1 HMRC will continue to review compliance with the rules using the information provided annually by ISA managers as well as through regular contacts with ISA managers and other groups.

13. **Contact**

- 13.1 Simon Turner at HMRC can answer any queries regarding the instrument. Telephone: 03000 546588 or email: savings.audit@hmrc.gsi.gov.uk.