

EXPLANATORY MEMORANDUM TO

THE FINANCE ACT 2008, SECTION 135 (CORONAVIRUS) ORDER 2020

2020 No. 934

1. Introduction

- 1.1 This explanatory memorandum has been prepared by HM Revenue and Customs on behalf of HM Treasury and is laid before the House of Commons by Command of Her Majesty.
- 1.2 This memorandum contains information for the Select Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 This instrument provides that HM Treasury consider coronavirus is an emergency of national significance. It also specifies payments of Income Tax Self-Assessment and Value Added Tax (VAT) liabilities which have been deferred by agreement of the Commissioners for HM Revenue and Customs because of the coronavirus emergency.
- 2.2 The instrument ensures that no interest or surcharge will arise on those deferred liabilities for the period of deferral agreed by the Commissioners for HM Revenue and Customs.

3. Matters of special interest to Parliament

Matters of special interest to the e Select Committee on Statutory Instruments

- 3.1 This is the first use of the power provided by section 135 of the Finance Act 2008 (FA 2008), as amended by section 105(2)(b) of the Finance Act 2020, to enable the Treasury to specify in an order which liabilities deferred during an emergency of national significance will not attract interest or surcharges.
- 3.2 The instrument has retrospective effect, the authority for which is section 135(10)(b) of FA 2008.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.3 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the United Kingdom.
- 4.2 The territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

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

6. Legislative Context

- 6.1 Section 135 of FA 2008 (interest on unpaid tax in case of disaster etc of national significance), provides that interest and late payment surcharges are disapplied to tax and other liabilities deferred by the Commissioners for HM Revenue and Customs in consequence of a disaster or emergency of national significance. For section 135 to apply, an HM Treasury order must be made to specify a disaster or emergency of national significance. The order may also specify which liabilities are covered by the interest and surcharge waiver.
- 6.2 Article 2 of the Order specifies coronavirus as an emergency of national significance. Articles 3 to 5 specify the liabilities deferred in consequence of the emergency. Article 6 provides that the Order has effect from 20 March 2020.

7. Policy background

What is being done and why?

- 7.1 As part of a wide-ranging package of measures to support the economy in response to the coronavirus pandemic, on 20 March 2020 the Chancellor of the Exchequer announced that the Income Tax Self-Assessment payment on account for 2019-20, due on 31 July 2020, would be deferred until 31 January 2021. The Chancellor also announced deferral of the 30 June quarter 1 VAT payments until 31 March 2021. This instrument gives effect to the intention that no interest or surcharges on those deferred payments are incurred during the deferral periods.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

- 9.1 There is no consolidation.

10. Consultation outcome

- 10.1 There was no consultation. The order gives effect to an integral part of the government's response to coronavirus: the deferral of specified taxes for specified periods. Those deferrals were not subject to consultation: it would not have been appropriate to consult in isolation on the disapplication of interest on those deferrals.

11. Guidance

- 11.1 Detailed guidance has not been published but an announcement regarding the taxes deferred and for what periods was made on GOV.UK following the Chancellor's speech: <https://www.gov.uk/government/news/chancellor-announces-workers-support-package>.

12. Impact

- 12.1 The impact on business, charities or voluntary bodies is positive to the extent that they are liable to pay Income Tax Self-Assessment or VAT.
- 12.2 There is no, or no significant, impact on the public sector.

- 12.3 A Tax Information and Impact Note covering this instrument was published on 25 June 2020 alongside the amendment to section 135 of the Finance Act 2008 and is available on the website at:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/895358/Amending_section_135_.pdf. It remains an accurate summary of the impacts that apply to this instrument.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 No specific action is proposed to minimise regulatory burdens on small businesses.
- 13.3 The basis for the final decision on what action to take to assist small businesses is that action is unnecessary as this instrument will relieve small businesses of the obligation to pay interest on deferred taxes.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation will be as part of the government's monitoring of the impact on the economy of the tax deferrals announced by the Chancellor.
- 14.2 The instrument does not include a review provision because it amends a provision in connection with tax and is exempt under section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015.

15. Contact

- 15.1 Robin Wythes at HM Revenue and Customs email: robin.wythes@hmrc.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Helen Page, Deputy Director for Tax Administration Policy, at HM Revenue and Customs can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 The Rt Hon Jesse Norman MP, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.