

**EXPLANATORY MEMORANDUM TO**  
**THE RESTRICTION OF PUBLIC SECTOR EXIT PAYMENTS (REVOCATION)**  
**REGULATIONS 2021**

**2021 No. 197**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by Her Majesty's Treasury and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

- 2.1 These Regulations will revoke The Restriction of Public Sector Exit Payments 2020 ("the 2020 Regulations"), which restrict prescribed public sector bodies from making exit payments above £95,000 in connection with a person leaving employment or vacating office.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 None.

*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)*

- 3.2 The territorial application of this instrument includes Scotland and Northern Ireland.
- 3.3 These Regulations have the same extent as the 2020 Regulations as a result of section 163(2) of the Small Business, Enterprise and Employment Act 2015 ('the 2015 Act'). The enabling powers in sections 153A, 153B and 153C of the 2015 Act apply to the United Kingdom as a result of section 163 of the 2015 Act, with exceptions relating to payments made by authorities exercising reserved or devolved functions or by the Scottish Parliamentary Corporate Body, and payments to made to specific Welsh office holders as set out in sections 153A(10) and 153B(1) of the 2015 Act.
- 3.4 The English Votes procedures are not applicable.

**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 these Regulations are subject to the negative resolution procedure and do not amend primary legislation no statement is required.

**6. Legislative Context**

- 6.1 These Regulations revoke the 2020 Regulations as a result of the power conferred by section 159(2)(b) of the 2015 Act. These Regulations are subject to the negative

resolution procedure because they do not amend, repeal or revoke any provision of primary legislation in accordance with section 159(4) of the 2015 Act.

6.2 These Regulations, as a result of the power in section 161(2)(e) of the 2015 Act and in consequence of revoking the 2020 Regulations enable a person who has been paid by a relevant public sector body, an exit payment which has been capped as a result of the application of the 2020 Regulations to receive an additional payment from that public sector body. This additional payment represents the difference between the amount of the payment made and the amount payable had the 2020 Regulations never applied. The additional payment with interest can be paid to the person, or on their behalf to a pension scheme or another person, or to more than one of these parties.

6.3 There is no other legislation currently linked to this instrument.

## **7. Policy background**

### *What is being done and why?*

7.1 After extensive review of the application of the 2020 Regulations, the government has concluded that the cap on public sector exit payments may have had unintended consequences. The government has therefore decided to revoke the 2020 Regulations.

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

8.1 These Regulations do not relate to withdrawal from the European Union/trigger the statement requirements under the European Union (Withdrawal) Act.

## **9. Consolidation**

9.1 These Regulations do not amend another instrument, so consolidation is not needed at this time.

## **10. Consultation outcome**

10.1 No consultation took place as these Regulations revoke the 2020 Regulations in their entirety.

## **11. Guidance**

11.1 HM Treasury has published guidance<sup>1</sup> which provides information for employers and employees that were affected by the 2020 Regulations while in place. The guidance will be updated when these Regulations come into force.

## **12. Impact**

12.1 There is no, or no significant impact on business, charities or voluntary bodies.

12.2 There is no, or no significant impact on the public sector.

12.3 An Impact Assessment has not been prepared for these Regulations because they only affect bodies that are classified as public sector bodies by the Office of National Statistics.

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<sup>1</sup> <https://www.gov.uk/government/publications/guidance-on-public-sector-exit-payments>

**13. Regulating small business**

13.1 The legislation does not apply to activities that are undertaken by small businesses.

**14. Monitoring & review**

14.1 As a result of section 29 of the Small Business, Enterprise and Employment Act 2015, the scope of these Regulations does not meet the definition of qualifying activity.

**15. Contact**

15.1 Cecilia Rossler at HM Treasury, Telephone: 07812 385358 or email: [cecilia.rossler@hmtreasury.gov.uk](mailto:cecilia.rossler@hmtreasury.gov.uk), can be contacted with any queries regarding the instrument.

15.2 Eleanor Tack, Deputy Director for Workforce, Pay and Pensions team, at HM Treasury can confirm that this Explanatory Memorandum meets the required standard.

15.3 Stephen Barclay, The Chief Secretary to the Treasury, at HM Treasury can confirm that this Explanatory Memorandum meets the required standard.