

EXPLANATORY MEMORANDUM TO
THE HORIZON CONVICTIONS REDRESS SCHEME AND HORIZON
SHORTFALL SCHEME FIXED SUM AWARD (TAX EXEMPTIONS AND RELIEF)
REGULATIONS 2024

2024 No. 818

1. Introduction

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

2. Declaration

- 2.1 James Murray MP, Exchequer Secretary to the Treasury, confirms that this Explanatory Memorandum meets the required standard.
- 2.2 Philip Batchelor, Deputy Director for Income Tax Policy at HMRC can confirm that this Explanatory Memorandum meets the required standard.

3. Contact

- 3.1 Amir Miah at HMRC email: amir.miah@hmrc.gov.uk (for the Post Office Compensation Schemes) can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

- 4.1 The purpose of this instrument is to exempt two new compensation payments that provide redress to postmasters affected by the Horizon scandal and aims to put individuals in the tax position they would have been in had the issue not occurred. The instrument will exempt payments made to postmasters from Income Tax and Capital Gains Tax (CGT) and relieve them from Inheritance Tax (IHT). The relevant payments are the Horizon Convictions Redress Scheme payments, and Horizon Shortfall Scheme Fixed Sum Award (HSS Fixed Sum Award) payments. HSS Fixed Sum Award payments to corporate entities shall also be exempted from Corporation Tax (CT). Onward payments made by companies will be exempt from Income Tax and CGT. Where a payment is due to a corporate entity that has been dissolved, payments made to nominated individuals will be exempt from Income Tax, CGT, and relieved from IHT.

Where does the legislation extend to, and apply?

- 4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.
- 4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. Policy Context

What is being done and why?

- 5.1 Post Office Limited (POL), a wholly government-owned company, are establishing the HSS Fixed Sum Award payments to provide redress for postmasters eligible for the Horizon Shortfall Scheme. This scheme relates to postmasters who, while not criminally convicted as part of the Horizon scandal, suffered shortfalls as a result of the faulty Horizon software and subsequently made up these shortfalls from their own funds.
- 5.2 The HSS Fixed Sum Award provides a fixed payment of £75,000 to postmasters in the Horizon Shortfall Scheme who have not yet settled, and supplementary payments, paying further compensation to all those eligible to the Horizon Shortfall Scheme and have received some payments, so that a Horizon Shortfall Scheme postmaster's total compensation will be no less than £75,000.
- 5.3 Some recipients of HSS Fixed Sum Award payments are corporate entities; these payments will be exempted from CT. Onward payments made by companies will be exempt from Income Tax and CGT. Where the corporate entity has been dissolved payments will be made to nominated individuals; these payments will be exempt from Income Tax, CGT and relieved from IHT.
- 5.4 The Horizon Convictions Redress Scheme will be established and administered by the Department for Business and Trade. The Post Office (Horizon System) Offences Act 2024 provides for the quashing of convictions for certain offences alleged to have been committed while the Horizon system was in use by the Post Office. The Horizon Convictions Redress Scheme will compensate those in scope of the Post Office (Horizon System) Offences Act 2024 and eligible for financial redress for a number of losses, including for loss of earnings and consequential pecuniary losses, which, without this legislation, would be taxable.
- 5.5 Funding for the HSS Fixed Sum Award and Horizon Convictions Redress Scheme will be provided fully by central government. HSS Fixed Sum Award payments will be made by POL. Payments made under the Horizon Conviction Redress Scheme are being made directly by the Department for Business and Trade.
- 5.6 Without this instrument, parts of the HSS Fixed Sum Award and Horizon Convictions Redress Scheme payments would be subject to tax. Elements relating to loss of earnings would be chargeable to Income Tax. Most payments are exempt from CGT, but it is possible a CGT charge could arise in some circumstances.
- 5.7 The Government wishes to clarify the tax treatment so that individuals know that they do not need to report receipt of the payments to HMRC. An exemption will reduce the administrative burden on individuals so that their payments are full and final.

What was the previous policy, how is this different?

- 5.8 While compensation payments for loss of earnings are taxable, the Government has introduced legislation to exempt other POL compensation schemes (the Overturned Convictions – formerly known as the Overturned Horizon Convictions, Group Litigation Order, Suspension Remuneration Review and Post Office Process Review) from taxes through Statutory Instruments. This measure will align the tax treatment of the HSS Fixed Sum Award and Horizon Convictions Redress Scheme with the previous schemes.

6. Legislative and Legal Context

How has the law changed?

- 6.1 Schedule 15 Finance Act 2020 contains a regulation-making power for the Treasury, by regulations, to provide that no liability to Income Tax, CGT, and IHT arises on “qualifying payments” and no liability to CT arises on “relevant compensation payments”. This includes compensation payments made by or on behalf of the Government or a public authority where they are specified in regulations made by the Treasury by Statutory Instrument.
- 6.2 This instrument is being made to set out the tax treatment of two types of compensation payments: HSS Fixed Sum Award and Horizon Conviction Redress Scheme. These are recognised as qualifying payments under Paragraph 2(5) of Schedule 15 Finance Act 2020 and relevant compensation payments under Paragraph 7(1)(e) of Schedule 15 Finance Act 2020.
- 6.3 The instrument will provide that payments are exempt from Income Tax and CGT under Paragraphs 3(5) and 4(3)(c) of Schedule 15 Finance Act 2020, respectively. Payments will also be relieved from IHT under Paragraph 5(7) of Schedule 15 Finance Act 2020, and exempt from CT under Paragraph 9(1) of Part 2 of Schedule 15 Finance Act 2020. Onward payments made by companies will be exempt from Income Tax and CGT under Paragraph 10(1) and (2) of Part 2 of Schedule 15 Finance Act 2020. The exemptions and relief will be with retrospective effect and will be wholly relieving from 13 March 2024

Why was this approach taken to change the law?

- 6.4 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

- 7.1 No formal consultation exercise has been held as these changes are wholly relieving to the taxpayer.

8. Applicable Guidance

- 8.1 Guidance will be provided via the bodies administering the schemes.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

- 9.1 A Tax Information and Impact Note covering this instrument will be published on the gov.uk website¹.

Impact on businesses, charities and voluntary bodies

- 9.2 There is no, or no significant, impact on business, charities or voluntary bodies because these compensation payments are made to a small number of individuals. Therefore, there are no wider impacts on businesses, charities or voluntary bodies.
- 9.3 The legislation does not impact small or micro businesses.

¹ Tax Information and Impact Note: <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>

9.4 There is no, or no significant, impact on the public sector because these compensation payments are made to a small number of individuals. Therefore, there are no wider impacts on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 There are no plans to monitor or review the instrument.

10.2 The instrument does not include a statutory review clause in line with the requirements of the Small Business, Enterprise and Employment Act 2015.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 Schedule 15 to the Finance Act 2020 conferred on the Treasury the power to make regulations to exempt compensation payments made by or on behalf of the government or a public authority from Income Tax, CGT and CT and relieve them from IHT. These regulations can be made with retrospective effect.

12. European Convention on Human Rights

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

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).