

**EXPLANATORY MEMORANDUM TO**  
**THE INDIVIDUAL SAVINGS ACCOUNT (AMENDMENT) REGULATIONS**  
**2015**

**2015 No. [XXXX]**

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 To permit the spouse or civil partner of a deceased ISA saver to save additional sums with tax advantages in an ISA, outside the normal subscription limit for this account. The instrument sets out various eligibility conditions and rules that apply in relation to these additional ISA investment rights.
3. **Matters of special interest to the Joint Committee on Statutory Instruments.**
4. **Legislative Context**
  - 4.1 ISA is a tax advantaged savings product providing relief from tax to individuals. ISA rules are set out in the Individual Savings Account Regulations 1998 (S.I. 1998/1870) (ISA Regulations).
  - 4.2 Regulation 4 of the ISA Regulations sets out general conditions for ISA subscriptions, and provides that, where appropriate, individuals may only subscribe to a maximum of one cash and one stocks and shares account per year. It also provides that ISA subscriptions must be made in cash - subject to specified exceptions. The annual ISA subscription limit is set out at ISA Regulation 4ZA. ISA Regulation 5D sets out certain circumstances in which ISA subscriptions are disregarded for the purposes of this limit.
  - 4.3 ISA Regulation 6 sets out general investment rules, including those concerning the eligibility of investments obtained from the spouse or civil partner of an account holder. ISA Regulations 7 and 8 specify what kinds of investments qualify for stocks and shares and cash components of ISA respectively. ISA Regulation 10 specifies who may subscribe to an ISA, and (together with regulation 11) excludes subscriptions by certain individuals who are not resident in the UK. ISA Regulation 12 sets out the conditions for applying to open an ISA, including the declaration required from an applicant. ISA Regulations 21 and 21A set out certain information requirements on an ISA

provider when an account is transferred. ISA Regulation 31 concerns returns of information to HMRC by ISA providers.

## **5. Territorial Extent and Application**

5.1 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 The changes are designed to allow bereaved individuals to benefit from new tax advantages on savings, following the death of their spouse or civil partner who held an ISA. This applies in relation to deaths on or after 3 December 2014.

7.2 New ISA Regulation 5DDA will permit additional ISA subscriptions (outside the normal subscription limit at ISA Regulation 4ZA), subject to specified conditions. This new regulation sets out the eligibility conditions and rules for these additional subscriptions, including the time limits and maximum value that may be subscribed, and which ISA providers can accept these subscriptions.

7.3 The instrument will also modify the application of certain other ISA provisions in relation to these additional subscriptions. This includes rules in ISA Regulation 4 concerning the number of accounts an individual can subscribe to (so that additional subscriptions may be made to a new ISA where appropriate), and the form in which a subscription can be made (to allow 'non cash' additional subscriptions in certain circumstances). Provisions in ISA Regulation 6 relating to investments obtained from a spouse or civil partner, and restrictions in ISA Regulation 10 on the eligibility of certain non-UK resident individuals to subscribe to an ISA, will also be modified in relation to additional subscriptions.

7.4 The instrument will also set out certain information requirements in relation to these additional subscriptions. ISA Regulation 5DF will be modified to require an individual wishing to make an additional subscription to provide certain information to an ISA provider, and new Regulation 5DFA will require a person wishing to make an additional subscription to give certain declarations to an ISA provider. In relation to these additional subscriptions, the instrument will also modify the declaration required from an applicant wishing to open an ISA (ISA Regulation 12); the information that a provider is required to supply to another provider on the transfer of an ISA (ISA Regulations

21 and 21A); and the information a provider must submit to HMRC (ISA Regulation 31).

7.5 The instrument will update ISA Regulation 2(1) to provide a definition of ‘deceased’s account’ for the purposes of this additional subscription. It will also amend regulation 2D to specify that these changes do not apply in relation to Junior ISA.

- Consolidation

7.6 There are no plans to consolidate the ISA Regulations.

## **8. Consultation outcome**

8.1

## **9. Guidance**

9.1 HMRC's Guidance Notes for ISA managers 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?utm\\_source=twitterfeed&utm\\_medium=twitter](http://www.hmrc.gov.uk/isa/isa-guidance-notes.pdf?utm_source=twitterfeed&utm_medium=twitter)

## **10. Impact**

10.1 The changes will affect banks, building societies and other financial institutions who offer ISAs. The overall impact on these providers is anticipated to be negligible given the number of additional subscriptions that are expected, and the fact that some of the information that providers will need to verify eligibility and process these subscriptions should already be available to them.

10.2 The impact on charities and voluntary bodies is expected to be negligible.

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

10.4 A Tax Information and Impact Note covering this instrument has been published on the HMRC website.

## **11. Regulating small business**

11.1 The instrument applies to small businesses that offer ISAs.

11.2 To minimise the impacts of the requirements on small firms employing up to 20 people, the approach taken is to apply the same basic requirements as apply to all businesses offering ISAs and monitor the impact of these changes.

## **12. Monitoring & review**

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

## **13. Contact**

**Simon Turner** at HMRC can answer queries regarding the instrument on behalf of HM Treasury - Tel: 03000 546588 or email: [simon.turner@hmrc.gsi.gov.uk](mailto:simon.turner@hmrc.gsi.gov.uk).

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