EXPLANATORY MEMORANDUM TO

THE LOANS FOR MORTGAGE INTEREST (TRANSACTION CHARGE REGULATIONS 2020

2020 No. 666

1. Introduction

1.1 This explanatory memorandum has been prepared by Department for Work and Pensions (DWP) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument makes amendments to the Loans for Mortgage Interest Regulations 2017 to remove the requirement for DWP to levy a charge on mortgage lenders who receive direct payments under the Support for Mortgage Interest scheme.

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 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 England, Wales and Scotland.

4.2 The territorial application of this instrument is England, Wales and Scotland.

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 This instrument makes amendments to the Loans for Mortgage Interest Regulations 2017 to remove the requirement for DWP to levy a charge on mortgage lenders who receive direct payments under the Support for Mortgage Interest scheme. The regulations will remove the requirement under Paragraph 6 of Schedule 4 to those Regulations[1].

6.2 These changes are being made following agreement from Her Majesty's Treasury and Ministers at the Department for Work and Pensions that the charge is no longer necessary. This is because administration of the charge exceeds the amount of the

[1] http://www.legislation.gov.uk/uksi/2017/725/made

funds recovered. This Statutory Instrument makes the appropriate changes to support this change.

7. Policy background

What is being done and why?

7.1 Owners occupiers in receipt of an income-related benefit can receive help towards their mortgage payments through Support for Mortgage Interest (SMI). SMI is provided through an interest-bearing loan repayable when the property is sold or the ownership is transferred. The policy objective is to provide a level of support that is sufficient to avert the threat of repossession by their lender. SMI payments are calculated by applying a set rate of interest to the claimant's outstanding mortgage, up to a set capital limit.

7.2 SMI loan payments are paid direct to mortgage lenders to encourage lender forbearance where payments do not meet the full cost of the mortgage, and ensure the funds are used to meet mortgage liabilities. In return a charge has been levied on lenders in accordance with the general principles in Her Majesty's (HM) Treasury's guidance for Managing Public Money.

7.3 In 2017/18 Ministers approved a rate of £0.39 for each transaction. This was frozen for 2018/19 and 2019/20. When SMI was a benefit, there were over 100,000 claimants. Since SMI has become a loan, only around 22,000 have accepted - or are intending to accept - the loan[2]. Costs are spread across fewer transactions and the cost of recovering the charge was more than it recovered. The efficiency savings achieved by abolishing the charge were calculated on the basis of the staff and non-staff costs dedicated to the process of costing and administrating the charge. A large increase in the transaction fee to recoup the full cost of administering the charge may have jeopardised the important relationship with lenders who exercise forbearance when SMI does not meet the whole of a person's mortgage liability.

7.4 HM Treasury agreed to its abolition and this decision was confirmed by DWP Ministers who agreed there should be no charge from the 2020/21 financial year onwards.

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

This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act

9. Consolidation

9.1 Informal consolidated text or instruments is available to the public free of charge via the National Archives' website: www.legislation.gov.uk.

10. Consultation outcome

10.1 HMT Treasury has agreed to the cessation of the charge.

[2] https://www.gov.uk/government/publications/conversion-of-support-for-mortgage-interest-smi-from-a-benefit-into-a-loan

10.2 The mortgage lending industry has been informed through lenders trade associations UK Finance and the Building Society Association.

11. Guidance

11.1 Internal guidance for staff at the Department for Work and Pensions has been amended to remove the invoicing process that has supported the recovery of the charge.

11.2 The mortgage lending industry has been informed about the cessation of the charge through lenders trade associations UK Finance and the Building Society Association.

12. Impact

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

12.2 There is a positive but not significant impact on business because mortgage lenders will no longer be subject to the charge. The impact will not be significant because the proportion of mortgage holders with an SMI loan in the UK is small. Since SMI has become a loan, only around 22,000 have accepted - or are intending to accept - the loan[3]. There are around 11m outstanding mortgages in the UK[4].

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

12.4 An Impact Assessment has not been prepared for this instrument as there is no significant impact on business.

13. Regulating small business

13.1 There will be a positive but not significant impact for small business who are mortgage lenders because they will no longer be subject to the charge.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is on-going. Officials will monitor costs to ensure the SMI scheme continues to meet the Her Majesty's Treasury Management Public Money guidance.

14.2 There is a primary power to charge lenders a fee so this could be re-instated by regulations at a later date.

15. Contact

15.1 Emma Watson at the Department for Work and Pensions, email: emma.watson4@dwp.gov.uk; telephone: 0113 2324618 can be contacted with any queries regarding the instrument.

15.2 Natalie Keogh, Deputy Director for Housing Policy, at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.

15.3 Baroness Stedman-Scott at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.

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[3] https://www.gov.uk/government/publications/conversion-of-support-for-mortgage-interest-smi-from-a-benefit-into-a-loan

[4] https://www.ukfinance.org.uk/system/files/The-changing-shape-of-the-UK-mortgage-market-FINAL-ONLINE-Jan-2020.pdf