EXPLANATORY MEMORANDUM TO

The Social Security (Housing Costs) (Standard Interest Rate) (Amendment) Regulations (Northern Ireland) 2010

S.R. 2010 No. 340

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Social Development to accompany the Social Security (Housing Costs) (Standard Interest Rate) (Amendment) Regulations (Northern Ireland) 2010 which is laid before the Northern Ireland Assembly.

1.2 The Statutory Rule is made under powers conferred by the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7), the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)), the State Pension Credit Act (Northern Ireland) 2002 (2002 c. 14 (N.I.)) and the Welfare Reform Act (Northern Ireland) 2007 (2007 c. 2 (N.I.)) and is subject to the negative resolution procedure.

1.3 The rule is due to come into operation on 1 October 2010.

2. Purpose

2.1 Claimants in receipt of Income Support, income-based Jobseeker's Allowance, State Pension Credit or income-related Employment and Support Allowance may be entitled to help towards their housing costs. Specifically, this help covers eligible interest on loans (up to prescribed capital limits) taken out to purchase a home and on certain home improvement loans.

2.2 This Statutory Rule amends the standard interest rate which is used to calculate the amount of interest payable on a qualifying loan. This replaces the current fixed standard interest rate of 6.08% with a rate based on the average interest rate for loans to households secured on dwellings published by the Bank of England.

2.3 The initial starting rate will be 3.63% which was the rate published in August 2010. Thereafter, the standard interest rate will be subject to change where the Bank of England published average rate differs from the standard rate of 0.5% or more.

3. Background

3.1 Since 1995 Support for Mortgage Interest payments have been based on a standard interest rate rather than on the actual interest rate of the individual's mortgage. From December 2004, the standard interest rate has been based on a formula: the Bank of England base rate plus 1.58%.

3.2 Since late 2008 the standard interest rate has been temporarily frozen at 6.08% and was to remain frozen until January 2011 after which it was expected to return to the formula introduced in 2004. In November 2008 data from the Council of Mortgage Lenders and Bank of England showed that the weighted average interest rate for mortgages in the United Kingdom was 5.83%. Therefore the decision to freeze the rate was made to protect customers who were thought to be at risk of mortgage shortfalls and arrears during a period when mortgage rates were less responsive to cuts in the Bank of England base rate.

3.3 Data (sample data of about 6,000 Support for Mortgage Interest claimants throughout the United Kingdom) supplied by the Council of Mortgage Lenders and the Bank of England in November 2009 to the Department for Work and Pensions implies an average mortgage rate paid by Support for Mortgage Interest customers of 3.8%, well below the weighted average interest rate of 5.83% for mortgages in the United Kingdom in 2008 when the standard interest rate was frozen at 6.08%, but also a good margin above the old formula.

3.4 Based on a small sample of data provided by the Council of Mortgage Lenders, it is now estimated that 92% of current customers receiving help through the support for mortgage interest rules have mortgage interest rates below the current standard interest rate of 6.08%. The data also suggests that, of the customers with mortgage rates below 6.08%, over half are currently receiving support for mortgage interest payments that are at least 50% higher than the actual interest due to the lenders on the eligible loan. Any "excess" payments of support for mortgage interest as a result of the rate of 6.08% is currently being credited to the customer's mortgage account and used to pay off capital which was not the original policy intention.

3.5 The current rate of 6.08% does not provide good value for money for the tax payer. It is considered that the time is right to move towards a more transparent rate that provides better value for money, whilst still protecting customers against repossession.

3.6 It is also considered inappropriate to revert to the previous formula of the standard interest rate – that is, setting it at the Bank of England base rate of 0.5% plus 1.58%. This would result in a rate of 2.08% and could create a risk of repossession for a significant number of claimants.

3.7 Subsequently, there is scope to set the standard interest rate at which Support for Mortgage Interest is paid at a level between these two rates, that is, between 2.08% and 6.08%, delivering better value for money whilst still protecting the vast majority of customers from repossession.

3.8 In order to ensure that the Support for Mortgage interest remains appropriately targeted, it has been decided to move to a standard interest rate based on the Bank of England published average mortgage rate.

3.9 Using the Bank of England average mortgage rate is transparent, efficient, straightforward and provides better value for money for the taxpayer, whilst still protecting customers against repossession. The Council of Mortgage Lenders have advised that, "lenders will continue to exercise forbearance where it is fair to do so for the borrower, and the borrower has a chance of rehabilitation." The Council does not foresee that the reduction in the standard interest rate would increase the likelihood of repossessions.

3.10 Under a standard interest rate of around 3.67% (Bank of England published average mortgage rate in July 2010), it is estimated that approximately 50% of Support for Mortgage Interest customers would continue to have their eligible housing costs fully met by their benefit award. Most customers receiving a shortfall under this arrangement would still have the majority of their eligible housing costs met by Support for Mortgage Interest, creating only relatively small level of arrears.

3.11 This new approach to the standard interest rate will be monitored and reviewed by the Department for Work and Pensions to ensure it remains sustainable and relevant, and together with the wider Support for Mortgage Interest help available to customers, achieves the aim of protecting households against repossession as far as possible.

4. Consultation

4.1 The new method for determining the standard rate was announced as part of the Chancellor's Emergency Budget on 22 June 2010. The Department for Work and Pensions had informal discussions with the Council of Mortgage Lenders in advance of the Chancellor's announcement. The Council of Mortgage Lenders agreed that the rate of 6.08% is high.

4.2 The proposals for regulations were considered by the Social Security Advisory Committee on 7 July 2010. The Committee decided not to require the proposals to be formally referred to it.

5. Equality Impact

5.1 In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on these legislative proposals and has concluded that the proposals do not have significant implications for equality of opportunity. In light of this, the Department considers that an equality impact assessment is not necessary.

6. Regulatory Impact

6.1 These Regulations do not require a Regulatory Impact Assessment as they do not impose any additional costs or savings on business, charities or voluntary bodies.

7. Financial Implications

7.1 No financial implications

8. Section 24 of the Northern Ireland Act 1998

8.1 The Department has also considered its obligations under section 24 of the Northern Ireland Act 1998. It is the Department's judgement that the Social Security (Housing Costs) (Standard Interest Rate) (Amendment) Regulations (Northern Ireland) 2010 are not incompatible with the Convention rights, are not incompatible with Community law, do not discriminate against any person or class of person on the ground of religious belief or political opinion and do not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. E.U. Implications

9.1 Not applicable.

10. Parity or Replicatory Measure

10.1 The Regulations mirror those made in Great Britain Regulations and are in keeping with the principal of parity between Northern Ireland and Great Britain in social security matters. The Regulations come into operation on 1 October 2010.

11. Additional Information

11.1 Not applicable