# EXPLANATORY MEMORANDUM TO

# THE SOCIAL SECURITY (FEES PAID BY QUALIFYING LENDERS) (AMENDMENT) REGULATIONS 2016

## 2016 No. 228

## 1. Introduction

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

## 2. Purpose of the instrument

2.1 This instrument ensures qualifying mortgage lenders, who are members of the Managed Payments to Mortgage Lenders (MPML) scheme (formerly known as the Mortgage Interest Direct scheme), pay a "transaction charge". This charge covers the cost to DWP of administering and making payments in respect of benefit claimants' mortgage interest payments, known in the benefits system as Support for Mortgage Interest (SMI). (Policy background on SMI is in section 7 below). From 1 April 2016, this instrument sets the transaction charge at 44 pence. Since it was introduced in 1992 the transaction charge is reviewed and set annually. The transaction charge was set at 46 pence last year. Qualifying lenders are defined in paragraph 8 of Schedule 9A to the *Social Security (Claims and Payments) Regulations 1987*[1] and paragraph 1 of Schedule 5 to the *Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payment) Regulations 2013*[2] and include any body whose main objects are making loans secured by a mortgage.

## 3. Matters of special interest to Parliament

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

3.1 None.

***Other matters of interest to the House of Commons***

3.2 As this instrument is subject to the negative resolution procedure, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

## 4. Legislative Context

4.1 As noted above in paragraph 2.1, benefit claimants are helped with their mortgage interest payments through SMI. SMI is paid as part of Income Support (IS), income-based Jobseeker's Allowance (JSA), income-related Employment and Support Allowance (ESA), State Pension Credit (SPC) and Universal Credit (UC).

4.2 *The Social Security Administration Act 1992,* section 15A(2)(b), enables the Secretary of State to make regulations providing for the expense of administering the MPML is

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1 The Social Security (Claims and Payments) Regulations 1987, S.I. 1987/1968.
2 The Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013, S.I. 2013/380

to be met in whole or in part, by at the expense of qualifying lenders taking part in the scheme. Provision is also made in UC in Schedule 5(9)(1) of *The Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013*

4.3 This expense is recovered through a transaction charge paid by qualifying lenders (members of the MPML scheme). The transaction charge is reviewed annually and the Department consults and seeks agreement from the Council of Mortgage Lenders (CML) for the revised charge. This instruments amends the following regulations with the revised charge:

- the *Social Security (Claims and Payments) Regulations 1987*[3]*;* and
- the *Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payment) Regulations 2013*[4]

## 5. Extent and Territorial Application

5.1 The extent of this instrument is Great Britain.

5.2 The territorial application of this instrument is Great Britain.

## 6. European Convention on Human Rights

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

## 7. Policy background

***What is being done and why***

*Background – Support for Mortgage Interest (SMI), Managed Payments to Mortgage Lenders (MPML) scheme*

7.1 SMI is calculated using a standard interest rate which is applied to the first £100,000 of the mortgage for pensioners and claimants in receipt of benefit before 5 January 2009, and £200,000 for new working age claims from 5 January 2009. SMI payments are not designed to cover all of a person's mortgage liabilities and do not cover capital repayments, arrears or insurance premiums. Its purpose is to mitigate the risk of repossession.

7.2 The majority of payments of SMI are paid direct to the claimant's mortgage lender by DWP through the MPML scheme. This scheme was introduced in May 1992 for Income Support, Jobseeker's Allowance in 1996, State Pension Credit in October 2003, Employment and Support Allowance in October 2008 and Universal Credit in 2012. The intention in making direct payments of SMI to mortgage lenders is to ensure that they are used for the purpose for which they are intended, to pay mortgage interest. In the MPML scheme, benefit in respect of mortgage interest is paid direct to mortgage lenders on a four weekly basis. Owner occupier housing costs will be paid monthly by MPML in UC.

[3] The Social Security (Claims and Payments) Regulations 1987, S.I. 1987/1968.
[4] The Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013, S.I. 2013/380.

*What is being done and why - the transaction charge*

7.3 The transaction charge must be set in accordance with chapter 6 of ***Managing Public Money***, to ensure full cost recovery from monies raised through the charge. This ensures the Department is able to recover its costs for administering the scheme.

7.4 In setting the charge, the Department takes into account a number of factors, including:

- the forecast volume of claims for SMI against each of the benefits; and
- any changes in administration costs.

7.5 Based on the Department for Work and Pensions' official benefit and caseload forecast, it is forecast that the 2016/17 transaction volumes will be circa. 1.56m; this represents a decrease of 22.1% against forecast 2015/16 transaction volumes of around 2.01m. The overall administration costs for 2016/17 have reduced compared to those in 2015/16. This is because the administration costs for 2015/16 included a one-off item of expenditure to improve IT and the Department has made further efficiency savings.

7.6 When the reduction in new claims and caseload volumes are combined with the efficiency savings, the overall result is a reduction in the transaction charge.

***Consolidation***

7.7 Informal consolidated text of instruments is available to the public free of charge via 'The Law Relating to Social Security' (Blue Volumes) on the Department for Work and Pensions website at http://www.dwp.gov.uk/publications/specialist-guides/law-volumes/the-law-relating-to-social-security/ or the National Archive website legislation.gov.uk. An explanation as to which instruments are maintained on each site is available from http://www.dwp.gov.uk/docs/lawvolnews.pdf."

## 8. Consultation outcome

8.1 As this amending instrument only affects qualifying mortgage lenders, the Department has consulted with the Council of Mortgage Lenders (CML) and they have agreed the revised charge.

## 9. Guidance

9.1 The CML will be notified when this instrument is laid and they will advise their members of the new charge. This instrument has no effect on the public as it is an administrative charge agreed between lenders and the Department.

## 10. Impact

10.1 There is no new impact on business or civil society organisations. The impact on qualifying mortgage lenders is due to an existing arrangement between mortgage lenders and DWP. This change to the charge will apply to about 900 active mortgage lenders registered with DWP.

10.2 There is no new impact on the public sector as these administrative arrangements between lenders and the Department are well-established as they have been in place since 1992, and the transaction charge delivers full cost recovery.

10.3 An Impact Assessment has not been prepared for these Regulations.

## 11. Regulating small business

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

11.2 The impact on the public sector is negligible as the Regulations only concern administrative arrangements between lenders and the Department.

## 12. Monitoring & review

12.1 The transaction charge is reviewed annually and is normally subject to change at this review.

## 13. Contact

13.1 Ruth Greenwood at the Department for Work and Pensions, Telephone: 0113 2327601 or email: ruth.greenwood@dwp.gsi.gov.uk can answer any queries regarding the instrument.