

EXPLANATORY MEMORANDUM TO

THE RENTCHARGES (REDEMPTION PRICE) (ENGLAND) REGULATIONS 2016

2016 No. 870

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 These Regulations specify the algebraic formula to be used in the Rentcharges Act 1977 (“the 1977 Act”) to calculate the redemption price of rentcharges. The Regulations specify the “over 30 not over 30.5 year” National Loans Fund interest rate to determine the yield element of the formula. This replaces the defunct 2½% Consolidated Stock gilt, which was used in the formula previously contained in the 1977 Act, but which was called and redeemed by H.M. Treasury in 2015.

3. Matters of special interest to Parliament

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, 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 The statutory procedure for redeeming rentcharges is set out in sections 7A to 10 of the 1977 Act and also in regulations made under that Act (the Rentcharges Regulations 1978 (S.I. 1978/16)).
- 4.2 Section 20 of the Landlord and Tenant Act 1927 provides for the redemption of certain rents to be carried out in accordance with the procedure specified in sections 8 to 10 of the 1977 Act.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is England and Wales.
- 5.2 The territorial application of this instrument is England only.

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 Rentcharges are a periodic sum paid by the owner of freehold land (normally a house) to another person who has no other legal interest in the land. Rentcharges are common only in certain parts of the United Kingdom and traditionally provided a continuing income for landowners who allowed their land to be used for development.
- 7.2 The 1977 Act prevented the creation of new rentcharges, provided that almost every rentcharge will be extinguished by 2037 and allowed rentcharge payers to buy out or 'redeem' their rentcharge, using the algebraic redemption formula in the Act. The Rentcharges Unit in the Department for Communities and Local Government oversees the redemption process and issuing of redemption certificates.
- 7.3 In 2015 the Government announced it would remove the last remaining undated gilts from its gilt portfolio. This included the 2½% Consolidated Stock gilt used in the algebraic formula in the 1977 Act to calculate rentcharge redemptions. Redemption of the 2½% Consolidated Stock was announced at Budget in March 2015 and effected in July of the same year. As the now defunct Consolidated Stock gilt was an undated perpetual bond, the 1977 Act did not anticipate nor allow for it to be replaced, in spite of the embedded call option to take action under specific circumstances.
- 7.4 The Housing and Planning Act 2016 amended the 1977 Act to provide the Secretary of State with regulation-making powers to specify how the statutory redemption price of a rentcharge is calculated and, consequently, to replace the defunct consolidated stock gilt.
- 7.5 The Government believes that the "over 30 not over 30.5 year" National Loans Fund interest rate best represents the original intentions of the 1977 Act and matches the global conventional definition of a long-dated benchmark rate.
- 7.6 National Loans Fund rates are calculated by the U.K. Debt Management Office. The National Loans Fund was chosen because of its simplicity, transparency and similarity to the defunct 2½% Consolidated Stock following a consultation carried out by the Government during October and November 2015.
- 7.7 National Loans Fund rates are, and will continue to be, published by the U.K. Debt Management Office on its website on a daily basis. These rates are calculated using a methodology specified by HM Treasury in accordance with section 5 of the National Loans Act 1968, and are already used in numerous other Government contracts and loans. National Loans Fund rates are calculated using observable market-determined yields for individual gilts, but smooth out any rich or cheap characteristics of individual bonds.
- 7.8 The Regulations provide that the specific interest rate to be used in the redemption price formula is the published price for the "over 30 not over 30.5 year" National Loans Fund interest rate at the close of business on the last trading day in the week before instructions for redemption are served under section 9(4) of the 1977 Act. The published rate must be converted to a decimal fraction (divided by 100) before it can be used in the redemption formula.

Consolidation

- 7.9 This instrument does not revoke, amend or consolidate any other instrument.

8. Consultation outcome

- 8.1 In October and November 2015, the Government issued a technical discussion paper seeking views on the replacement rate or instrument for the defunct 2½% Consolidated Stock to be used in the calculation formula for rentcharges. The vast majority of responses were either in favour of using the “over 30 not over 30.5 year” National Loans Fund interest rate, or had no opinion.

9. Guidance

- 9.1 The Government will update the rentcharges pages of www.gov.uk to publicise the defunct 2½% Consolidated Stock gilt being replaced with the “over 30 not over 30.5 year” National Loans Fund interest rate.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector.
- 10.3 An Impact Assessment has not been prepared for this instrument as no impact on business is foreseen.

11. Regulating small business

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

12. Monitoring & review

- 12.1 The impact of the introduction of the “over 30 not over 30.5 year” National Loans Fund interest rate on rentcharge redemptions will be subject to internal review after 12 months and the legislation may be amended accordingly.

13. Contact

- 13.1 Charlie Chappell at the Department for Communities and Local Government
Telephone: 0303 444 1332 or email: charlie.chappell@communities.gsi.gov.uk can answer any queries regarding the instrument.