EXPLANATORY MEMORANDUM TO

THE STAMP DUTY (METHOD OF DENOTING DUTY) REGULATIONS 2019

2019 No. 719

1. Introduction

1.1 This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs (HMRC) on behalf of Her Majesty's Treasury and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

2.1 Stamp Duty is charged on instruments transferring shares or chargeable securities, on the impression of a physical stamp on the document(s) in question. The stamped documents can then be used to verify title to the shares or securities, in the first instance by company registrars. A company registrar is a person who maintains the share register of a company and updates this accordingly when shares in the company are issued or transferred.

2.2 This instrument will extend the existing definitions used for stamping of documents and the way in which stamping may be done in order to provide flexibility for the use of alternative, replacement stamping mechanisms or machines.

3. Matters of special interest to Parliament

Matters of special interest to the Select 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 the whole of the United Kingdom

4.2 The territorial application of this instrument is the whole of the United Kingdom.

5. European Convention on Human Rights

5.1 Mel Stride MP (Financial Secretary to the Treasury) has made the following statement regarding Human Rights:

"In my view the provisions of the Stamp Duty (Method of Denoting Duty) Regulations 2019 are compatible with the Convention rights."

6. Legislative Context

6.1 The instrument being made amends the existing legislation which provides for the mechanism by which Stamp Duty paid is denoted on instruments of transfer.

Legislation in Stamp Act 1891 and Stamp Duties Management Act 1891, defines stamp to mean "a stamp impressed by means of a die". The issue is this definition may limit the modernisation of the stamping process or the machines used to carry that out. Currently stamping is done by heavy Victorian press machines which HMRC intend replacing with modern day equivalents.

6.2 The instrument amends the Stamp Duties Management Act 1891. The amendments replace references to impressed stamps with references to stamps produced by means of a die and extend the definition of "die" so that it includes any machine used under the direction of the Commissioners for HMRC to denote duty.

6.3 The instrument makes similar amendments to the Stamp Act 1891. In addition, paragraph (3) amends section 14 of that Act. Section 14 provides that instruments which are not duly stamped may not be received in evidence. The amendment ensures that, in cases where duty is required to be denoted by impressed stamps, instruments are not to be treated as not being duly stamped for the purposes of the section where duty is denoted by a different method permitted at the time of stamping.

6.4 These regulations also make consequential amendments to other legislation relating to Stamp Duty, within Finance Act 1999 and Finance Act 2000.

7. Policy background

What is being done and why?

7.1 Stamp Duty is charged on instruments transferring shares or chargeable securities, on the impression of a physical stamp on the document(s) in question. The stamped documents can then be used to verify title to the shares or securities, in the first instance by company registrars. A company registrar is a person who maintains the share register of a company and updates this accordingly when shares in the company are issued or transferred.

7.2 Current legislation in the Stamps Act 1891 provides for 'stamping' of relevant instruments and provides definitions for the terms "stamp", "stamped" and "die". These specify the mechanisms by which stamping may be undertaken, and the definitions restrict modern equivalents.

7.3 Extending and amending the legislation will provide flexibility in the method by which Stamp Duty is denoted, in terms of how an instrument (document) is marked. This flexibility will provide scope to easily implement any changes in the future and will allow use of modern machinery for stamping. This will increase operational efficiency and reduce operational costs incurred by HMRC.

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

8.1 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 There are no immediate plans to consolidate the legislation because the changes introduced by the instrument relate only to HMRC's operational practices and do not alter how the tax is charged or any actions taxpayers may have to perform.

10. Consultation outcome

10.1 This instrument makes minor changes in the method by which Stamp Duty can be denoted, to facilitate HMRC operations. Therefore it is considered that no formal consultation is required.

11. Guidance

11.1 All relevant HMRC guidance will be updated as appropriate to coincide with any change in the method of stamping. HMRC's Stamp Taxes on Shares Manual at STSM141020 Payment and denoting of Stamp Duty will be updated.

12. Impact

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

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

12.3 A Tax Information and Impact Note has not been prepared for this Instrument as it contains no substantive changes to tax policy.

12.4 This is primarily an operational change for HMRC, and any impact would only occur if and when there is a change in how Stamp Duty is denoted. At that point HMRC will publicise the change as necessary.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No specific action is proposed to minimise the impact of the requirements on small businesses (employing up to 50 people).

13.3 The basis for the final decision on what action to take to assist small businesses is that the instrument does not impose new obligations on them.

14. Monitoring & review

14.1 There are no plans to monitor or review this instrument as it makes no substantive changes to tax policy.

14.2 The regulation does not include a statutory review clause.

14.3 As the instrument makes or amends provision in connection with provision imposing, abolishing or varying a duty, no provision for review is required by virtue of section 28(3)(a)(ii) of the Small Business, Enterprise and Employment Act 2015.

15. Contact

15.1 Syed Sufan at HMRC Telephone: 03000 559 106 or email: syed.sufan@hmrc.gov.uk can be contacted with any queries regarding the instrument.

15.2 Morris Graham, Deputy Director for Stamp Taxes Policy at HMRC can confirm that this Explanatory Memorandum meets the required standard.

15.3 Mel Stride MP, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.