

EXPLANATORY MEMORANDUM TO
THE TAXES (INTEREST RATE) (AMENDMENT) REGULATIONS 2020
2020 No. 194

1. Introduction

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

2. Purpose of the instrument

- 2.1 This instrument reduces the “official rate of interest” applicable under section 178 of the Finance Act 1989 for the purposes of Chapter 7 of Part 3 of the Income Tax (Earnings and Pensions) Act 2003 (taxable benefits: loans) (ITEPA).

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

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 Regulation 5 of the Taxes (Interest Rate) Regulations 1989 (S.I. 1989/1297) sets the generally applicable rate of interest for the purposes of Chapter 7 of Part 3 of ITEPA. Chapter 7 sets out the circumstances in which employment-related loans give rise to a taxable benefit. The value of this benefit is based on the amount by which the interest rate paid is less than the amount that would have been due if calculated at the “official rate of interest”. The legislation allows for a generally applicable official interest rate to be set and for different official rates where the loan is in a foreign currency and other conditions apply.
6.2 These regulations reduce the generally applicable rate.

7. Policy background

What is being done and why?

- 7.1 Directors and employees are liable to tax on benefits in kind they receive by reason of their employment. Where an interest-free or low interest employment-related loan is made, the taxable benefit is the difference between any interest paid by the employee and the interest which would have been paid at the official rate of interest (where that is greater). Where a tax charge arises, employers also pay Class 1A National Insurance contributions on the taxable benefit.
- 7.2 HMRC's policy is to confirm the official rate of interest in advance of the new tax year to help simplify record keeping and benefit valuation for employers.
- 7.3 The latest review on average interest rates on mortgages has indicated that the official rate of interest should be reduced. Accordingly, this instrument reduces the current official rate of interest of 2.50 to 2.25% with effect from 6 April 2020.

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.

9. Consolidation

- 9.1 There are no plans to consolidate the instrument that is being amended. No free informal consolidated text is available.

10. Consultation outcome

- 10.1 No consultation has been undertaken as the amendment is in line with the procedure contained in HMRC's publicly announced policy.

11. Guidance

- 11.1 The official rate of interest is posted on the www.gov.uk website: <https://www.gov.uk/government/publications/rates-and-allowances-beneficial-loan-arrangements-hmrc-official-rates/beneficial-loan-arrangements-hmrc-official-rates>. This is known and established practice.
- 11.2 It is also included in the Employment Income Manual: <https://www.gov.uk/hmrc-internal-manuals/employment-income-manual/eim26104>, which is used by employers and their agents and this will be updated. Form P11D (INT) advises employers of the official rate which is posted on the Government website and is sent to all employers as part of the employers' pack.

12. Impact

- 12.1 There is no, or no significant, impact on business, 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.

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 reducing the official rate of interest will not have a significant impact or involve additional costs for small businesses.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is that HMRC will continue to monitor mortgage rates and amend the legislation to change the rate if appropriate.
- 14.2 This regulation does not include a statutory review clause because of a tax exemption in section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015.

15. Contact

- 15.1 Neil Henderson at HMRC, Telephone: 03000 544 705 or email employmentincomepolicy@hmrc.gsi.gov.uk can answer any queries regarding the instrument.
- 15.2 Jackie McGeehan, Deputy Director, Income Tax Policy, at HMRC, can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 The Rt Hon Jesse Norman MP, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.