EXPLANATORY MEMORANDUM TO

THE STAMP DUTY LAND TAX (ADMINISTRATION) (AMENDMENT) REGULATIONS 2018

2018 No. 1319

1. Introduction

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

2. Purpose of the instrument

2.1 This instrument amends provisions in Part 4 of the Stamp Duty Land Tax (Administration) Regulations 2003 (S. I. 2003/2837) ("the SDLT Administration Regulations").

2.2 It reduces the time limit to make a Stamp Duty Land Tax (SDLT) return and pay the associated tax due, when this follows deferment. A purchaser can apply to defer the payment of SDLT where the purchase price of the land is uncertain or contingent. This instrument reduces the time limit for making the return and paying the tax once the uncertainty ceases or the contingency occurs.

2.3 It also makes improvements to the SDLT return.

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 England and Wales, and Northern Ireland.

4.2 The territorial application of this instrument is England and Northern Ireland.

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 SDLT was introduced by the Finance Act 2003, replacing Stamp Duty for most land transactions from 1 December 2003. SDLT was devolved to Scotland as a result of amendments made by the Scotland Act 2012; and devolved to Wales as a result of

amendments made by the Wales Act 2014. Consequently, SDLT now only applies in England and Northern Ireland.

6.2 Provisions in the Finance Act 2003 are being amended to reduce the time limits for making a SDLT return and paying the tax, from 30 days to 14 days, and will apply from 1 March 2019. Draft legislation to make these changes was published on 6 July 2018 and later included in Finance (No. 3) Bill 2017-19.

6.3 There are other provisions, in relation to the time limits for making a SDLT return and paying the tax in the SDLT Administration Regulations. These provisions will be amended by this instrument and come into force on 1 March 2019.

7. Policy background

What is being done and why?

7.1 At Autumn Statement 2015 the government announced that there would be a reduction in the time limit for making a SDLT return and paying the tax from 30 days to 14 days, beginning in 2017-18. To give enough time for HMRC to address the issues which arose from the consultation, it was announced at Spring Budget 2017 that the reduction in the time limit would be delayed.

7.2 At Autumn Budget 2017 the government confirmed that the time limit for making a SDLT return and paying tax would be reduced to 14 days and announced that this would apply to transactions from 1 March 2019. The government also announced that improvements would be made to the SDLT return.

7.3 Reducing the time limit to make a SDLT return and pay the tax will not change liabilities for the purchaser, but will lead to tax being paid earlier. Approximately 85% of SDLT returns are already made within 14 days.

7.4 Provisions in the SDLT Administration Regulations relate to the process to make a SDLT return and pay the tax following an application for deferment. A purchaser can apply to defer SDLT when the purchase price of the land is uncertain or depends on the occurrence of a future contingency, for example, obtaining planning permission.

7.5 This instrument provides that where the uncertainty ceases or the contingency occurs, and a SDLT return has not already been made, the return must be made and tax paid within 14 days.

7.6 This instrument also clarifies and reduces the number of questions in both the paper and online return.

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 plans to consolidate amendments to the SDLT Administration Regulations.

10. Consultation outcome

10.1 HMRC ran a formal consultation between August and October 2016. The consultation document and the summary of responses is available at https://www.gov.uk/government/consultations/stamp-duty-land-tax-changes-to-the-filing-and-payment-process. There has also been ongoing consultation in HMRC's SDLT Working Together Steering Group. The members of this group include representatives from the professional bodies for solicitors, licensed conveyancers and Stamp Taxes practitioners.

10.2 HMRC received over 85 written responses as well as comments made during meetings. The respondents were mainly solicitors. The key concern was the amount of data required in the SDLT return in cases where the purchase of land involved commercial leases or tenancies. Respondents advised that in these cases, there would be practical difficulties in trying to comply with the reduced time limit for making the SDLT return. The improvements that are being made to the SDLT return, in particular, reducing the amount of information required in the return, will help make compliance with the new time limit easier.

10.3 Land and Property Services (LPS) in Northern Ireland, an agency of the Department of Finance of the Northern Ireland Executive, was also consulted and is content with the changes. The functions of the LPS include the valuation of all domestic and non-domestic property in Northern Ireland.

10.4 HMRC ran a short, technical consultation on this instrument between October and November 2018. There were about 30 responses, mainly from professional bodies and solicitors' firms. Most of the comments related to the wider policy change, which was the subject of the formal consultation held in 2016. HMRC plans to address most of the comments that were made on the technical aspects of the instrument in guidance.

11. Guidance

11.1 Guidance on GOV.UK will be updated by 1 March 2019.

12. Impact

12.1 There is no significant impact on business, charities or voluntary bodies. The majority of returns are already filed within 14 days of the transaction. Liabilities for the purchaser will not change.

12.2 There is no significant impact on the public sector.

12.3 A Tax Information and Impact Note (TIIN) covering this instrument was published on 6 July 2018 alongside draft legislation for the changes to the time limits for making SDLT returns and paying tax and is available on the website at https://www.gov.uk/government/publications/changes-to-the-stamp-duty-land-tax-filing-and-payment-time-limits/changes-to-the-stamp-duty-land-tax-filing-and-payment-time-limits.

13. Regulating small business

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

13.2 To make it easier for small businesses (employing up to 50 people), as well as medium-sized and large businesses, to make a SDLT return and pay tax earlier, this instrument is simplifying the return.

13.3 The basis for the final decision on what action to take to assist small businesses was determined following a formal consultation held by HMRC in 2016.

14. Monitoring & review

14.1 HMRC will monitor the impact of the changes introduced by this instrument on an ongoing basis using information collected from its internal systems and processes, as well as regular engagement with affected stakeholder groups.

14.2 As this instrument concerns a tax related measure, it does not include a statutory review clause under the Small Business, Enterprise and Employment Act 2015.

15. Contact

15.1 Anne Berriman at HM Revenue and Customs Telephone: 03000 585901 or email: anne.berriman@hmrc.gsi.gov.uk can be contacted with any queries regarding the instrument.

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

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