EXPLANATORY MEMORANDUM TO

THE VALUATION OF MINOR INTERMEDIATE LEASEHOLD INTERESTS (ENGLAND) REGULATIONS 2017

2017 No. 871

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 Leasehold Reform Act 1967 ("the 1967 Act") and in the Leasehold Reform, Housing and Urban Development Act 1993 ("the 1993 Act") to calculate the price payable for a minor superior tenancy or the value of a minor intermediate leasehold interest, respectively. 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 formulas previously contained in the 1967 and 1993 Acts, but which was called and redeemed by H.M. Treasury in 2015.Matters of special interest to Parliament

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 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 Where the statutory right to enfranchise or acquire a lease renewal in relation to residential leasehold property is exercised, provision is made for the valuation of minor intermediate leasehold interests, where they exist.

4.2 Schedule 10 to the Housing and Planning Act 2016 amended Schedule 1 to the 1967 Act and Schedules 6 and 13 to the 1993 Act. These amendments removed the previous algebraic formulas used for the calculations of the values of minor superior tenancies and minor intermediate leasehold interests, and replaced them with regulation making powers for the Secretary of State and the Welsh Ministers to prescribe new methods of calculating the value of these interests.

4.3 These amendments allow for the necessary change in the yield element of the formula from the defunct 2.5% Consolidated Stock gilt to the "over 30 not over 30.5 year" National Loans Fund interest rate.

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 In March 2015, the UK Government announced that it would remove the last remaining undated gilts from its portfolio. This included the 2½% Consolidated Stock gilt used as part of an algebraic formula within i) the 1967 Act to calculate the monetary value of a 'minor superior tenancy' for a leasehold house and ii) the 1993 Act to calculate a 'minor intermediate leasehold interest' in the case of both collective enfranchisement and lease renewal.

7.2 Because this stock gilt was undated, neither the 1967 nor 1993 Acts anticipated or allowed for it to be replaced.

7.3 Schedule 10 to the Housing and Planning Act 2016 amended the 1967 and 1993 Acts to allow for regulations to be made in order to prescribe new methods of calculation and replace this defunct gilt with another yield element. This has also been done in relation to the calculation of the redemption price of a rentcharge under the Rentcharges Act 1977 (see the Rentcharges (Redemption Price) (England) Regulations 2016).

7.4 The Government has chosen the "over 30 year not over 30.5 year" National Loans Fund interest rate to replace the defunct gilt because it believes this rate best represents the original intentions of the 1967 and 1993 Acts and matches the global conventional definition of a long-dated benchmark rate.

7.5 National Loans Fund rates are calculated by the UK Debt Management Office. The rates are, and will continue to be, published by the Debt Management Office on its website on a daily basis. These rates are calculated using a methodology specified by H.M. 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 the individual bonds.

7.6 These Regulations provide that the specified National Loans Fund interest rate is the published rate at the close of business on the last trading day in the week before "the relevant time" under section 37(1)(d) of the 1967 Act or, as the case may be, "the relevant date" under section 13 or 42 of the 1993 Act. These represent the dates that notices are served in accordance with the Acts to exercise the statutory rights to enfranchise or acquire a lease renewal. The rates published by the Debt Management Office are percentage interest rates and must be converted to decimal fractions (divided by 100) before they can be used in the prescribed formula.

Consolidation

7.7 These Regulations do 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 these calculations. 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 relevant pages of legislation.gov.uk to publicise the new regulations which replace the defunct 2½% Consolidated Stock gilt with the "over 30 not over 30.5 year" National Loans Fund interest rate.

10. Impact

10.1 The impact on business is estimated to be negligible. As minor intermediate leasehold interest calculations only apply to leases with a ground rent of £5 and where there is not more than one month remaining on the lease, the number is very small, as such leases are very rare and often very old.

10.2 There is no impact on charities, voluntary bodies or the public sector.

10.3 An assessment of impact will be published alongside this memorandum on the legislation.gov.uk website.

11. Regulating small business

11.1 The legislation applies to activities that are undertaken by small businesses (a small number of land valuers and solicitors).

11.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), the approach taken will involve liaison between officials and the Association of Leasehold Enfranchisement Practitioners to ensure that the change in the rate used for interest calculations is disseminated amongst the industry.

12. Monitoring & review

12.1 In accordance with sections 28-32 of the Small Business, Enterprise and Employment Act 2015, these Regulations contain provision for review (see regulation 4). The impact of the introduction of the "over 30 not over 30.5 year" National Loans Fund interest rate on minor intermediate leasehold interest calculations will be subject to review, in line with the timescales set out in these Regulations.

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 these Regulations.