EXPLANATORY MEMORANDUM TO

THE WAR WIDOWS RECOGNITION PAYMENT SCHEME (INCOME TAX EXEMPTION) REGULATIONS 2023

2023 No. 1171

1. Introduction

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

1.2 This memorandum contains information for the Select Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 The purpose of the instrument is to exempt certain payments made under the War Widows Recognition Payment Scheme from income tax, with retrospective effect from 1 October 2023.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

3.1 Paragraphs 2(5) and 3(5) of Schedule 15 to the Finance Act 2020 conferred on the Treasury the power to exempt specified scheme payments from income tax with retrospective effect by making regulations.

4. Extent and Territorial Application

4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) 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 Schedule 15 to the Finance Act 2020 provides for exemptions and relief from income tax in respect of qualifying payments. Under paragraph 2(5) of that Schedule the Treasury may by regulations specify compensation payments made by a public authority or by or on behalf of the United Kingdom Government to be qualifying payments.

6.2 This instrument is being made to set out the income tax treatment of payments made under the War Widows Recognition Payment Scheme. These are recognised as qualifying payments under Paragraph 2(5) of Schedule 15 Finance Act 2020. The instrument will provide that the payments are exempt from income tax under

paragraph 3(5) of Schedule 15 Finance Act 2020. The exemption will be with retrospective effect and will be wholly relieving from the date of its introduction.

6.3 The exemption from income tax is with retrospective effect from 1 October 2023.

6.4 Similar provision is being made by the Social Security (Contributions) (Amendment No.7) Regulations 2023 (S.I. 2023/1172). This instrument will provide that certain payments made under the War Widows Recognition Payment Scheme are exempt from Class 1 National Insurance Contributions (NICs).

7. Policy background

What is being done and why?

7.1 In May 2023, The Ministry of Defence announced a one-off payment of £87,500 would be made to war widow(er)s who lost their pension entitlements due to remarrying or cohabitating before rules were changed in 2015. The one-off payment will be made under the War Widows Recognition Payment Scheme.

7.2 Under current legislation, all payments made under the War Widows Recognition Payment Scheme would be subject to income tax and some of the payments would be subject to NICs. As income tax would otherwise be due on the payments, the Government wishes to exempt them from income tax.

7.3 In September 2023 the Government announced in a written ministerial statement that these one-off payments would be exempt from both income tax and NICs. This will reduce the administrative burden on individuals so that individuals know that they do not need to report receipt of this one-off payment to HMRC.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 There are no plans for consolidation.

10. Consultation outcome

10.1 No formal consultation exercise has been held as these are minor changes which are wholly relieving to the taxpayer.

11. Guidance

11.1 Guidance will be provided via the Ministry of Defence who are administrating the scheme. That guidance can be found at: War Widow(er)s Recognition Payment - GOV.UK (www.gov.uk)

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 because it contains no substantive changes to income tax policy.

13. Regulating small business

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

14. Monitoring & review

14.1 There are no plans to monitor or review the instrument.

14.2 The instrument does not include a statutory review clause because it does not make or amend regulatory provisions that relate to business activity.

15. Contact

15.1 Keshini Jayasekera, at HM Revenue and Customs email: keshini.jayasekera@hmrc.gov.uk can be contacted with any queries regarding the instrument.

15.2 Philip Batchelor, Deputy Director for Income Tax Policy, at HM Revenue and Customs can confirm that this Explanatory Memorandum meets the required standard.

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