

# Loan Charge Review Announced

Following representations by many MPs including myself on behalf of constituents, the government has announced a further review of the loan charge.

I am reproducing today the letter I have been sent with all the details. As you will see the Treasury say the approach they have adopted towards the loan charge still stays in place, but there are arrangements concerning the Review and concerning payment of tax owing which constituents affected by this charge may like to use.

Dear John

## **DISGUISED REMUNERATION LOAN CHARGE REVIEW**

I am writing to give you an immediate update on the Loan Charge review announced today.

As you will know, the Loan Charge was announced at Budget 2016 and passed into law in Finance Act (No. 2) 2017. It is designed to tackle contrived tax avoidance schemes where a person's income is received as a loan and not repaid.

The Government is clear that such schemes do not work, that wages paid in this way have always been taxable, and that the underlying tax avoidance behaviour is unfair to the 99.8 per cent of taxpayers who did not use these schemes. The Loan Charge was introduced following 20 years of action by HM Revenue & Customs (HMRC) and the Government against these schemes.

There has been a significant amount of misinformation in relation to the Loan Charge, which has caused confusion and anxiety among those affected. However, those affected by the charge have also raised concerns which you will have heard and which the Government has sought to address.

In particular, I wrote to all colleagues on 18 July 2019 to provide an update on new measures to address concerns about the Loan Charge. These measures reflected extensive discussions with professional bodies, independent experts, the official Opposition and colleagues across the House, including members of the Loan Charge All-Party Parliamentary Group. They included confirmation that HMRC will exercise additional flexibility for individuals settling under the published terms who are in genuine hardship.

In addition, HMRC has confirmed that they will not force anyone to sell their main home to pay their debts, and that there is no maximum period over which payment can be made. They also announced simplified payment arrangements for those settling under the published terms. Those settling with income below £50,000 who are no longer involved in tax avoidance may have up to 5 years to pay without providing detailed supporting information, with up to 7 years for those with income below £30,000.

## **Independent Review of the Loan Charge**

Nonetheless, the Government recognises that concerns persist about the Loan Charge.

The Chancellor of the Exchequer has therefore commissioned an independent review to consider the impact of the Loan Charge, focusing on individuals who entered directly into these schemes.

I am delighted that Sir Amyas Morse has agreed to undertake this independent review. As the Comptroller and Auditor General and Chief Executive of the National Audit Office between 2009 and 2019, Sir Amyas is highly respected across the House, and thus well suited to scrutinise this important subject fairly and independently.

The Review will report and provide recommendations to the Chancellor and me by mid-November 2019 so that any individuals affected can have certainty about their next steps in advance of the current 31 January 2020 deadline for individuals to file a 2018-19 Self Assessment return and pay the Loan Charge.

Sir Amyas will specifically consider:

- Whether the Loan Charge, as it applies to individuals who have directly entered into disguised remuneration schemes, is an appropriate response to the tax avoidance behaviour in question; and
- Whether changes announced by the Government in advance of, and since, the Loan Charge came into effect address any legitimate concerns that have been raised about the impact on individuals, including affordability for those affected.

In considering its recommendations, the Review will take into account the impact on wider taxpayer fairness and HMRC's ability to tackle tax avoidance effectively in the future.

The full terms of reference are available at [www.gov.uk/government/publications/disguised-remuneration-independent-loan-charge-review](http://www.gov.uk/government/publications/disguised-remuneration-independent-loan-charge-review).

### **Your constituents and the Independent Review period**

I would be grateful if you could make clear to any constituents raising the subject that, while the Review is under way, the Loan Charge remains in force in line with current legislation.

Individuals should continue to prepare to file a 2018-19 Self Assessment return and pay the Loan Charge by 31 January 2020. However, we do not know what Sir Amyas will recommend and I recognise that naturally some individuals may have concerns about forthcoming deadlines ahead of the Review's conclusion.

As a result, I can confirm that I have agreed with HMRC that those in the process of settling will be able to pause and wait for the outcome of the

Review before deciding whether to proceed. However, individuals who are subject to the Loan Charge but who have not yet settled should still submit an information return to HMRC setting out their loan balance by 30 September 2019.

HMRC have published guidance, which is also available at [www.gov.uk/government/publications/disguised-remuneration-independent-loan-charge-review](http://www.gov.uk/government/publications/disguised-remuneration-independent-loan-charge-review).

Further details on the review will be available shortly.

**Jesse Norman MP**

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## [A big political upheaval in Parliament as MPs realign](#)

This Parliament has been characterised by a record number of Ministerial and Shadow Ministerial resignations, and by a large number of MPs deciding to resign from the party they belonged to during the election. Many of these resignations have been over differing approaches to leaving the EU, with a trend for MPs elected on platforms to leave moving over to stances and parties that wish to remain. It appears that UK politics is currently realigning on the basis of Leave or Remain, with the SNP and Liberal Democrats standing for Remain, the Conservatives for Leave, and Labour caught trying to straddle the two positions. The Deputy Leader has now declared for Remain, against his Leader who wants to be ambiguous.

The Conservative party has currently lost the most MPs, with 29 now resigning the whip or having the whip removed. Most have become independent MPs. Four left to join Change UK alongside 7 Labour founders of that brief movement. 3 have now joined the Liberal Democrats. Nick Boles resigned the whip to become an Independent Progressive Conservative.

Labour has lost 15 MPs. The issue of Mr Corbyn's style of leadership has been an important factor, as well as the party's changing and vague stance on the EU. Several have gone citing the party's lacklustre response to antisemitism charges. Some are now Labour Independents, whilst others are in the Lib Dems or joined Change UK when it was first set up.

The Lib Dems as the most pro EU national party has picked up 5 seats, whilst losing one of its original MPs to independent status. He had promised in the 2017 election to honour the referendum result and rightly thinks his party no longer offers that.

This unusually high turnover has occurred with none of them thinking they should test their new views and new party loyalty in a by election. Electors

are understandably angry where their MP has switched from say Labour to Lib Dems from a party that claimed to support Brexit to one that fundamentally opposes it, without asking for electoral endorsement. An MP moving from his or her party to be an independent, if they say they are doing so while still sticking with their policy promises at the last election have a good case for saying no to a by election, in contrast to those shifting from a Leave party to a Remain party in order to support Remain.

Conservative 288 minus 29

Labour 147 minus 15

Lib Dem 17 plus 5

Change UK 5 plus 5

The Independents 3 plus 3

Independent 32 plus 31

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## [The government says it will respect the law](#)

Yesterday the government rightly said it would respect the law. It also hinted at a major problem with the European Withdrawal Number 2 Act recently passed by both Houses. It is by no means clear how the government could comply with it, especially given the Kinnock amendment incorporated into it. The rule of law is an important concept. It usually includes the propositions that law has to be clear, reasonable and enforceable. Statute law carries the authority of being passed by Parliament but still needs to meet these tests for the court to enforce it. Quite often the courts and Parliament have exchanges about what the law means and how it should be applied.

This European Withdrawal Act of Parliament says the government “must seek to obtain from the European Council an extension” to UK membership for three months, if no agreement has been reached which Parliament approves . It goes on to give a reason – “to debate and pass a Bill to implement the Agreement between the UK and the EU (The Mrs May Withdrawal Treaty)...including provisions reflecting the outcome of the interparty talks as announced by the Prime Minister on 21 May 2019, and in particular the need for the UK to secure changes to the Political Declaration to reflect the outcome of those inter party talks”.

So the government is asked to pass a major piece of constitutional legislation which the Parliament has three times rejected, with no promises or guarantees from the official Opposition they will change their mind and now vote for it in a Parliament where the government has no majority and has numerous government supporting MPs who do not agree with the Agreement. In addition it is asked to negotiate a new Political Declaration to include unspecified outcomes from talks which both sides said ended without agreement

. Who will share with us what were the outcomes of the talks that now have to be negotiated into the Political declaration and what if the EU will not consent to those changes?

The draft letter laid down in the Act for the PM to send requesting an extension does not offer any reasons to the EU why an extension should be granted because it was drafted on the assumption the Kinnock amendment would not pass. The EU has previously said it would grant more time to secure the passage of the draft Withdrawal Treaty agreed with Mrs May, but later concluded the UK Parliament was not going to pass it given the long and acrimonious debates and the three votes against. The EU has also said it might grant an extension for an election or second referendum, but Parliament has expressly voted against an early election to resolve matters, and has not supported a second referendum on the various occasions it has considered this idea. There cannot now be an election prior to the exit date currently enshrined in UK and EU law.

How could anyone enforce a law of this kind on an unwilling government when Parliament is asking the government to do something which cannot be done or is based on a false assumption? The evidence is Parliament does not want to vote for the Withdrawal Treaty unamended, and there is no agreed set of changes to the Political declaration emerging from the inter party talks to take up with the EU. This law is a mess. It does not mention a so called "No Deal" Brexit, and does not take it off the table. It seeks to exit the EU based on the current Withdrawal Treaty which has thrice been rejected by the very same Parliament passing this Act. Government lawyers need to analyse this Act carefully.

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## Parliamentary office

Parliament is not in session but my Parliamentary office will be working as usual Mondays to Fridays. I continue with all my Parliamentary duties minus Parliamentary debates and votes, both in the London office and at home in the constituency.

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## Number and length of contributions

I am receiving too many contributions from the same blogger and too many long contributions. As you can see the numbers have escalated sharply recently. I will have to delete more if from the same person each day or if they are long. Please send me your best single contribution each day and keep it to

around a paragraph, unless you have researched argument which is new. I am very busy with many matters of national policy and in the constituency.