

Finance Bill 2025-26

Clauses 25-27: Loan charge settlement scheme

Parliamentary representation and briefing from the Low Incomes Tax Reform Group (LITRG)

1 Executive Summary

- 1.1 Clause 25 of the Finance Bill gives HMRC the power to administer a new loan charge settlement opportunity, following the publication of the independent loan charge review conducted by Ray McCann¹.
- 1.2 Subject to some questions and clarifications we are seeking from HMRC about the practicalities of how they intend to operate the scheme, LITRG welcome the new settlement schemes as a step forward in removing some of the barriers preventing taxpayers from resolving their loan charge liabilities. However we are concerned that if the more generous terms are not extended to people who have already settled/fully paid or who are outside the technical loan charge years, it risks undermining perceptions of fairness, harming future tax compliance and damaging trust in the tax system.
- 1.3 We believe the government should extend the new loan charge settlement opportunity to cover all loan charge-related cases, including those who have already settled/fully paid and those who are outside of the technical loan charge years as set out below.

2 Background

- 2.1 The new settlement opportunity was proposed in the independent loan charge review conducted by Ray McCann. In its response to the review², the government have accepted this recommendation.
- 2.2 LITRG consider the new settlement opportunity to be a step forward in trying to resolve the significant number of remaining loan charge cases locked in a cycle of unresolved issues. The new

¹ https://assets.publishing.service.gov.uk/media/6925d50e22424e25e6bc3199/Loan_Charge_Review_2025_-_Final_Report.pdf

² https://assets.publishing.service.gov.uk/media/6925eb772945773cf12dd09a/Loan_Charge_Review_2025_-_Government_Response_.pdf

settlement opportunity should allow many of these cases to reach a conclusion by removing, or at the very least reducing, some of the most significant barriers to resolution. Crucially for lower income taxpayers, features of the new opportunity include removal of interest and penalties and a £5,000 discount.

- 2.3 However, as the review's scope was restricted by its terms of reference to those impacted by the loan charge legislation, covering the period 9 December 2010 to 5 April 2019, various categories of people will not be able to take advantage of the new settlement opportunity/its features. This includes those who have already settled and paid their liabilities on less generous terms, as well as those with pre-2010 loans and post-2019 loans - even though the facts of their cases may be similar to those that fall within the relevant time frame.

3 Clause 25 - concerns

- 3.1 A key objective of the McCann review, as set by the government¹, was to ensure fairness for all taxpayers. By not extending the more generous settlement opportunity to those who have already fully settled and/or fully paid the loan charge, it arguably does not achieve fairness for those particular taxpayers. The proposed legislation puts those who chose not to comply with their tax obligations in a better position than those who did which risks creating perverse incentives, harming future tax compliance and damaging trust in the tax system.
- 3.2 The government's response acknowledges that accepting the recommendations of the review tests certain fundamental and longstanding principles of the tax system, namely that individuals are responsible for their own tax affairs and that tax owed should be paid. The government justifies this approach on the basis that the loan charge was an extraordinary piece of government policy, necessitating an exceptional response.
- 3.3 Once that position has been accepted, LITRG's view is that both the principle of fairness and the need to protect future tax compliance make a very strong case for extending the terms of the settlement opportunity to *everyone* with loan charge-related issues, including those who have already settled and fully paid their loan charge liabilities.
- 3.4 The independent review stated it will be for HMRC to decide on how such cases should be concluded. We believe HMRC and the government should allow those individuals to come forward and have their cases reviewed under the more generous settlement terms. While we recognise that no outcome will be perfectly fair (because even an extended settlement opportunity cannot address the position of the compliant majority of taxpayers who did not participate in loan-based remuneration schemes and who paid the correct amount of tax at the right time), this approach would mitigate the most acute unfairness created by the current proposals.

4 Other key groups excluded from the settlement opportunity

¹ <https://www.gov.uk/government/publications/independent-review-of-the-loan-charge/terms-of-reference-independent-review-of-the-loan-charge>

- 4.1 Because the review's scope was restricted to those impacted by the loan charge legislation, those with pre-2010 loans and post-2019 loans are also outside of the scope of the new settlement opportunity, even though the factual circumstances of their arrangements may mirror those within scope.
- 4.1.1 *Pre-2010 loans*
- 4.1.2 The only reason pre-2010 loans are outside the loan charge and therefore out of scope is because of the outcome of the earlier Morse review. Furthermore, where individuals have a mixture of pre-2010 and post-2010 avoidance liabilities, it's likely that the non-loan charge liabilities are larger because they are older and have accrued more interest. As settlement of all liabilities is generally required to access the new settlement opportunity, this significantly reduces the likelihood that such individuals will be willing or able to settle, thereby frustrating the stated aim of resolving cases.
- 4.2 *Post-2019 loans*
- 4.2.1 Individuals with post-2019 loans (which will include a large number of lower paid agency workers) have effectively fallen into a gap between the loan charge and HMRC's proposed joint and several liability measures for supply chains featuring umbrella companies. By now recognising our long held view that disguised remuneration, in many instances, is not driven by traditional avoidance motives on the part of individuals, but rather by umbrella companies deliberately avoiding their PAYE obligations to reduce costs, HMRC have now designed the correct response - addressing the structural use of PAYE avoidance within supply chains. But current policy leaves these individuals stranded between two regimes.
- 5 LITRG suggestion**
- 5.1 There are strong reasons for finding a way to include all these groups of individuals within the scope of the new settlement opportunity, so they can access the features relevant and helpful to their situation.
- 5.2 This could be done, for example, by making changes to the following clause which defines the loan charge amount:
- (7) In this section— “loan charge amount” means an amount which— (a) arises in connection with a Schedule 11 or 12 to F(No. 2)A 2017 loan or quasi-loan, (b) is not an amount of inheritance tax, (c) is payable, or becomes payable in the future, to the Commissioners under or by virtue of any enactment or under a contract settlement, and (d) has not yet been paid;
- 5.3 We recommend that the definition of “loan charge amount” be amended to remove “(d) has not yet been paid”, so that amounts already paid are not automatically excluded from consideration under the new settlement opportunity.
- 5.4 In addition, HMRC could be directed to interpret “(a) (arises in connection with a Schedule 11 or 12 to F(No. 2)A 20217 loan or quasi loan)” as including disguised remuneration income for years *outside* 2010/11–2018/19 where the arrangements are factually linked to loan charge period disguised remuneration.

- 5.5 This would, for example, allow HMRC to consider cases where a taxpayer has liabilities that span the 2010 boundary or where they have only 2019/20 disguised remuneration liabilities, but worked through the same umbrella company and arrangement as others who incurred loan charge liabilities in 2018/19. In such cases, excluding these liabilities from the settlement opportunity, especially given HMRC's seemingly reluctance to pursue the umbrella companies for underpaid PAYE, means they have no realistic route to resolution.

LITRG
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About Us

The Low Incomes Tax Reform Group (LITRG) is an initiative of the Chartered Institute of Taxation (CIOT) to give a voice to the unrepresented. Since 1998, LITRG has been working to improve the policy and processes of the tax, tax credits and associated welfare systems for the benefit of those who are least able to pay for professional advice. We also produce free information, primarily via our website www.litrg.org.uk, to help make a difference to people's understanding of the tax system.

LITRG works extensively with key stakeholders such as HM Revenue & Customs (HMRC) and other government departments, commenting on proposals and putting forward our own ideas for improving the tax system. LITRG also considers the welfare benefits system, and other related systems, to the extent that they interact with tax.

The CIOT is a charity and the leading professional body in the United Kingdom concerned solely with taxation. The CIOT's primary purpose is to promote education and study of the administration and practice of taxation. One of the key aims is to achieve a better, more efficient, tax system for all affected by it – taxpayers, advisers and the authorities.