

## STATUTORY INSTRUMENTS

# 2016 No. 999

## The Welfare Reform and Work (Northern Ireland) Order 2016

VALID FROM 04/09/2017

### *Loans for mortgage interest, etc.*

#### **Loans for mortgage interest, etc.**

**13.—**(1) The Department may by regulations provide for loans to be made in respect of a person's liability to make owner-occupier payments in respect of accommodation occupied by the person as the person's home.

(2) The regulations may make provision about eligibility to receive a loan under the regulations.

(3) The regulations may in particular require that a person—

- (a) is entitled to receive income support, income-based jobseeker's allowance, income-related employment and support allowance, state pension credit or universal credit;
- (b) has received such a benefit for a prescribed period.

(4) The regulations may make provision about the liabilities in respect of which a loan under the regulations may be made.

(5) The regulations may in particular provide that a loan under the regulations may only be made if, and to the extent that, a person's liability to make owner-occupier payments was incurred for prescribed purposes.

(6) The regulations may in particular make provision about—

- (a) determining or calculating the amount of a person's liabilities;
- (b) the maximum amount of a person's liabilities in respect of which a loan under the regulations may be made.

(7) The regulations may—

- (a) make provision about determining or calculating the amount that may be paid by way of loan under the regulations;
- (b) require that a loan under the regulations be secured by a mortgage of or charge over a legal or beneficial interest in land.

(8) The regulations may define “owner-occupier payment”.

(9) Regulations under this Article are subject to negative resolution.

#### **Article 13: further provision**

**14.—**(1) This Article makes further provision about regulations under Article 13.

(2) The regulations may make provision about—

- (a) circumstances in which a person is to be treated as liable or not liable to make owner-occupier payments;

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- (b) circumstances in which a person is to be treated as occupying or not occupying particular accommodation as a home.
- (3) The regulations may include—
  - (a) provision about applying for a loan;
  - (b) provision requiring a person to satisfy prescribed requirements before a loan may be made under the regulations, including requirements about receiving financial advice;
  - (c) provision about entering into an agreement (which may contain such terms and conditions as the Department thinks fit, subject to what may be provided in the regulations);
  - (d) provision about the time when, and manner in which, a loan must be repaid;
  - (e) provision about other terms upon which a loan is made;
  - (f) provision about the payment of interest, including provision prescribing or providing for the determination of the rate of interest;
  - (g) provision enabling administrative costs to be charged;
  - (h) provision about adding administrative costs to the amount of a loan;
  - (i) provision about accepting substituted security.
- (4) The regulations may make provision—
  - (a) requiring that, in prescribed circumstances, money lent in respect of a person's liability to make owner-occupier payments—
    - (i) is paid directly to the qualifying lender;
    - (ii) is applied by the qualifying lender towards discharging the person's liability to make owner-occupier payments;
  - (b) for the costs of administering the making of payments to qualifying lenders to be defrayed, in whole or in part, at the expense of the qualifying lenders, whether by requiring them to pay prescribed fees, by deducting and retaining such part as may be prescribed of the amounts that would otherwise be paid to them or otherwise;
  - (c) for requiring a qualifying lender, in a case where by virtue of sub-paragraph (b) the amount paid to the lender is less than it would otherwise have been, to credit against the liability in relation to which the amount is paid the amount of the difference (in addition to the payment actually made);
  - (d) for enabling a body which, or person who, would otherwise be a qualifying lender to elect not to be regarded as a qualifying lender for the purposes of this Article (other than this sub-paragraph);
  - (e) for the recovery from any body or person—
    - (i) of any sums paid to that body or person by way of payment under the regulations that ought not to have been so paid;
    - (ii) of any fees or other sums due from that body or person by virtue of sub-paragraph (b);
  - (f) for cases where the same person is liable to make owner-occupier payments under more than one agreement to make such payments.
- (5) The regulations may provide for the Department to make arrangements with another person for the exercise of functions under the regulations.
- (6) The regulations may include—
  - (a) provision requiring information and documents to be provided;

- (b) provision authorising the disclosure of information.
- (7) The bodies and persons who are “qualifying lenders” for the purposes of this Article are—
  - (a) a deposit taker;
  - (b) an insurer;
  - (c) other prescribed bodies or persons.
- (8) In this Article—
  - “deposit taker” means—
    - (a) a person who has permission under Part 4A of the Financial Services and Markets Act 2000 to accept deposits, or
    - (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits;
  - “insurer” means—
    - (a) a person who has permission under Part 4A of the Financial Services and Markets Act 2000 to effect and carry out contracts of insurance, or
    - (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect and carry out contracts of insurance.
- (9) The definitions of “deposit taker” and “insurer” in this Article must be read with—
  - (a) section 22 of the Financial Services and Markets Act 2000;
  - (b) any relevant order under that section;
  - (c) Schedule 2 to that Act.

### **Consequential amendments**

**15.—**(1) Section 13A of the Administration Act (payment out of benefit of sums in respect of mortgage interest) is repealed.

(2) In section 170 of the Social Security Administration Act 1992 (Social Security Advisory Committee), in subsection (5) in the definition of “the relevant Northern Ireland enactments”, after paragraph (an) insert—

“(ao) any provisions in Northern Ireland which corresponds to sections 18, 19 and 21 of the Welfare Reform and Work Act 2016;”.

(3) In section 149 of the Administration Act (functions of Social Security Advisory Committee) in subsection (5) after paragraph (am) insert—

“(an) Articles 13, 14 and 16 of the Welfare Reform and Work (Northern Ireland) Order 2016;”.

(4) In Article 4 of the Social Security (Northern Ireland) Order 1998 (use of computers), in paragraph (2)—

- (a) omit the “or” after sub-paragraph (k);
- (b) after sub-paragraph (n) insert—

“or

- (o) Articles 13 to 16 of the Welfare Reform and Work (Northern Ireland) Order 2016.”

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(5) In Article 9 of the Social Security (Northern Ireland) Order 1998 (decisions by Department)—

(a) in paragraph (3) (meaning of “relevant benefit”), after sub-paragraph (bb) insert—

“(bc) a loan under Article 13 of the Welfare Reform and Work (Northern Ireland) Order 2016;”;

(b) in paragraph (4) (meaning of “relevant enactment”), for “or section 29 of that Act” substitute “, section 29 of that Act or Articles 13 to 16 of the Welfare Reform and Work (Northern Ireland) Order 2016 ”.

(6) In Article 12 of the Social Security (Northern Ireland) Order 1998 (regulations with respect to decisions), in paragraph (3), in the definition of “the current legislation”, for “and section 29 of that Act” substitute “, section 29 of that Act and Articles 13 to 16 of the Welfare Reform and Work (Northern Ireland) Order 2016 ”.

(7) In Article 28 of the Social Security (Northern Ireland) Order 1998 (correction of errors and setting aside of decisions), in paragraph (3)—

(a) omit the “or” after sub-paragraph (i);

(b) after sub-paragraph (j) insert—

“or

(k) Articles 13 to 16 of the Welfare Reform and Work (Northern Ireland) Order 2016.”

(8) In Article 39 of the Social Security (Northern Ireland) Order 1998 (interpretation, etc. of Chapter 2 of Part 2), after paragraph (1) insert—

“(1A) In this Chapter—

(a) a reference to a benefit includes a reference to a loan under Article 13 of the Welfare Reform and Work (Northern Ireland) Order 2016;

(b) a reference to a claim for a benefit includes a reference to an application for a loan under Article 13 of the Welfare Reform and Work (Northern Ireland) Order 2016;

(c) a reference to a claimant includes a reference to an applicant for a loan under Article 13 of the Welfare Reform and Work (Northern Ireland) Order 2016 or, in relation to a couple jointly applying for a loan under that Article, a reference to the couple or either member of the couple;

(d) a reference to an award of a benefit to a person includes a reference to a decision that a person is eligible for a loan under Article 13 of the Welfare Reform and Work (Northern Ireland) Order 2016;

(e) a reference to entitlement to a benefit includes a reference to eligibility for a loan under Article 13 of the Welfare Reform and Work (Northern Ireland) Order 2016.”

(9) In section 3A of the State Pension Credit Act (Northern Ireland) 2002 (housing credit), in subsection (5)(a), omit the words from “(and,” to “payments)”.

(10) In Article 16 of the 2015 Order (universal credit: amount in respect of housing costs), in paragraph (3)(a), omit the words from “(and,” to “payments)”.

(11) In Article 121 of the 2015 Order (information-sharing in relation to welfare services etc.), in paragraph (8), in the definition of “relevant social security benefit” for the words from “has” to the end substitute—

“means—

- (a) a relevant social security benefit as defined in section 115CA(7) of the Administration Act, or
  - (b) a loan under Article 13 of the Welfare Reform and Work (Northern Ireland) Order 2016 (loans for mortgage interest, etc.);”.
- (12) The following provisions are repealed—
- (a) in the Social Security (Mortgage Interest Payments) (Northern Ireland) Order 1992—
    - (i) Article 3;
    - (ii) Schedule 1;
  - (b) in the Jobseekers Order, paragraph 23 of Schedule 2;
  - (c) in the State Pension Credit Act (Northern Ireland) 2002, paragraph 9 of Schedule 2;
  - (d) in the Civil Partnership Act 2004, paragraph 109 of Schedule 24;
  - (e) in the 2007 Act, paragraph 4(5) of Schedule 3;
  - (f) in the 2015 Order—
    - (i) in Schedule 2, paragraph 6;
    - (ii) in Schedule 4, paragraph 11.

#### **Transitional provisions**

**16.—(1)** Regulations may make such transitional or transitory provision or savings as the Department considers necessary or expedient in connection with the coming into force of Articles 13 to 15.

(2) The regulations may include provision for temporarily excluding the making of a loan under regulations under Article 13 after the coming into force of Articles 13 to 15.

(3) The regulations may in particular—

- (a) provide for a temporary exclusion to continue until a time or times specified in a notice issued by the Department;
- (b) enable the Department to issue notices under sub-paragraph (a) specifying different times for different persons or descriptions of person.

(4) The regulations may include provision for enabling assistance with payments in respect of accommodation occupied as a home to be given by means of a qualifying benefit after the coming into force of Articles 13 to 15 (including where the making of loans is temporarily excluded).

(5) The regulations may in particular—

- (a) provide for legislation that has been repealed or revoked to be treated as having effect;
- (b) provide for assistance by means of a qualifying benefit to continue until a time or times specified in a notice issued by the Department;
- (c) enable the Department to issue notices under sub-paragraph (b) specifying different times for different persons or descriptions of person.

(6) In this Article “qualifying benefit” means income support, income-based jobseeker’s allowance, income-related employment and support allowance, state pension credit or universal credit.

(7) Regulations under this Article may make different provision for different areas, cases or purposes.

(8) Regulations under this Article are subject to negative resolution.

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