

---

## STATUTORY RULES OF NORTHERN IRELAND

---

### 2017 No. 176

## SOCIAL SECURITY

### The Loans for Mortgage Interest Regulations (Northern Ireland) 2017

*Made* - - - - 30th August 2017

*Laid* - - - - 5th September 2017

*Coming into operation* 20th October 2017

The Secretary of State in exercise of the powers conferred by sections 122(1)(a), 131(1), 133(1) and (2)(d) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 <sup>M1</sup>, Articles 2(2), 6(5) and 36(2) of the Jobseekers (Northern Ireland) Order 1995 <sup>M2</sup>, sections 2(3)(b), 17(1) and 19(1) to (3) of the State Pension Credit Act (Northern Ireland) 2002 <sup>M3</sup>, sections 4(2)(a), 24(1) and 25(2)(a) of, the Welfare Reform Act (Northern Ireland) 2007 <sup>M4</sup>, Articles 16(3) and (4) and 48(2)(a) of, and paragraph 1(1) of Schedule 6 to the Welfare Reform (Northern Ireland) Order 2015 <sup>M5</sup> and Articles 13, 14, 16 and 22 of the Welfare Reform and Work (Northern Ireland) Order 2016 <sup>M6</sup>, makes the following Regulations.

Those powers are exercisable by the Secretary of State by virtue of Article 4(1) of the Welfare Reform (Northern Ireland) Order 2015 <sup>M7</sup>.

This rule contains only regulations made under, by virtue of, or consequential upon, Articles 13, 14 and 16 of the Welfare Reform and Work (Northern Ireland) Order 2016.

#### Marginal Citations

- M1** 1992 c. 7; section 133(1) is cited for the meaning of “prescribed”. Section 133(2)(d) was substituted by paragraph 18(3) of Schedule 2 to the [Jobseekers \(Northern Ireland\) Order 1995 \(S.I. 1995/2705 \(N.I. 15\)\)](#) and section 171(1) was amended by paragraph 5 of Schedule 4 to the [Tax Credits Act 2002 \(c. 21\)](#).
- M2** S.I. 1995/2705 (N.I. 15); Article 2(2) is cited for the meaning of “prescribed” and “regulations” Article 36(2) was amended by paragraph 55 of Schedule 3 to the [Social Security Contributions \(Transfer of Functions, etc.\) \(Northern Ireland\) Order 1999 \(S.I. 1999/671\)](#).
- M3** 2002 c. 14 (N.I.); section 17(1) is cited for the meaning of “prescribed” and “regulations”.
- M4** 2007 c. 2 (N.I.); section 24(1) is cited for the meaning of “prescribed” and “regulations” and section 25(2) was amended by Article 57(2)(b) of the Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006 (N.I.)).
- M5** S.I. 2015/2006 (N.I. 1).
- M6** S.I. 2016/999 (N.I. 1).

**M7** Article 4 was amended by Article 4 of the Welfare Reform and Work (Northern Ireland) Order 2016. Functions under or for the purposes of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and the Jobseekers (Northern Ireland) Order 1995 are vested in the Department for Communities by virtue of Article 8(b) of S.R. 1999 No. 481 and section 1(7) of the Departments Act (Northern Ireland) 2016 (c. 5 (N.I.)).

## Citation and commencement

1.—(1) These Regulations may be cited as the Loans for Mortgage Interest Regulations (Northern Ireland) 2017.

(2) These Regulations come into operation—

- (a) for the purposes of regulations 18 to 21, on 6th April 2018;
- (b) for all other purposes, on 20th October 2017.

## Interpretation

2.—(1) In these Regulations—

“the Order” means the Welfare Reform and Work (Northern Ireland) Order 2016;

“alternative finance payments” has the meaning in paragraph 5(3) of Schedule 1 (meaning of owner occupier payments) to these Regulations;

“applicable amount” means—

- (a) in the case of employment and support allowance, the claimants weekly applicable amount under regulations 67 to 70 of the ESA Regulations <sup>M8</sup> (prescribed amounts);
- (b) in the case of income support, the claimant's weekly applicable amount under regulations 17 to 21AA of the IS Regulations <sup>M9</sup> (applicable amounts);
- (c) in the case of jobseeker's allowance, the claimant's weekly applicable amount under regulations 83 to 86C of the JSA Regulations <sup>M10</sup> (applicable amounts);
- (d) in the case of a SPC claimant, the claimant's weekly appropriate minimum guarantee under section 2 of the State Pension Credit Act (Northern Ireland) 2002 <sup>M11</sup> (guarantee credit);
- (e) in the case of a UC claimant, the maximum amount of a claimant's award of universal credit under Article 13(2) of the Welfare Reform (Northern Ireland) Order 2015 (calculation of awards);

“assessment period” has the meaning given in regulation 22 of the UC Regulations (assessment periods);

“benefit unit” means a single claimant and his or her partner (if any) or joint claimants;

“benefit week” has the meaning given—

- (a) in the case of employment and support allowance, in regulation 2(1) of the ESA Regulations (interpretation);
- (b) in the case of income support, in paragraph 4 of Schedule 7 to the Claims and Payments Regulations (time of payment and commencement of entitlement in Income Support cases);
- (c) in the case of jobseeker's allowance, in regulation 1(2) of the JSA Regulations <sup>M12</sup> (citation, commencement and interpretation);
- (d) in the case of state pension credit, in regulation 1(2) of the SPC Regulations <sup>M13</sup> (citation, commencement and interpretation);

“child” means a person under the age of 16;

“claimant” means a single claimant or each of joint claimants;

“Claims and Payment Regulations” means the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 <sup>M14</sup>;

“close relative” means a parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother, sister, or, if any of the preceding persons is one member of a couple, the other member of that couple;

“couple” means—

- (a) two people who are married to, or civil partners of, each other and are members of the same household;
- (b) two people who are not married to, or civil partners of, each other but are living together as a married couple or civil partners;

“Department” means the Department for Communities;

“disabled person” has the meaning given—

- (a) in the case of employment and support allowance, in paragraph 1(3) of Schedule 6 to the ESA Regulations <sup>M15</sup> (housing costs);
- (b) in the case of income support, in paragraph 1(3) of Schedule 3 to the IS Regulations <sup>M16</sup> (housing costs);
- (c) in the case of jobseeker's allowance, in paragraph 1(3) of Schedule 2 to the JSA Regulations <sup>M17</sup> (housing costs);
- (d) in the case of state pension credit, in paragraph 1(2) of Schedule 2 to the SPC Regulations <sup>M18</sup> (housing costs); and
- (e) in the case of universal credit <sup>M19</sup>, in paragraph 14(3) of Schedule 3 to these Regulations (moving homes: adaptations to new homes for disabled person);

“dwelling” means a hereditament used wholly for the purposes of a private dwelling as determined in accordance with Schedule 5 to the Rates (Northern Ireland) Order 1977 <sup>M20</sup> together with any garage, garden and outbuildings normally occupied by the claimant as his or her home, including any part thereof not so occupied which it is impracticable or unreasonable to sell separately, together with—

- (a) any agriculture land adjoining that dwelling, and
- (b) any land not adjoining that dwelling which it is impracticable or unreasonable to sell separately;

“earned income” has the meaning given in Chapter 2 of Part 6 of the UC Regulations (earned income);

“ESA Regulations” means the Employment and Support Allowance Regulations (Northern Ireland) 2008 <sup>M21</sup>;

“existing claimant” means a claimant who is entitled to a qualifying benefit, including an amount for owner-occupier payments, on 5th April 2018;

“financial year” has the meaning given in section 25(2) of the Budget Responsibility and National Audit Act 2011 <sup>M22</sup>;

“full-owner” has the meaning given in section 12(a) and (c) of the Land Registration Act (Northern Ireland) 1970 <sup>M23</sup>;

“income” means any income which is, or which is treated as, an individual's, including payments which are treated as earnings, and which is not disregarded, under—

- (a) in the case of employment and support allowance, Part 10 of the ESA Regulations (income and capital);
- (b) in the case of income support, Part V of the IS Regulations (income and capital);
- (c) in the case of jobseeker's allowance, Part VIII of the JSA Regulations (income and capital);
- (d) in the case of state pension credit, Part III of the SPC Regulations (income);

“IS Regulations” means the Income Support (General) Regulations (Northern Ireland) 1987<sup>M24</sup>.

“joint claimants”—

- (a) in the case of jobseeker's allowance means—
  - (i) members of a joint-claim couple who have jointly made a claim for, and are entitled to, income-based jobseeker's allowance, or
  - (ii) where Schedule 5 applies, members of a joint-claim couple who have made a claim for, but are not entitled to, such a benefit by reason only that they have income equal to or exceeding the applicable amount but less than the sum of that applicable amount and the amount of a loan payment they would receive under regulation 10 (calculation of each loan payment) if they were so entitled;
- (b) in the case of universal credit means—
  - (i) members of a couple who have jointly made a claim for, and are entitled to, universal credit, or
  - (ii) where Schedule 5 applies, members of a couple who have made a claim for, but are not entitled to, such a benefit by reason only that they have unearned income equal to or exceeding the applicable amount but less than the sum of that applicable amount and the amount of a loan payment they would receive under regulation 10 if they were so entitled;

“joint-claim couple” has the meaning in Article 3(4) of the Jobseekers (Northern Ireland) Order 1995<sup>M25</sup> (the jobseeker's allowance);

“JSA Regulations” means the Jobseeker's Allowance Regulations (Northern Ireland) 1996<sup>M26</sup>;

“leasehold estate” has the meaning given in section 94 of the Land Registration Act (Northern Ireland) 1970;

“legacy benefit” means income-related employment and support allowance, income support or income-based jobseeker's allowance;

“legacy benefit claimant” means a claimant who is entitled to a legacy benefit;

“legal owner” means in the case of unregistered land, the owner of an estate in fee simple absolute, a fee farm grant or the owner of a leasehold estate and in the case of registered land, the person registered as full owner;

“loan agreement” means an agreement entered into by a single claimant and his or her partner (if any), or each joint claimant, and the Department, which sets out the terms and conditions upon which the loan payments are made to the claimant;

“loan payments” means one or more payments, calculated under regulation 10 (calculation of each loan payment), in respect of a claimant's liability to make owner-occupier payments in respect of the relevant accommodation;

“loan payments offer date” means the day on which the Department sends the loan agreement to a claimant;

“Modified Rules” means the Social Security (Housing Costs Special Arrangements) (Amendment and Modification) Regulations (Northern Ireland) 2008<sup>M27</sup>;

“mortgage” has the same meaning as in the Conveyancing Acts 1881 to 1911;

“new claimant partner” has the meaning given in regulation 5 of the Transitional Provisions Regulations;

“non-dependant” has the meaning given—

- (a) in the case of employment and support allowance, in regulation 71 of the ESA Regulations (definition of non-dependant);
- (b) in the case of income support, in regulation 3 of the IS Regulations<sup>M28</sup> (definition of non-dependant);
- (c) in the case of jobseeker's allowance, in regulation 2 of the JSA Regulations (definition of non-dependant);
- (d) in the case of state pension credit, in paragraph 1(4) of Schedule 2 to the SPC Regulations (housing costs-definition of non-dependant);

“owner-occupier payments” has the meaning in regulation 3(2)(a) (the offer of loan payments);

“partner” means—

- (a) where a claimant is a member of a couple, the other member of that couple;
- (b) where a claimant is married polygamously to 2 or more members of the claimant's household, all such members;

“polygamous marriage” means a marriage during which a party to it is married to more than one person and which took place under the laws of a country which permits polygamy;

“qualifying benefit” means income-related employment and support allowance, income support, income-based jobseeker's allowance, state pension credit or universal credit;

“qualifying lender” has the meaning given in Article 14(7) of the Order (Article 13: further provision);

“qualifying loan” means—

- (a) in the case of a legacy benefit or state pension credit, a loan which qualifies under paragraph 2(2) or (4) of Schedule 1 to these Regulations (meaning of owner-occupier payments);
- (b) in the case of universal credit, a loan which qualifies under paragraph 5(2) of Schedule 1 to these Regulations;

“qualifying period” means a period of—

- (a) 9 consecutive assessment periods in which a claimant has been entitled to universal credit;
- (b) 39 consecutive weeks in which a claimant—
  - (i) has been entitled to a legacy benefit, or
  - (ii) is treated as having been entitled to such a benefit under—
    - (aa) paragraph 14 of Schedule 3 to the IS Regulations (linking rule)<sup>M29</sup>;
    - (bb) paragraph 13 of Schedule 2 to the JSA Regulations (linking rule)<sup>M30</sup>; or
    - (cc) paragraph 15 of Schedule 6 to the ESA Regulations (linking rules)<sup>M31</sup>;

“qualifying young person” has the meaning given—

- (a) in the case of a legacy benefit, in section 138 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992<sup>M32</sup> (“child” and “qualifying young person”);

- (b) in the case of state pension credit, in regulation 4A of the SPC Regulations<sup>M33</sup> (meaning of “qualifying young person”);
- (c) in the case of universal credit, in regulation 6 of the UC Regulations (meaning of “qualifying young person”);

“relevant accommodation” means the accommodation which the claimant occupies, or is treated as occupying, as the claimant's home under Schedule 3 (circumstances in which a claimant is, or is to be, treated as occupying accommodation);

“relevant date”, apart from in regulation 21 (transition from legacy benefit to universal credit), means the first date with respect to which a claimant's liability to make owner-occupier payments is met by a loan payment;

“single claimant” means—

- (a) an individual who has made a claim for, and is entitled to, a qualifying benefit as a single person; or
- (b) where Schedule 5 (consequential amendments) applies, an individual who has made a claim for, but is not entitled to, a qualifying benefit as a single person by reason only that the individual has income or, in the case of universal credit, unearned income, equal to or exceeding the applicable amount but less than the sum of that applicable amount and the amount of a loan payment he or she would receive under regulation 10 (calculation of each loan payment) if he or she were so entitled;

“single person” means an individual who is not a member of a couple;

“SPC claimant” means a claimant who is entitled to state pension credit;

“SPC Regulations” means the State Pension Credit Regulations (Northern Ireland) 2003<sup>M34</sup>;

“transitional end day” has the meaning given in regulations 19(1) (transitional provision: existing claimants) and 20(2) (transitional provision: lack of capacity);

“Transitional Provisions Regulations” means the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016<sup>M35</sup>;

“UC claimant” means a claimant who is entitled to universal credit;

“UC Regulations” means the Universal Credit Regulations (Northern Ireland) 2016;

“unearned income” has the meaning given in Chapter 3 of Part 6 of the UC Regulations (unearned income).

(2) For the purposes of these Regulations, a reference to—

- (a) entitlement to a qualifying benefit is to be read as a reference to entitlement as determined under the ESA Regulations, IS Regulations, JSA Regulations, SPC Regulations and UC Regulations;
- (b) the claimant's family or to being a member of the claimant's family means a reference to the claimant's partner and any child or qualifying young person who is the responsibility of the claimant or the claimant's partner, where that child or qualifying young person is a member of the claimant's household;
- (c) a person being responsible for a child or qualifying young person is to be read as a reference to a person being treated as responsible for a child or qualifying young person in the circumstances specified in—
  - (i) in the case of employment and support allowance, regulation 156(10) of the ESA Regulations (circumstances in which a person is to be treated as being or not being a member of the household),

- (ii) in the case of income support, regulation 15 of the IS Regulations <sup>M36</sup> (circumstances in which a person is to be treated as responsible or not responsible for another),
  - (iii) in the case of jobseeker's allowance, regulation 77 of the JSA Regulations <sup>M37</sup> (circumstances in which a person is to be treated as responsible or not responsible for another),
  - (iv) in the case of state pension credit and universal credit, regulation 4 of the UC Regulations (when a person is responsible for a child or a qualifying young person);
  - (d) a person being a member of a household is to be read as a reference to a person being treated as a member of the household in the circumstances specified in—
    - (i) in the case of employment and support allowance, in regulation 156 of the ESA Regulations <sup>M38</sup> (circumstances in which a person is to be treated as being or not being a member of the household),
    - (ii) in the case of income support, in regulation 16 of the IS Regulations <sup>M39</sup> (circumstances in which a person is treated as being or not being a member of the household),
    - (iii) in the case of jobseeker's allowance, in regulation 78 of the JSA Regulations <sup>M40</sup> (circumstances in which a person is treated as being or not being a member of the household),
    - (iv) in the case of state pension credit and universal credit, in regulation 5 of the SPC Regulations <sup>M41</sup> (persons treated as being or not being members of the same household);
  - (e) a person being engaged in remunerative work is to be read as a reference to a person being treated as engaged in remunerative work—
    - (i) in the case of employment and support allowance, in regulations 41 to 43 of the ESA Regulations <sup>M42</sup>,
    - (ii) in the case of income support, in regulations 5 and 6 of the IS Regulations <sup>M43</sup>,
    - (iii) in the case of jobseeker's allowance, in regulations 51 to 53 of the JSA Regulations <sup>M44</sup>,
    - (iv) in the case of state pension credit, in paragraph 2 of Schedule 2 to the SPC Regulations <sup>M45</sup>.
- (3) Subject to paragraph (4), the Interpretation Act (Northern Ireland) 1954 <sup>M46</sup> shall apply to these Regulations as it applies to an Act of the Assembly.
- (4) For the purposes of these Regulations and notwithstanding section 39(2) of the Interpretation Act (Northern Ireland) 1954 where a period of time is expressed to begin on, or to be reckoned from, a particular day, that day shall be included in the period.

#### **Marginal Citations**

**M8** S.R. 2008 No. 280; regulation 67 was amended by regulation 3(4)(a) of S.R. 2010 No. 6. Regulation 68 was amended by regulation 3(4)(b) of S.R. 2010 No. 6. Regulation 69 was amended by regulation 5(2) of S.R. 2010 No. 58. Regulation 70 was amended by regulation 7(a) of S.R. 2009 No. 68, regulation 7 of S.R. 2012 No. 280, regulation 11(22) of S.R. 2013 No. 246 and regulation 7 of S.R. 2014 No. 133.

**M9** S.R. 1987 No. 459; regulation 17 was amended by regulation 2 of S.R. 1988 No. 193, regulation 4 of S.R. 1989 No. 395, regulation 4(7) of S.R. 1993 No. 373, regulation 9 of S.R. 1996 No. 199, paragraph 2(a) of Schedule 1 to S.R. 2003 No. 195, regulation 2(3) of S.R. 2003 No. 267,

- regulation 3** and paragraph 4 of Schedule 1 to S.R. 2005 No. 458, **regulation 2(4)(a)** of S.R. 2006 No. 97 and regulation 3(2)(a) of S.R. 2010 No.6. Regulation 18 was amended by regulation 5(a) and (c) of S.R. 1988 No. 274, **regulation 5** of S.R. 1988 No. 318, **regulation 5** of S.R. 1989 No. 249, **regulation 4(8)** of S.R. 1993 No. 373, **regulation 10(a)(ii)** and (b) of S.R. 1996 No. 199, **regulation 2(1)** and paragraph 4 of Part 1 of the Schedule to S.R. 2002 No. 132, **paragraph 3(a)** of Schedule 1 to S.R. 2003 No. 195, **regulation 2(4)** of S.R. 2003 No. 267, **regulation 2(4)(b)** of S.R. 2006 No. 97 and regulation 3(2)(b) of S.R. 2010 No.6. Regulation 19 was omitted by paragraph 5 of Part 1 of the Schedule to S.R. 2002 No. 132. Regulation 20 was omitted by paragraph 4 of Schedule 1 to S.R. 1989 No. 139. Regulation 21 was amended by regulation 4(3) of S.R. 1994 No. 77, **regulation 2(6)(a)** of S.R. 1995 No. 86, **regulation 12** of S.R. 1996 No. 199, **regulation 2(2)** of S.R. 1996 No. 449, **regulation 5(2)(b)(i)** of S.R. 1998 No. 81, **regulation 5(4)** of S.R. 2000 No. 71, **paragraph 6** of the Schedule to S.R. 2002 No. 132, **paragraph 4(a)** of Schedule 1 to S.R. 2003 No. 195, **regulation 3(a)** of S.R. 2003 No. 412, **regulation 3** and paragraph 5 of Schedule 1 to S.R. 2005 No. 458, **paragraph 12(3)** of Schedule 3 to S.R. 2005 No. 536, **regulation 3(2)** of S.R. 2005 No. 580, **regulation 2(2)** of S.R. 2006 No. 178, **regulation 2(4)** of S.R. 2009 No. 92 and regulation 3(2) of S.R. 2010 No. 58. Regulation 21AA was inserted by regulation 2(3) of S.R. 2006 No. 178 and amended by regulation 2 of S.R. 2006 No. 379, **regulation 2(a)** of S.R. 2009 No. 68, **regulation 2** of S.R. 2012 No. 380, **regulation 3(4)** of S.R. 2013 No. 246 and regulation 2 of S.R. 2014 No. 133.
- M10** S.R. 1996 No. 198; **regulation 83** was amended by paragraph 4 of Part 2 of the Schedule to S.R. 2002 No. 132, **paragraph 2(a)** of Schedule 2 to S.R. 2003 No. 195, **regulation 4(3)** of S.R. 2003 No. 267 and regulation 3(3)(a) of S.R. 2010 No. 6. Regulation 84 was amended by paragraph 5 of Part 2 of the Schedule to S.R. 2002 No. 132, **paragraph 3(a)** of Schedule 2 to S.R. 2003 No. 195, **regulation 4(4)** of S.R. 2003 No. 267 and regulation 3(3)(b) of S.R. 2010 No. 6. Regulation 85 was amended by regulation 5(2)(c) of S.R. 1998 No. 81, **regulation 10(3)(a)** of S.R. 2000 No. 71, **paragraph 6** of Part 2 of the Schedule to S.R. 2002 No. 132, **paragraph 4(a)** of Schedule 2 to S.R. 2003 No. 195, **regulation 4(5)** of S.R. 2003 No. 267, **regulation 9** and paragraph 4(b) and (c) of Schedule 3 to S.R. 2005 No. 458, **Article 2(3)** and paragraph 23(5) of Schedule 3 to S.R. 2005 No. 536, **regulation 5(2)** of S.R. 2005 No. 580, **regulation 4(2)** of S.R. 2006 No. 178 and regulation 4(4) of S.R. 2009 No. 92. Regulation 85A was inserted by regulation 4(3) of S.R. 2006 No. 178 and amended by regulation 4 of S.R. 2006 No. 379, **regulation 3(a)** of S.R. 2009 No. 68, **regulation 3** of S.R. 2012 No. 380, **regulation 5** of S.R. 2013 No. 246, **regulation 2** of S.R. 2013 No. 308, **regulation 3** of S.R. 2014 No. 133 and regulation 2(3) of S.R. 2014 No. 263. Regulation 86 was omitted by paragraph 7 of Part 2 to the Schedule to S.R. 2002 No.132. Regulations 86A to 86C were inserted by paragraph 35 of Schedule 2 to S.R. 2000 No. 350. Regulation 86A was amended by paragraph 8 of Part 2 of the Schedule to S.R. 2002 No. 132, **regulation 4(6)** of S.R. 2003 No. 267 and regulation 3(3)(c) of S.R. 2010 No. 6. Regulation 86B was amended by regulation 4(7) of S.R. 2003 No. 267 and regulation 3(3)(d) of S.R. 2010 No. 6. Regulation 86C was amended by paragraph 9 of Part 2 of the Schedule to S.R. 2002 No. 132, **regulation 5(2)(a)** and (b) of S.R. 2004 No. 143 and regulation 5(3) of S.R. 2005 No. 580.
- M11** 2002 c. 14 (N.I.); **section 2** was amended by paragraph 148 and 149 of Schedule 24 to the Civil Partnership Act 2004 (c. 33).
- M12** The definition for “benefit week” was substituted by regulation 3 of S.R. 2009 No. 107.
- M13** The definition for “benefit week” was substituted by regulation 3(2) of S.R. 2009 No. 409.
- M14** S.R. 1987 No. 465.
- M15** **Paragraph 1(3)** was amended by regulation 8(4) of S.R. 2016 No. 175 and regulation 2(5)(a) of S.R. 2017 No. 51.
- M16** **Paragraph 1(3)** was amended by regulation 2(3)(a)(ii) of S.R. 1995 No. 434, **regulation 5(7)(a)** of S.R. 2006 No. 359, **regulation 12(11)(a)** of S.R. 2008 No. 286 and regulation 3(3) of S.R. 2016 No. 175 and paragraph 1(3)(a) of Schedule 1 to S.R. 2017 No.51.
- M17** **Paragraph 1(3)** was amended by regulation 13(13)(a) of S.R. 2006 No. 359, **regulation 19(25)** of S.R. 2008 No. 286, **regulation 4** of S.R. 2016 No. 175 and paragraph 3(3)(a) of Schedule 1 to S.R. 2017 No. 51.



- M18** S.R. 2003 No. 28; the definition of “disabled person” in paragraph 1(2) was amended by regulation 7(4)(a) of S.R. 2005 No. 580, **regulation 5(4)(a)** of S.R. 2006 No. 97, **regulation 30(1)(a)(i)** of S.R. 2008 No. 286, **regulation 23(5)(a)** of S.I. 2013/3021, **regulation 4(3)(a)** of S.R. 2014 No. 275, **regulation 6** of S.R. 2016 no. 175, regulation 25(5)(a) of S.R. 2016 No. 228 and paragraph 5(3) of Schedule 1 to S.R. 2017 No. 51.
- M19** S.R. 2016 No. 216
- M20** S.I. 1977/2157 (N.I. 28).
- M21** The Regulations have been modified in their application to certain claimants by S.R. 2008 No. 503 as amended by S.R. 2009 No. 426.
- M22** 2011 c. 4.
- M23** 1970 c. 18 (N.I.)
- M24** The Regulations have been modified in their application to certain claimants by S.R. 2008 No. 503 as amended by S.R. 2009 No. 426.
- M25** Article 3(4) was amended by paragraph 3(4)(b) of Schedule 7 to the *Welfare Reform and Pensions (Northern Ireland) Order 1999* (S.I. 1999/3147 (N.I. 11)) and paragraph 131 of Schedule 24 to the *Civil Partnership Act 2004* (c. 33).
- M26** The Regulations have been modified in their application to certain claimants by S.R. 2008 No. 503 as amended by S.R. 2009 No. 426.
- M27** S.R. 2008 No. 503.
- M28** Regulation 3 was amended by Regulation 2(c) and paragraph 2(b) of Schedule 1 to S.R. 1989 No. 139, **regulation 2** of S.R. 1989 No. 395, **regulation 2** of S.R. 1990 No. 346, **regulation 2** of S.R. 1991 No. 474, **paragraph 1(b)** of Schedule 12 to S.R. 1994 No. 65, **regulation 2** of S.R. 1994 No. 474 and regulation 2(3) of S.R. 1995 No. 86.
- M29** Schedule 3 was substituted by regulation 2 of S.R. 1995 No. 301, **paragraph 14** was amended by regulation 2(3)(i) of S.R. 1995 No. 434, **regulation 24(b)** of S.R. 1996 No. 199, **regulation 5(10)(b)** of S.R. 1996 No. 405, **regulation 16(3)** of S.R. 1997 No. 541, **regulation 3(5)** of S.R. 1998 No. 182, **regulation 8(4)(b)** of S.R. 1998 No. 324, **regulation 3** of S.R. 1999 No. 107, **regulation 2(1)** of S.R. 1999 No. 315, **Article 7(11)(b)(i)** and (ii) of S.R. 1999 No. 472 (C. 36), regulation 3(5) of S.R. 2000 No. 241, **regulation 6** of S.R. 2001 No. 78, **regulation 12(b)(ii)(bb)** and (iv) of S.R. 2001 No. 151, **regulation 24(6)(d)** of S.R. 2003 No. 191, **regulation 2(7)** of S.R. 2005 No. 424, **regulation 5(6)(b)** of S.R. 2006 No. 359, **regulation 2(9)(b)(ii)** and (15) of S.R. 2008 No. 112, **regulation 2(8)(b)** of S.R. 2008 no. 248, regulation 12(11) of S.R. 2008 No. 286, **regulation 3(7)** of S.R. 2011 No. 135 and regulation 2(2)(i) of S.R. 2016 No. 44.
- M30** Paragraph 13 was amended by regulation 29(5) of S.R. 1996 No. 358, **regulation 2(18)(a)** of S.R. 1996 No. 503, **regulation 7(2)** of S.R. 1997 No. 165, **regulation 13(3)** of S.R. 1997 No. 541, **regulation 11(4)** of S.R. 1998 No. 324, **regulation 2(6)** of S.R. 1999 No. 107, **regulation 2(2)** of S.R. 1999 No. 315, **Article 9(17)(b)** of S.R. 1999 No. 428 (C. 32), paragraph 54(8)(b) to (e) of Schedule 2 to S.R. 2000 No. 350, **regulation 12(b)** of S.R. 2001 No. 78, **regulation 9(b)(ii)(bb)** and (iii) of S.R. 2004 No. 151, **regulation 32(b)** of S.R. 2003 No. 191, **regulation 4(7)** of S.R. 2005 No. 424, **regulation 13(12)(b)** of S.R. 2006 No. 359, **regulation 4(14)** of S.R. 2008 No. 112, **regulation 19(25)(e)** of S.R. 2008 No. 286, **regulation 3(5)** of S.R. 2008 No. 290, **regulation 4(8)(b)** of S.R. 2008 No. 428, **regulation 2(10)** of S.R. 2009 No. 141, **regulation 7(8)** of S.R. 2011 No. 135, **regulation 10(11)(b)** of S.R. 2011 No. 357 and regulation 3(2)(h) of S.R. 2016 No. 44.
- M31** Paragraph 15 was amended by regulation 3(30)(d) of S.R. 2008 No. 413, **regulation 14(10)** of S.R. 2011 No. 135, **regulation 21(15)** of S.R. 2011 No. 357, **regulation 5(7)** of S.R. 2011 No. 368, **Article 28(6)(a)** of S.R. 2013 No. 3021, **regulation 4(2)(h)** of S.R. 2016 No. 44 and regulation 34(6)(a) of S.R. 2016 No. 228.
- M32** 1992 c. 7; section 138 was substituted by section 2(2) of the *Child Benefit Act 2005* (c. 6).
- M33** Regulation 4A was inserted by regulation 4(5) of S.R. 2017 No. 1.
- M34** The Regulations have been modified in their application to certain claimants by S.R. 2008 No. 503, as amended by S.R. 2009 No. 426.
- M35** S.R. 2016 No. 226.

- M36** S.R. 1987 No. 459; [regulation 15](#) was amended by [regulation 4\(5\)](#) of S.R. 1993 No. 373 and paragraph 3 of Schedule 1 to S.R. 2003 No. 1.
- M37** S.R. 1996 No. 198; [regulation 77](#) was amended by paragraph 3 of Schedule 3 to S.R. 2003 No. 1.
- M38** S.R. 2008 No. 280; [regulation 156](#) was amended by [regulation 3\(27\)](#) of S.R. 2008 No. 413.
- M39** [Regulation 16](#) was amended by [regulation 8\(a\)](#) and [\(d\)](#) of S.R. 1988 No. 146, [regulation 7](#) of S.R. 1990 No. 131, [regulation 3\(3\)\(a\)\(ii\)](#) and [\(b\)](#) of S.R. 1990 No. 387, [paragraph 1\(2\)](#) of Schedule 1 to S.R. 1993 No. 149, [regulation 4\(6\)](#) of S.R. 1993 No. 373, [regulation 8](#) of S.R. 1996 No. 199, [regulation 5\(5\)](#) of S.R. 1996 No. 405, [regulation 2\(3\)](#) of S.R. 1998 No. 2 and [regulation 3](#) and [paragraph 3](#) of Schedule 1 to S.R. 2005 No. 458.
- M40** [Regulation 78](#) was amended by [regulation 18](#) of S.R. 1996 No. 358, [regulation 8\(4\)](#) of S.R. 1998 No. 2, [paragraph 33](#) of Schedule 2 to S.R. 2000 No. 350, [regulation 9](#) and [paragraph 3](#) of schedule 3 to S.R. 2005 No. 458 and [regulation 19\(13\)](#) of S.R. 2008 No. 286.
- M41** S.R. 2003 No. 28; [regulation 5](#) was amended by [regulation 2\(5\)\(a\)\(i\)](#) and [\(iii\)](#) of S.R. 2003 No. 421, [regulation 12](#) and [paragraph 2](#) of Schedule 4 to S.R. 2005 No. 458, [regulation 14\(2\)\(a\)](#) of S.R. 2006 No. 359, [regulation 3\(3\)\(b\)](#) of S.R. 2008 No. 410 and [regulation 4\(6\)](#) of S.R. 2017 No. 1.
- M42** [Regulation 43](#) was amended by [regulation 4\(1\)\(c\)](#) of S.R. 2010 No. 6, [regulation 17\(4\)](#) of S.R. 2015 No. 146 and [regulation 4\(3\)](#) of S.R. 2015 No. 184.
- M43** [Regulation 5](#) was amended by [regulation 4](#) of S.R. 1988 No. 146, [regulation 3](#) of S.R. 1988 No. 318, [regulation 3](#) of S.R. 1988 No. 431, [regulation 3](#) of S.R. 1989 No. 365, [regulation 4](#) of S.R. 1990 No. 131, [regulation 3](#) of S.R. 1991 No. 338, [regulation 4\(3\)](#) of S.R. 1993 No. 373, [regulation 2\(4\)](#) of S.R. 1995 No. 86, [regulation 5\(4\)](#) of S.R. 1996 No. 405, [Article 7\(4\)](#) of S.R. 1999 No. 472 (C. 36), [regulation 3](#) of S.R. 2001 No. 78, [regulation 2\(3\)](#) of S.R. 2002 No. 363, [regulation 4\(3\)](#) of S.R. 2007 No. 396, [regulation 2\(3\)](#) of S.R. 2008 No. 112 and [Article 5\(3\)](#) of S.R. 2015 No. 146. [Regulation 6](#) was amended by [regulation 4\(a\)](#) of S.R. 1988 No. 318, [regulation 2\(d\)](#) of S.R. 1992 No. 147, [regulation 4\(3\)\(a\)](#) and [\(c\)](#) of S.R. 1992 No. 403, [regulation 2\(3\)](#) of S.R. 1994 No. 327, [regulation 2\(5\)](#) of S.R. 1995 No. 86, [regulation 5\(2\)](#) of S.R. 1999 No. 342, [regulation 2\(3\)](#) of S.R. 1999 No. 381, [regulation 2\(b\)](#) of S.R. 2000 No. 74, [regulation 4](#) of S.R. 2001 No. 78, [regulation 2\(a\)](#) of S.R. 2003 No. 367, [regulation 3](#) of S.R. 2004 No. 163, [paragraph 2](#) of Schedule 1 to S.R. 2005 No. 458, [regulation 2\(2\)](#) of S.R. 2007 No. 475, [regulation 12\(3\)](#) of S.R. 2008 No. 286, [regulation 4\(1\)\(a\)\(i\)](#) of S.R. 2010 No. 6 and [regulation 2\(4\)](#) of S.R. 2010 No. 69.
- M44** [Regulation 51](#) was amended by [regulation 7](#) of S.R. 1996 No. 356, [regulation 5\(3\)](#) of S.R. 1997 No. 130, [Article 9\(8\)\(a\)](#) of S.R. 1999 No. 428 (C.32), [paragraph 14](#) of Schedule 2 to S.R. 2000 No. 350, [regulation 3](#) of S.R. 2002 No. 323, [regulation 4\(3\)](#) of S.R. 2009 No. 92, [regulation 10\(3\)](#) of S.R. 2011 No. 357, [regulation 17\(3\)](#) of S.I. 2013/3021 and [regulation 14\(3\)](#) of S.R. 2016 No. 228. [Regulation 52](#) was amended by [paragraph 15](#) of Schedule 2 to S.R. 2000 No. 350, [regulation 12](#) of S.R. 2001 No. 78, [regulation 3\(3\)](#) of S.R. 2002 No. 363, [regulation 7\(4\)](#) of S.R. 2007 No. 396, [regulation 4\(7\)](#) of S.R. 2008 No. 112 and [Article 7\(4\)](#) of S.R. 2015 No. 146. [Regulation 53](#) was amended by [regulation 6\(2\)](#) of S.R. 1999 No. 342, [paragraph 16](#) of Schedule 2 to S.R. 2000 No. 350, [regulation 4](#) of S.R. 2004 No. 163, [regulation 13\(4\)\(b\)](#) of S.R. 2006 No. 359, [regulation 4\(1\)\(b\)\(i\)](#) of S.R. 2010 No. 6, [regulation 4\(5\)](#) of S.R. 2010 No. 69, [regulation 2\(4\)](#) of S.R. 2012 No. 14, [regulation 19\(4\)](#) of S.R. 2014 No. 150 and [regulation 3\(7\)\(c\)](#) of S.R. 2015 No. 184.
- M45** [Paragraph 2](#) was amended by [regulation 2\(9\)\(a\)](#) of S.R. 2003 No. 421 and [Article 10\(5\)](#) of S.R. 2015 No. 146.
- M46** 1954 c. 33 (N.I.); [section 39\(2\)](#) was modified by the Pensions (Northern Ireland) Order 2005 No. 255 (N.I. 1).

### The offer of loan payments

3.—(1) The Department may make an offer of loan payments to a claimant in respect of any owner-occupier payments the claimant is, or is to be treated as, being liable to make in respect of the accommodation which the claimant is, or is to be treated as, occupying as the claimant's home, unless paragraph (4) applies.

- (2) For the purposes of paragraph (1)—
- (a) owner-occupier payments are—
    - (i) in the case of a legacy benefit claimant or SPC claimant, payments within the meaning of Part 1 (legacy benefit claimants and SPC claimants) of Schedule 1 (meaning of owner-occupier payments),
    - (ii) in the case of a UC claimant, payments within the meaning of Part 2 (UC claimants) of Schedule 1;
  - (b) the circumstances in which a claimant is, or is to be treated as, being liable to make owner-occupier payments are—
    - (i) in the case of a legacy benefit claimant or SPC claimant, the circumstances specified in Part 1 (legacy benefit claimants and SPC claimants) of Schedule 2 (circumstances in which claimant is, or is to be treated as, liable to make owner-occupier payments),
    - (ii) in the case of a UC claimant, the circumstances specified in Part 2 (UC claimants) of Schedule 2;
  - (c) the circumstances in which a claimant is, or is to be treated as, occupying accommodation as the claimant's home are—
    - (i) in the case of a legacy benefit claimant or SPC claimant, the circumstances specified in Part 2 (legacy benefit claimants and SPC claimants) of Schedule 3 (circumstances in which a claimant is, or is to be, treated as occupying accommodation),
    - (ii) in the case of a UC claimant, the circumstances specified in Part 3 (UC claimants) of Schedule 3 (circumstances in which a claimant is, or is to be, treated as occupying accommodation).
- (3) Where the liability for owner-occupier payments is shared with a person not in the benefit unit, the claimant shall be, or shall be treated as, liable to make owner-occupier payments by reference to the appropriate proportion of the payments for which the claimant is responsible.
- (4) A UC claimant shall not be eligible for the offer of loan payments if—
- (a) where the claimant is a single person, the claimant has any earned income; or
  - (b) where the claimant is a member of a couple, either member of the couple has any earned income.

#### **Acceptance of loan payments offer**

**4.** The offer of loan payments is accepted where the Department has received the loan agreement signed by, in the case of a single claimant, the claimant and his or her partner (if any), or, in the case of joint claimants, each member of the couple, and the documents referred to in regulation 5(2) (conditions to meet before the loan payments can be made).

#### **Conditions to meet before the loan payments can be made**

- 5.—(1)** The Department may make the loan payments if—
- (a) the loan payments offer is accepted in accordance with regulation 4 (acceptance of loan payments offer); and
  - (b) the conditions in paragraph (2) are met.
- (2) The conditions are—
- (a) where all of the legal owners are within the benefit unit, each legal owner has executed a charge by way of legal mortgage in favour of the Department in respect of the relevant accommodation;

- (b) the Department has obtained the written consent referred to in paragraph (3); and
  - (c) the information condition in regulation 6 (information condition) is met within the period of 6 months ending with the day on which the loan payments offer is accepted.
- (3) The consent required by paragraph (2)(b) is consent given in writing to the creation of the mortgage by any person in the benefit unit in occupation of the relevant accommodation, who is not a legal owner.

### **Information condition**

6.—(1) The information condition is that the Department has provided relevant information about the loan payments to a single claimant and his or her partner (if any) or each joint claimant.

(2) For the purposes of this regulation, “relevant information” is information about the loan payments which must include—

- (a) a summary of the terms and conditions included within the loan agreement;
- (b) where the circumstances in regulation 5(2)(a) (conditions to meet before the loan payments can be made) apply, an explanation that the Department will seek to obtain a mortgage in respect of the relevant accommodation;
- (c) an explanation of the consent referred to in regulation 5(3); and
- (d) information as to where a single claimant and his or her partner (if any) or each joint claimant can obtain further information and independent legal and financial advice regarding loan payments.

### **Time of each loan payment**

7. Each loan payment shall be made—

- (a) in the case of a UC claimant, at monthly intervals in arrears; and
- (b) in the case of a legacy benefit claimant or SPC claimant—
  - (i) where direct payments are made to a qualifying lender under regulation 17(1) (direct payments to qualifying lenders), at 4 weekly intervals in arrears, or
  - (ii) where payments are made to the claimant under regulation 17(3), at the same intervals as the qualifying benefit is paid.

### **Period covered by loan payments**

8.—(1) The period in respect of which the loan payments shall be made shall begin on the later of—

- (a) 6th April 2018;
- (b) in the case of a UC claimant or legacy benefit claimant, the day after the day on which the qualifying period ends;
- (c) in the case of an SPC claimant, the date of claim in respect of the claimant's award of state pension credit;
- (d) the transitional end day.

(2) For the purposes of paragraph (1)(c), “date of claim” has the meaning given by whichever is applicable of regulation 4E or regulation 19(2) and (3) of the Claims and Payments Regulations<sup>M47</sup>.

### **Marginal Citations**

**M47** S.R. 1987 No. 465; regulation 4E was inserted by regulation 4(3) of S.R. 2003 No. 191 and amended by regulation 2(5) of S.R. 2003 No. 317, regulation 7 of S.R. 2004 No. 394 and regulation 2(5) of S.R. 2006 No. 168.

### **Duration of loan payments**

**9.**—(1) Subject to paragraph (2), loan payments shall continue to be made indefinitely at the intervals specified in regulation 7 (time of each loan payment).

(2) If one of the circumstances in paragraph (3) occurs, the Department shall terminate the loan payments immediately but subject to paragraph (4).

(3) The circumstances are that—

- (a) the claimant ceases to be entitled to a qualifying benefit;
- (b) the claimant ceases to be, or to be treated as, liable to make owner-occupier payments under Schedule 2 (circumstances in which a claimant is, or is to be treated as, liable to make owner-occupier payments);
- (c) the claimant ceases to be, or to be treated as, occupying the relevant accommodation under Schedule 3 (circumstances in which a claimant is, or is to be, treated as occupying accommodation);
- (d) the loan agreement is terminated in accordance with its terms;
- (e) in the case of a UC claimant only, regulation 3(4) (the offer of loan payments) applies.

(4) The Department shall make the loan payments direct to the claimant for the period specified in paragraph (6) if—

- (a) a claimant ceases to be entitled to a legacy benefit by reason that, in the case of a single claimant, the claimant or his or her partner (if any), or, in the case of joint claimants, either member of the couple, is engaged in remunerative work; and
- (b) the conditions in paragraph (5) are met.

(5) The conditions are that, in the case of a single claimant, the claimant or his or her partner (if any), or, in the case of joint claimants, either member of the couple—

- (a) is engaged in remunerative work which is expected to last for a period of no less than 5 weeks;
- (b) is still liable or treated as liable to make owner-occupier payments under Schedule 2;
- (c) has, for a continuous period of 26 weeks ending with the day on which he or she commences the work referred to in sub-paragraph (a), been entitled to a legacy benefit; and
- (d) was, on the day before the day on which he or she commenced the work referred to in sub-paragraph (a), receiving loan payments under these Regulations.

(6) The period specified is the period of 4 weeks commencing with the day on which the relevant person is first engaged in remunerative work.

(7) If a legacy benefit claimant ceases to be entitled to a legacy benefit but becomes entitled again to the legacy benefit within the period of 52 weeks beginning with the day the claimant ceased to be entitled to it, the claimant shall not be required to satisfy the qualifying period if the claimant wishes to receive loan payments on the basis of the new entitlement.

**Calculation of each loan payment**

**10.** Subject to any deduction under regulation 14 (non-dependant deductions), each loan payment shall be the aggregate of the amounts resulting from regulations 11 (calculation in respect of qualifying loans) and 12 (calculation in respect of alternative finance payments).

**Calculation in respect of qualifying loans**

**11.**—(1) Subject to paragraphs (3) and (4), the amount to be included in each loan payment for owner-occupier payments which are payments of interest on qualifying loans is determined as follows.

*Step 1*

Determine the amount of capital for the time being owing in connection with each qualifying loan to which the owner-occupier payments relate.

*Step 2*

If there is more than one qualifying loan, add together the amounts determined in step 1.

*Step 3*

Determine the identified amount which is the lower of—

- (a) (a) the amount resulting from step 1 or 2; and
- (b) (b) the capital limit specified in paragraph (2)(a) or (b).

If both amounts in (a) and (b) are the same, that is the identified amount.

*Step 4*

In respect of a legacy benefit claimant or SPC claimant, apply the following formula to achieve a weekly sum—

In respect of a UC claimant, apply the following formula to achieve a monthly sum—

$$\frac{A \times SR}{52} - I$$

In respect of a UC claimant, apply the following formula to achieve a monthly sum—

$$\frac{A \times SR}{12} - I$$

In either case—

“A” is the identified amount in step 3,

“SR” is the standard rate that applies at the end of the calculation (see regulation 13 (standard rate to be applied under regulations 11 and 12)), and

“I” is the amount of any income, in the case of a legacy benefit claimant or SPC claimant, or unearned income, in the case of a UC claimant, above the claimant's applicable amount.

The result is the amount to be included in each loan payment for owner-occupier payments which are payments of interest on qualifying loans.

(2) The capital limit is—

- (a) £200,000—

- (i) in the case of a legacy benefit claimant or SPC claimant where the Modified Rules apply;
  - (ii) in the case of a UC claimant;
- (b) £100,000 in all other cases.
- (3) In the application of paragraph (2) to a qualifying loan (or any part of a qualifying loan) which was taken out for the purpose of making necessary adaptations to the accommodation to meet the needs of a disabled person—
- (a) the qualifying loan (or the part of the qualifying loan) is to be disregarded for the purposes of steps 2 and 3; and
  - (b) “A” in step 4 is to be read as the amount resulting from step 1 in respect of the qualifying loan (or the sum of those amounts if there is more than one qualifying loan taken out for the purpose of making such adaptations) plus the amount (if any) resulting from step 3 in relation to any other qualifying loan or loans.
- (4) Subject to paragraph (5), any variation in the amount of capital for the time being owing in connection with a qualifying loan is not to be taken into account after the relevant date until such time as the Department recalculates the amount which shall occur—
- (a) on the first anniversary of the relevant date; and
  - (b) in respect of any variation after the first anniversary, on the next anniversary which follows the date of the variation.
- (5) In respect of an existing claimant, the Department shall recalculate the amount of capital owing in connection with a qualifying loan on the anniversary of the date on which the claimant's qualifying benefit first included an amount for owner-occupier payments.

### **Calculation in respect of alternative finance payments**

**12.—**(1) The amount to be included in each loan payment for owner-occupier payments which are alternative finance payments is determined as follows.

#### *Step 1*

Determine the purchase price of the accommodation to which the alternative finance payments relate.

#### *Step 2*

Determine the identified amount which is the lower of—

- (a) (a) the amount resulting from step 1; and
- (b) (b) the capital limit specified in paragraph (2)(a) or (b).

If both amounts are the same, that is the identified amount.

#### *Step 3*

In respect of an SPC claimant, apply the following formula to achieve a weekly sum—

$$\frac{A \times SR}{52} - I$$

In respect of a UC claimant, apply the following formula to achieve a monthly sum—



$$\frac{A \times SR}{12} - I$$

In respect of a UC claimant, apply the following formula to achieve a monthly sum—

In either case—

“A” is the identified amount in step 2,

“SR” is the standard rate that applies at the date of the calculation (see regulation 13 (standard rate to be applied under regulations 11 and 12)), and

“I” is the amount of any income, in the case of an SPC claimant, or unearned income, in the case of a UC claimant, above the claimant's applicable amount.

The result is the amount to be included in each loan payment for owner-occupier payments which are alternative finance payments.

(2) The capital limit is—

- (a) £200,000 in the case of an SPC claimant where the Modified Rules apply or a UC claimant;
- (b) £100,000 in all other cases.

(3) For the purposes of paragraph (1), “purchase price” means the price paid by a party to the alternative finance arrangements other than the claimant in order to acquire the interest in the accommodation to which those arrangements relate less—

- (a) the amount of any initial payment made by the claimant in connection with the acquisition of that interest; and
- (b) the amount of any subsequent payments made by the claimant or any partner to another party to the alternative finance arrangements before—
  - (i) the relevant date, or
  - (ii) in the case of an existing claimant, the date on which the claimant's qualifying benefit first included an amount for owner-occupier payments,

which reduce the amount owed by the claimant under the alternative finance arrangements.

(4) Subject to paragraph (5), any variation in the amount for the time being owing in connection with alternative finance arrangements is not to be taken into account after the relevant date until such time as the Department recalculates the amount which shall occur—

- (a) on the first anniversary of the relevant date; and
- (b) in respect of any variation after the first anniversary, on the next anniversary which follows the date of the variation.

(5) In respect of an existing claimant, the Department shall recalculate the amount for the time being owing in connection with a qualifying loan on the anniversary of the date on which the claimant's qualifying benefit first included an amount for owner-occupier payments.

### **Standard rate to be applied under regulations 11 and 12**

**13.—**(1) The standard rate is the average mortgage rate published by the Bank of England which has effect on the 5th April 2018.

(2) The standard rate is to be varied each time that paragraph (3) applies.

(3) This paragraph applies when, on any reference day, the Bank of England publishes an average mortgage rate which differs by 0.5 percentage points or more from the standard rate that applies on that reference day (whether it applies by virtue of paragraph (1) or by virtue of a previous application of this paragraph).



(4) The average mortgage rate published on that reference day then becomes the new standard rate in accordance with paragraph (5).

(5) Any variation in the standard rate by virtue of paragraphs (2) to (4) shall come into effect at the end of the period of 6 weeks beginning with the day referred to in paragraph (3).

(6) At least 7 days before a variation of the standard rate comes into effect under paragraph (5), the Department must arrange for notice to be published on a publicly accessible website of—

(a) the new standard rate; and

(b) the day on which the new standard rate will come into effect under paragraph (5).

(7) For the purposes of this Regulation—

“average mortgage rate” means the effective interest rate (non-seasonally adjusted) of United Kingdom resident banks and building societies for loans to households secured on dwellings published by the Bank of England in respect of the most recent period specified for that rate at the time of publication; and

“reference day” means any day falling on or after 6th April 2018.

### **Non-dependant deductions**

**14.**—(1) In the case of a legacy benefit claimant or SPC claimant, a deduction from each loan payment shall be made in respect of any non-dependant in accordance with paragraph (2).

(2) The amount to be deducted is calculated as follows.

#### *Step 1*

Identify the amount which is the sum of the loan payment calculated under regulation 10 (calculation of each loan payment) and the amount of housing costs (if any) paid to a claimant under—

(a) (a) paragraph 17 of Schedule 3 to the IS Regulations <sup>M48</sup> (other housing costs);

(b) (b) paragraph 16 of Schedule 2 to the JSA Regulations <sup>M49</sup> (other housing costs);

(c) (c) paragraph 18 of Schedule 6 to the ESA Regulations <sup>M50</sup> (other housing costs); or

(d) (d) paragraph 13 of Schedule 2 to the SPC Regulations <sup>M51</sup> (other housing costs).

#### *Step 2*

Identify the total amount of the non-dependant deductions applicable to the claimant under—

(a) (a) paragraph 18 of Schedule 3 to the IS Regulations (non-dependant deductions) <sup>M52</sup>;

(b) (b) paragraph 17 of Schedule 2 to the JSA Regulations (non-dependent deductions) <sup>M53</sup>;

(c) (c) paragraph 19 of Schedule 6 to the ESA Regulations (non-dependant deductions) <sup>M54</sup>; or

(d) (d) paragraph 14 of Schedule 2 to the SPC Regulations (persons residing with the claimant) <sup>M55</sup>.

#### *Step 3*

Identify the proportion of the non-dependant deductions applicable to the loan payment and housing costs (if any) in Step 1 by applying the formula—

$$A \times (B \div C)$$

where—

“A” is the total amount of the non-dependant deductions identified in Step 2,  
 “B” is the amount of the loan payment calculated under regulation 10 (calculation of each loan payment), and  
 “C” is the amount identified in Step 1.

The result is the amount of the non-dependant deduction to be made from each loan payment in the case of a legacy benefit claimant or SPC claimant.

#### **Marginal Citations**

- M48** S.R. 1987 No. 459; paragraph 17 was amended by regulation 5 and paragraph 1(4)(a) of Schedule 2 to S.R. 2006 No. 407.
- M49** S.R. 1996 No. 198; paragraph 16 was amended by regulation 5 and paragraph 4(4)(a) of Schedule 2 to S.R. 2006 No. 407.
- M50** S.R. 2008 No. 280.
- M51** S.R. 2003 No. 28; paragraph 13 was amended by regulation 5 and paragraph 11(4)(b) of S.R. 2006 No. 407.
- M52** Paragraph 18 was amended by regulation 2(3)(j)(ii) and (iii) of S.R. 1995 No. 434, **regulation 3(b)** of S.R. 1997 No. 3, **regulation 3** of S.R. 1997 No. 165, **Article 7(2)** of S.R. 1999 No. 472 (C. 36), regulation 3(4) of S.R. 2003 No. 261, **regulation 4(b)(i)** and (ii)(bb) of S.R. 2004 No. 394, **regulation 3(4)** of S.R. 2005 No. 580, **regulation 5** and paragraph 1(4)(b) of Schedule 2 to S.R. 2006 no. 407, regulation 12(11)(g) of S.R. 2008 No. 286, **regulation 2(5)(e)** and (8)(d) of S.R. 2008 No. 428, **regulation 2(3)(e)** and (7)(d) of S.R. 2010 No. 69, **regulation 7(5)(c)** of S.R. 2011 No. 357, **regulation 2(3)** of S.R. 2013 No. 67, **regulation 14(6)** of S.I. 2013/3021, **regulation 2(3)** of S.R. 2014 No. 275, **regulation 2(3)(b)(v)** of S.R. 2016 No. 110 and regulation 11(6) of S.R. 2016 No. 228.
- M53** Paragraph 17 was amended by regulation 3(b) of S.R. 1997 No. 3, **regulation 7(3)** of S.R. 1997 No. 165, **Article 9(5)(l)** of S.R. 1999 No. 428 (C. 32), regulation 5(4) of S.R. 2003 No. 261, **regulation 5(b)** of S.R. 2004 No. 394, **regulation 5(4)** of S.R. 2005 No. 580, **regulation 5** and paragraph 4(4)(b) of Schedule 2 to S.R. 2006 No. 407, **regulation 19(25)(f)** of S.R. 2008 No. 286, **regulation 4(5)(e)** and (8)(d) of S.R. 2008 No. 428, **regulation 4(3)(e)** and (8)(d) of S.R. 2010 No. 69, **regulation 10(7)(c)** of S.R. 2011 No. 357, **regulation 3(4)** of S.R. 2013 No. 67, **regulation 17(8)(a)** and (c) of S.I. 2013/3021, **regulation 3(3)** of S.R. 2014 No. 275 and regulation 14(8) of S.R. 2016 No. 228.
- M54** Paragraph 19 was amended by regulation 10(3)(e) of S.R. 2010 No. 69, **regulation 21(15)** of S.R. 2011 No. 357, **Article 28(6)(b)(i)** of S.I. 2013/3021, **regulation 7(3)** of S.R. 2014 No. 275, **regulation 4(2)(h)(iii)** of S.R. 2016 No. 44 and regulation 34(6)(b)(i) and (ii) and (7)(a) of S.R. 2016 No. 228.
- M55** Paragraph 14 was amended by regulation 23(7)(c) of S.R. 2003 No. 191, **regulation 7(2)** of S.R. 2003 No. 261, **regulation 6(5)(b)** of S.R. 2004 No. 394, **regulation 7(4)(b)** of S.R. 2005 No. 580, **regulation 14(5)** of S.R. 2006 No. 359, **regulation 5** and paragraph 11(4)(c) of Schedule 2 to S.R. 2006 No. 407, **regulation 30(8)(e)** of S.R. 2008 No. 286, **regulation 5(3)(b)** and (c) of S.R. 2008 No. 428, **regulation 6(3)(b)** of S.R. 2010 No. 69, **regulation 14(5)** of S.R. 2011 No. 357, **regulation 5** of S.R. 2013 No. 67, **regulation 23(5)(b) to (d)** of S.I. 2013/3021, **regulation 4(3)(b)** of S.R. 2014 No. 275, **regulation 25(5)(b)** of S.R. 2016 No. 228 and Article 25(4) of S.R. 2017 No. 56.

#### **Interest**

**15.—**(1) The Department shall charge interest on the sum of the loan payments until the earlier of—

- (a) the day on which the loan payments and accrued interest are repaid in full;
- (b) the event referred to in regulation 16(1)(c).

(2) Interest at the relevant rate shall accrue daily, with effect from the first day a loan payment is made to a qualifying lender or the claimant under regulation 17 (direct payments to qualifying lenders), and shall be added to the outstanding amount at the end of each month (or part month).

(3) The relevant rate is the interest rate for the relevant period.

(4) For the purposes of this regulation and regulation 16 (repayment), the outstanding amount is the sum of the loan payments and interest which has been charged under paragraph (1).

(5) The interest rate referred to in paragraph (3) is the weighted average interest rate on conventional gilts specified in the most recent report published before the start of the relevant period by the Office for Budget Responsibility under section 4(3) of the Budget Responsibility and National Audit Act 2011 <sup>M56</sup> (main duty of office).

(6) The relevant period is the period starting on—

- (a) 1st January and ending on 30th June in any year; or
- (b) 1st July and ending on 31st December in any year.

**Marginal Citations**

M56 2011 c. 4.

**Repayment**

**16.**—(1) The outstanding amount shall become immediately due and payable, together with any further interest which accrues on that amount under regulation 15 (interest), where one of the following events occurs—

- (a) the relevant accommodation is sold;
- (b) legal title in the relevant accommodation is transferred, assigned or otherwise disposed of, unless paragraph (3) applies;
- (c) in the case of a claimant with no partner, the claimant's death, or, in the case of a claimant with a partner, the death of the last member of the benefit unit (“the relevant person”).

(2) Subject to paragraphs (4) and (5), repayment shall occur—

- (a) in the event described in paragraph (1)(a) or (b), from the proceeds of sale, transfer, assignment or disposition;
- (b) in the event described in paragraph (1)(c), from the relevant person's estate.

(3) This paragraph applies where legal title is transferred to—

- (a) the claimant's partner, following the death of the claimant, where the partner is in occupation of the relevant accommodation; or
- (b) the claimant, from a former spouse or civil partner, under a court order or an agreement for maintenance where the claimant is in occupation of the relevant accommodation.

(4) Where there is insufficient equity available in the relevant accommodation to discharge the outstanding amount and—

- (a) all legal owners are in the benefit unit, repayment shall be limited to the amount of available equity in the relevant accommodation after any prior ranking mortgages have been repaid, and, in the event described in paragraph (1)(c), this shall be taken to be the amount of equity at the date of death of the relevant person;
- (b) only one legal owner is in the benefit unit, repayment shall be limited to the amount of that legal owner's interest in the relevant accommodation and, in the event described in

paragraph (1)(c), this shall be taken to be the value of that interest at the date of death of the relevant person;

- (c) more than one legal owner, but not all legal owners, are in the benefit unit, repayment shall be limited to the sum of the interests in the relevant accommodation of all legal owners within the benefit unit and, in the event described in paragraph (1)(c), this shall be taken to be the value of those interests at the date of death of the relevant person.

(5) In the event that the relevant accommodation is sold or legal title in, the relevant accommodation is transferred, assigned or otherwise disposed of for less than market value, the disposal shall be treated as if it occurred at market value for the purposes of repayment.

(6) Subject to paragraph (7), a claimant shall be permitted to repay some or all of the outstanding amount before an event in paragraph (1) occurs if the amount of each repayment is equal to or more than £100.

(7) Where the outstanding amount is less than £100, a claimant shall be permitted to repay that sum in full in one repayment.

#### **Direct payments to qualifying lenders**

17.—(1) Where the circumstances specified in paragraph (2) are met, the loan payments must be made by the Department direct to a claimant's lender.

(2) The circumstances referred to in paragraph (1) are that—

- (a) money was lent to the claimant in respect of which owner-occupier payments in respect of the relevant accommodation are payable to a qualifying lender; and
- (b) those owner-occupier payments are taken into account in calculating the amount of each loan payment under regulation 10 (calculation of each loan payment).

(3) Where the circumstances in paragraph (2) are not met, the loan payments shall be made to the claimant.

(4) Schedule 4 (direct payments to qualifying lenders) has effect in relation to payments made under paragraph (1).

VALID FROM 06/04/2018

#### **Consequential amendments**

18. The amendments in Schedule 5 (consequential amendments) have effect.

VALID FROM 06/04/2018

#### **Transitional provision: existing claimants**

19.—(1) Subject to regulation 20 (transitional provision: lack of capacity), in relation to an existing claimant the amendments made by Schedule 5 (consequential amendments) shall be treated as though they were not in operation until the day that is the earlier of (“the transitional end day”)—

- (a) the day referred to in paragraph (2); or
- (b) the day immediately following the day on which entitlement to a qualifying benefit ends.

(2) The day referred to in paragraph (1)(a) is the later of—

- (a) the day immediately following the end of the first benefit week, in the case of a legacy benefit claimant or SPC claimant, or the end of the first assessment period, in the case of a UC claimant, that ends on or after 6th April 2018; or
  - (b) the day immediately following the day referred to in paragraph (3).
- (3) The day referred to in paragraph (2)(b) is the earliest of—
- (a) the day on which the Department receives notification from the claimant that the claimant does not wish to accept the offer of loan payments;
  - (b) where the Department—
    - (i) has received both the loan agreement and the documents referred to in regulation 5 (conditions to meet before the loan payments can be made) within the period of 6 weeks beginning with the loan payments offer date, the day referred to in paragraph (4), or
    - (ii) has not received both the loan agreement and the documents referred to in regulation 5 within the period of 6 weeks beginning with the loan payments offer date, the day on which that period ends.
- (4) The day referred to in paragraph (3)(b)(i) is the last day of the period of 4 weeks beginning with the first day at the beginning of which the Department has received the loan agreement and documents referred to in regulation 5(2).

VALID FROM 06/04/2018

**Transitional provision: lack of capacity**

**20.—**(1) Paragraph (2) applies where the following conditions are met in relation to an existing claimant—

- (a) the Department is satisfied on or before 5th April 2018, or later than that date but within 6 weeks beginning with the loan payments offer date, that the claimant is a person who lacks capacity to make some or all decisions about entering into the loan agreement;
- (b) an application for a decision as referred to in paragraph (6) is made on or before 5th April 2018, or later than that date but within 6 weeks beginning with the loan payments offer date; and
- (c) at the time the Department is satisfied as referred to in sub-paragraph (a), the Department has not received the loan agreement and the documents referred to in regulation 5 (conditions to meet before the loan payments can be made) and has not received a notification from the claimant that the claimant does not wish to accept the offer of loan payments.

(2) Where this paragraph applies, the amendments made by Schedule 5 (consequential amendments) shall be treated as though they were not in operation until the day that is the earlier of (“the transitional end day”)—

- (a) the day referred to in paragraph (3); or
  - (b) the day immediately following the day on which entitlement to a qualifying benefit ends.
- (3) The day referred to in paragraph (2)(a) is the later of—
- (a) the day immediately following the end of the first benefit week, in the case of a legacy benefit claimant or SPC claimant, or the end of the first assessment period, in the case of a UC claimant, that ends on or after 6th April 2018; or

- (b) the day immediately following the day referred to in paragraph (4).
- (4) The day referred to in paragraph (3)(b) is the earlier of—
- (a) the last day of the period of 6 weeks beginning with the day on which the relevant person makes a determination as to whether to make a decision referred to in paragraph (6); or
  - (b) the last day of the period of 6 weeks beginning with the day on which the relevant person receives notification that the application for such a decision is withdrawn.
- (5) In paragraph (4), a relevant person makes a determination where the person makes a determination that is not dependent on receiving more information about the claimant's circumstances.
- (6) The decisions referred to in paragraphs (1) and (4) are—
- (a) a decision by an attorney under an enduring power of attorney made in accordance with Enduring Powers of Attorney (Northern Ireland) Order 1987<sup>M57</sup> to act on the claimant's behalf in respect of entering into a loan agreement; or
  - (b) the making of an order by the court under section 101 of the Mental Health (Northern Ireland) Order 1986<sup>M58</sup> to appoint a controller with power to make a decision on behalf of the claimant with respect to entering into a loan agreement; or
  - (c) a decision of an attorney who has been appointed under the Powers of Attorney Act (Northern Ireland) 1971<sup>M59</sup> to act on the claimant's behalf in respect of entering into a loan agreement.
- (7) For the purposes of this Regulation, a person lacks capacity in relation to a matter if at the material time that person is unable to make a decision for himself or herself in relation to the matter because of an impairment of, or a disturbance in the functioning of, the mind or brain.
- (8) For the purposes of paragraph (7), it does not matter—
- (a) whether the impairment or disturbance is permanent or temporary, or
  - (b) what caused the impairment or disturbance (and in particular, it does not matter whether the impairment or disturbance is caused by a disorder or disability or otherwise than by a disorder or disability).

**Marginal Citations**M57 [S.I. 1987/1627 \(N.I. 16\)](#).M58 [S.I. 1986/595 \(N.I. 4\)](#).M59 [1971 c. 33 \(N.I.\)](#).

VALID FROM 06/04/2018

**Transition from legacy benefit to universal credit****21.—**(1) Paragraph (3) applies where—

- (a) an award of universal credit is made to a claimant who—
  - (i) was entitled to a legacy benefit (a “relevant award”) at any time during the period of one month ending with the day on which the claim for universal credit was made or treated as made (or would have been so entitled were it not for termination of that award by virtue of an order made under Article 2(2) of the



- Welfare Reform (Northern Ireland) Order 2015<sup>M60</sup> or the effect of the Transitional Provisions Regulations, or
- (ii) was at any time during the period of one month ending with the day on which the claim for universal credit was made or treated as made, the partner of a person (“P”) who was at that time entitled to a relevant award, where the award of universal credit is not a joint award to the claimant and P;
- (b) on the relevant date—
- (i) the relevant award included an amount in respect of housing costs under—
- (aa) paragraphs 15 to 17 of Schedule 3 to the IS Regulations<sup>M61</sup>;
- (bb) paragraphs 14 to 16 of Schedule 2 to the JSA Regulations<sup>M62</sup>; or
- (cc) paragraphs 16 to 18 of Schedule 6 to the ESA Regulations; or
- (ii) the claimant was entitled to loan payments under these Regulations; and
- (c) the amendments made by Schedule 5 (consequential amendments) apply in relation to the award of universal credit.
- (2) In this regulation, the “relevant date” means—
- (a) where paragraph (1)(a)(i) applies and the claimant was not entitled to the relevant award on the date on which the claim for universal credit was made or treated as made, the date on which the relevant award terminated;
- (b) where paragraph (1)(a)(i) applies, the claimant is not a new claimant partner and he or she was entitled to the relevant award on the date on which the claim for universal credit was made, that date;
- (c) where paragraph (1)(a)(i) applies, the claimant is a new claimant partner and he or she was entitled to the relevant award on the date on which the claim for universal credit was treated as made, that date;
- (d) where paragraph (1)(a)(ii) applies, the date on which the claimant ceased to be the partner of P or, if earlier, the date on which the relevant award terminated.
- (3) Where this paragraph applies, regulation 8(1)(b) (period covered by loan payments) does not apply.
- (4) Paragraph (5) applies where paragraph (1)(a) applies and the amendments made by Schedule 5 (consequential amendments) apply in relation to the award of universal credit, but—
- (a) the relevant award did not include an amount in respect of housing costs because the claimant's entitlement (or, as the case may be, P's entitlement) was nil by virtue of—
- (i) paragraph 8(1)(b) of Schedule 3 to the IS Regulations<sup>M63</sup> (housing costs),
- (ii) paragraph 7(1)(b) of Schedule 2 to the JSA Regulations<sup>M64</sup> (housing costs), or
- (iii) paragraph 9(1)(b) of Schedule 6 to the ESA Regulations<sup>M65</sup> (housing costs); or
- (b) the amendments made by Schedule 5 applied in relation to the relevant award but the claimant was not entitled to loan payments by virtue of regulation 8(1)(b).
- (5) Where this paragraph applies—
- (a) the definition of “qualifying period” in regulation 2(1) (interpretation) does not apply; and
- (b) “qualifying period” means the period of 273 days starting with the first day on which the claimant (or, as the case may be, P) was entitled to the relevant award, taking into account any period which was treated as a period of continuing entitlement under—
- (i) paragraph 14 of Schedule 3 to the IS Regulations (linking rule),

(ii) paragraph 13 of Schedule 2 to the JSA Regulations (linking rule), or  
 (iii) paragraph 15 of Schedule 6 to the ESA Regulations (linking rules),  
 provided that, throughout that part of the qualifying period after the award of universal credit is made, receipt of universal credit is continuous and the claimant otherwise qualifies for loan payments under these Regulations.

(6) Paragraph (7) applies where—

- (a) a claimant has an award of universal credit which becomes subject to the amendments made by Schedule 5; and
- (b) regulation 30 of the Transitional Provisions Regulations (support for housing costs) applied in relation to the award.

(7) Where this paragraph applies—

- (a) where paragraph (3) of regulation 30 of the Transitional Provisions Regulations applied in relation to the award, regulation 8(1)(b) does not apply; and
- (b) where paragraph (5) of regulation 30 of the Transitional Provisions Regulations applied in relation to the award, paragraph (5) of this regulation applies in relation to the award.

#### **Marginal Citations**

**M60** S.I. 2015/2006 (N.I. 1).

**M61** S.R. 1987 No. 459; paragraph 16 was amended by regulation 2(8)(c) of S.R. 2008 No. 248. Paragraph 17 was amended by regulation 5 and paragraph 1(4)(a) of Schedule 2 to S.R. 2016 No. 407.

**M62** S.R. 1996 No. 198; paragraph 15 was amended by regulation 4(8)(c) of S.R. 2008 No. 428. Paragraph 16 was amended by regulation 5 and paragraph 4(4)(a) of Schedule 2 to S.R. 2006 No. 407.

**M63** Paragraph 8(1) was amended by regulation 2(3)(f)(i) of S.R. 1995 No. 434 and regulation 2(2)(d)(ii) of S.R. 2016 No. 44.

**M64** Paragraph 7(1) was amended by regulation 3(2)(c) of S.R. 2016 No. 44.

**M65** S.R. 2008 No. 280; paragraph 9(1) was amended by regulation 4(2)(c) of S.R. 2016 No. 44.

#### **Delegation**

**22.** A function of the Department under these Regulations may be exercised by a person authorised for that purpose by the Department.

Signed by authority of the Secretary of State for Work and Pensions

Department for Work and Pensions  
 30th August 2017

*Caroline Dinanage*  
 Parliamentary Under-Secretary of State



## SCHEDULE 1

Regulation 3(2)(a)

### Meaning of owner-occupier payments

## PART 1

### Legacy benefit claimants and SPC claimants

#### Application of Part 1

1. This Part applies to legacy benefit claimants and SPC claimants.

#### Payments of interest on qualifying loans and alternative finance payments

2.—(1) “Owner-occupier payments” means—

- (a) payments of interest on a loan which qualifies under sub-paragraph (2) or (4); and
- (b) in respect of an SPC claimant only, alternative finance payments within the meaning of paragraph 5(3).

(2) A loan qualifies under this sub-paragraph where the loan was taken out to defray monies applied for any of the following purposes—

- (a) acquiring an interest in the relevant accommodation; or
- (b) paying off another loan which would have qualified under head (a) had it not been paid off.

(3) For the purposes of sub-paragraph (2), references to a loan also include a reference to money borrowed under a hire purchase agreement, as defined in section 189 of the Consumer Credit Act 1974<sup>M66</sup>, for any purpose specified in sub-paragraph (2)(a) or (b).

(4) A loan qualifies under this sub-paragraph if it was taken out, with or without security, for the purpose of—

- (a) carrying out repairs and improvements to the relevant accommodation;
- (b) paying any service charge imposed to meet the cost of repairs and improvements to the relevant accommodation;
- (c) paying off another loan that would have qualified under heads (a) and (b) had it not been paid off,

as long as the loan is used for that purpose within 6 months beginning with the date of receipt or as soon as reasonably practicable.

(5) In sub-paragraph (4), “repairs and improvements” means any of the following measures undertaken with a view to maintaining the fitness of the relevant accommodation, or any part of the building containing the relevant accommodation, for human habitation —

- (a) provision of a fixed bath, shower, wash basin, sink or lavatory, and necessary associated plumbing, including the provision of hot water not connected to a central heating system;
- (b) repairs to existing heating systems;
- (c) damp proof measures;
- (d) provision of ventilation and natural lighting;
- (e) provision of drainage facilities;
- (f) provision of facilities for preparing and cooking food;
- (g) provision of insulation;

**Status:** Point in time view as at 20/10/2017. This version of this Rule contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the The Loans for Mortgage Interest Regulations (Northern Ireland) 2017. (See end of Document for details)

- (h) provision of electric lighting and sockets;
- (i) provision of storage facilities for fuel or refuse;
- (j) repairs of unsafe structural defects;
- (k) adapting the accommodation for the special needs of a disabled person; or
- (l) provision of separate sleeping accommodation for persons of different sexes aged 10 or over but under the age of 20 who live with the claimant and for whom the claimant or the claimant's partner is responsible.

(6) Where a loan is applied only in part for the purposes specified in sub-paragraph (2) or (4), only that portion of the loan which is applied for that purpose shall qualify.

#### Marginal Citations

**M66** 1974 c. 39.

#### Loans incurred during relevant period

3.—(1) Subject to sub-paragraph (5), loans which, apart from this paragraph, qualify under paragraph 2(2) or (4) shall not so qualify where the loan was incurred during the relevant period.

(2) The “relevant period” for the purposes of this paragraph is any period during which the person to whom the loan was made—

- (a) is entitled to, or is treated as entitled to, a legacy benefit or state pension credit; or
- (b) is living as a member of a family one of whom is entitled to, or is treated as entitled to, a legacy benefit or state pension credit,

together with any period falling between 2 such periods of entitlement separated by not more than 26 weeks.

(3) For the purposes of sub-paragraph (2), a person shall be treated as entitled to either a legacy benefit or state pension credit during any period when the person, the person's partner, or, where that person is a member of a joint-claim couple, the other member of that couple was not so entitled because—

- (a) that person, the person's partner or, where that person is a member of a joint-claim couple, the other member of that couple, was participating in an employment programme specified in regulation 75(1)(a) of the JSA Regulations<sup>M67</sup>; and
- (b) in consequence of such participation that person, the person's partner, or, where that person is a member of a joint-claim couple, the other member of that couple, was a person engaged in remunerative work and had income equal to or in excess of the applicable amount.

(4) Where a loan which qualifies under paragraph 2(2) was incurred during the relevant period—

- (a) for paying off an earlier loan, and that earlier loan qualified under paragraph 2(2) and was incurred during the relevant period; or
- (b) to finance the purchase of a property where an earlier loan, which qualified under paragraph 2(2) or (4) and was incurred during the relevant period in respect of another property, is paid off (in whole or in part) with monies received from the sale of that property,

then the amount of the loan to which sub-paragraph (1) applies is the amount (if any) by which the new loan exceeds the earlier loan.

(5) Loans taken out during the relevant period shall qualify as loans under paragraph 2(2) or (4), where a claimant satisfies any of the conditions specified in sub-paragraphs (6), (8) and (9), but—

- (a) where the claimant satisfies the condition in sub-paragraph (6), those loans shall be subject to the additional limitation imposed by sub-paragraph (7); and
  - (b) where the claimant satisfies the conditions in more than one of these sub-paragraphs, only one sub-paragraph shall apply in the claimant's case, which shall be the one most favourable to the claimant.
- (6) The first condition is that—
- (a) during the relevant period, the claimant or a member of the claimant's family acquires an interest (“the relevant interest”) in the relevant accommodation; and
  - (b) in the week preceding the week in which the relevant interest was acquired, the claimant or a member of the claimant's family was entitled to housing benefit.
- (7) Where the condition in sub-paragraph (6) is satisfied, the amount of the loans which qualify shall initially not exceed the aggregate of—
- (a) the housing benefit entitlement referred to in sub-paragraph (6)(b); and
  - (b) any amount included in the applicable amount of the claimant or a member of the claimant's family in that week,
- and shall be increased subsequently only to the extent that it is necessary to take account of any increase in the standard rate under regulation 13 (standard rate to be applied under regulations 11 and 12) arising after the date of acquisition.
- (8) The second condition is that the loan was taken out, or an existing loan increased, to acquire alternative accommodation more suited to the needs of a disabled person than the relevant accommodation which was occupied before the acquisition by the claimant.
- (9) The third condition is that—
- (a) the loan commitment increased in consequence of the disposal of the relevant accommodation and the acquisition of alternative accommodation; and
  - (b) the change of accommodation was made solely by reason of the need to provide separate sleeping accommodation for persons of different sexes aged 10 or over but under the age of 20 who live with the claimant and for whom the claimant or the claimant's partner is responsible.

**Marginal Citations**

**M67** [Regulation 75\(1\)\(a\)](#) is substituted by regulation 2(9)(a)(ii) of S.R. [2016 No. 241](#).

## **PART 2**

### UC claimants

#### **Application of Part 2**

4. This Part applies to UC claimants.

#### **Payments of interest on loans and alternative finance payments**

- 5.—(1) “Owner-occupier payments” means—
- (a) payments of interest on a loan which qualifies under sub-paragraph (2);
  - (b) alternative finance payments within the meaning of sub-paragraph (3).

**Status:** Point in time view as at 20/10/2017. This version of this Rule contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the The Loans for Mortgage Interest Regulations (Northern Ireland) 2017. (See end of Document for details)

(2) A loan qualifies under this sub-paragraph if it is secured on the relevant accommodation.

(3) “Alternative finance payments” means payments that are made under alternative finance arrangements which were entered into to enable a person to acquire an interest in the relevant accommodation.

(4) “Alternative finance arrangements” has the meaning given in Part 10A of the Income Tax Act 2007 <sup>M68</sup>

#### Marginal Citations

**M68** 2007 c. 3; Part 10A was inserted by section 365 of, and Part 1 of Schedule 2 to, the [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#).

## SCHEDULE 2

Regulation 3(2)(b)

Circumstances in which a claimant is, or is to be treated as, liable to make owner-occupier payments

### PART 1

Legacy benefit claimants and SPC claimants

#### Application of Part 1

1. This Part applies to legacy benefit claimants and SPC claimants.

#### Liable or treated as liable to make payments

2.—(1) A claimant is liable to make owner-occupier payments where in the case of a single claimant, the claimant or the claimant's partner (if any), or, in the case of joint claimants, either member of the couple, has a liability to make the payments.

(2) A claimant is to be treated as liable to make owner-occupier payments where—

- (a) all of the following conditions are met—
  - (i) the person who is liable to make the payments is not doing so,
  - (ii) the claimant has to make the payments in order to continue occupation of the relevant accommodation, and
  - (iii) it is reasonable in all the circumstances to treat the claimant as liable to make the payments; or
- (b) all of the following conditions are met—
  - (i) the claimant in practice shares the responsibility for the owner-occupier payments with other members of the household, none of whom are close relatives of, in the case of a single claimant, the claimant or the claimant's partner (if any), or, in the case of joint claimants, either member of the couple,
  - (ii) one or more of those members is liable to meet those payments, and
  - (iii) it is reasonable in all the circumstances to treat that member as sharing responsibility.

(3) Where any one or more, but not all, members of the claimant's family are affected by a trade dispute, the owner-occupier payments shall be treated as wholly the responsibility of those members of the family not so affected.

(4) For the purposes of sub-paragraph (3), “trade dispute” has the meaning given in Article 127 of the Trade Union and Labour Relations (Northern Ireland) Order 1995 <sup>M69</sup>.

**Marginal Citations**

**M69** S.I. 1995/1980 (N.I. 12).

**Treated as not liable to make payments**

3. A claimant is to be treated as not liable to make owner-occupier payments where the liability to make the payments is owed to a person who is a member of the claimant's household.

**PART 2**

UC claimants

**Application of Part 2**

4. This Part applies to UC claimants.

**Liable or treated as liable to make payments**

5.—(1) A claimant is liable to make owner-occupier payments where in the case of a single claimant, the claimant or the claimant's partner (if any), or, in the case of joint claimants, either member of the couple, has a liability to make the payments.

(2) A claimant is to be treated as liable to make owner-occupier payments where—

- (a) the person who is liable to make the payments is a child or qualifying young person for whom the claimant is responsible;
- (b) all of the following conditions are met—
  - (i) the person who is liable to make the payments is not doing so,
  - (ii) the claimant has to make the payments in order to continue occupation of the relevant accommodation,
  - (iii) the claimant's circumstances are such that it would be unreasonable to expect them to make other arrangements, and
  - (iv) it is otherwise reasonable in all the circumstances to treat the claimant as liable to make the payments; or
- (c) the claimant—
  - (i) has a liability to make the payments which is waived by the person (“P”) to whom the liability is owed, and
  - (ii) the waiver of that liability is by way of reasonable compensation for reasonable repair or re-decoration works carried out by the claimant to the relevant accommodation which P would otherwise have carried out or been required to carry out.

**Status:** Point in time view as at 20/10/2017. This version of this Rule contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the The Loans for Mortgage Interest Regulations (Northern Ireland) 2017. (See end of Document for details)

(3) Sub-paragraph (1) does not apply to a person in a polygamous marriage who is a single claimant by virtue of regulation 3(3) of the UC Regulations<sup>M70</sup>.

#### Marginal Citations

**M70** There have been amendments to regulation 3 which are not relevant to these Regulations.

#### Treated as not liable to make payments

6. A claimant is to be treated as not liable to make owner-occupier payments—
- (a) where the liability to make the payments is owed to a person who is a member of the claimant's household;
  - (b) in respect of any amount which represents an increase in the sum that would otherwise be payable and is the result of—
    - (i) outstanding arrears of any payment or charge in respect of the relevant accommodation,
    - (ii) outstanding arrears of any payment or charge in respect of other accommodation previously occupied by the claimant, or
    - (iii) any other unpaid liability to make a payment or charge; or
  - (c) where the Department is satisfied that the liability to make the owner-occupier payments was contrived in order to secure the offer of loan payments or increase the amount of each loan payment.

#### SCHEDULE 3

Regulation 3(2)(c)

Circumstances in which a claimant is, or is to be, treated as occupying accommodation

### PART 1

#### General

#### Interpretation

- 1.—(1) In this Schedule—
- “Abbeyfield Home” means an establishment run by the Abbeyfield Society including all bodies corporate or incorporate which are affiliated to that Society;
- “full-time student” has the meaning—
- (a) in the case of income support in regulation 61(1) of the IS Regulations<sup>M71</sup> (interpretation);
  - (b) in the case of jobseeker's allowance, in regulation 1(2) of the JSA Regulations<sup>M72</sup> (citation, commencement and interpretation);
  - (c) in the case of employment and support allowance, in regulation 131(1) of the ESA Regulations (interpretation);
  - (d) in the case of state pension credit, in regulation 1(2) of the SPC Regulations<sup>M73</sup> (citation commencement and interpretation);

“independent hospital” has the meaning assigned to it by Article 2(2) of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 <sup>M74</sup>;

“medically approved” means certified by a medical practitioner;

“nursing home” has the meaning it has for the purposes of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 by virtue of Article 11 of that Order;

“patient” means a person who is undergoing medical or other treatment as an inpatient in a hospital or similar institution;

“period of study” has the meaning—

- (a) in the case of income support and state pension credit, in regulation 2(1) of the IS Regulations <sup>M75</sup>;
- (b) in the case of jobseekers allowance, in regulation 1(2) of the JSA Regulations <sup>M76</sup>;
- (c) in the case of employment and support allowance, in regulation 2(1) of the ESA Regulations (interpretation);

“residential accommodation” means accommodation which is a residential care home, a nursing home, an Abbeyfield Home or independent hospital;

“residential care home” has the meaning it has for the purposes of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 by virtue of Article 10 of that Order;

“training course” means a course of training or instruction provided wholly or partly by or on behalf of, or in pursuance of arrangements made with, or approved by or, on behalf of, a government department.

(2) In this Schedule, a reference to a claimant being liable to make owner-occupier payments is to be read as a reference to a person being treated as liable to make owner-occupier payments under Schedule 2 (circumstances in which a claimant is, or is to be treated as, liable to make owner-occupier payments).

#### Marginal Citations

- M71** The definition of “full-time student” was inserted by regulation 3(3)(a) of S.R. 2000 No. 241 and amended by regulation 2(6) of S.R. 2006 No. 128.
- M72** The definition of “full-time student” was amended by regulation 4(2) of S.R. 2006 No. 128.
- M73** There have been amendments to regulation 1(2) which are not relevant to these Regulations.
- M74** S.I. 2003/431 (N.I. 9); Article 2(2) was amended by paragraph 1(1)(d) of Schedule 6 to the [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1 \(N.I.\)\)](#).
- M75** The definition of “period of study” was substituted by regulation 3(2)(d) of S.R. 2000 No. 241.
- M76** The definition of “period of study” was amended by regulation 3(2)(a) of S.R. 2000 No. 242.

## PART 2

### Legacy benefit claimants and SPC claimants

#### Application of Part 2

2. This Part applies to legacy benefit claimants and SPC claimants.

*Status: Point in time view as at 20/10/2017. This version of this Rule contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the The Loans for Mortgage Interest Regulations (Northern Ireland) 2017. (See end of Document for details)*

### **Occupying accommodation: general rule**

3.—(1) Subject to the following paragraphs of this Part, the accommodation which the claimant occupies as the claimant's home or, if the claimant is a member of a family, the claimant and the claimant's family occupy as their home, is the accommodation which is normally occupied as the home.

(2) In determining whether accommodation is the accommodation normally occupied as the home for the purposes of sub-paragraph (1), regard shall be had to any other dwelling occupied by the claimant or, if the claimant is a member of a family, by the claimant and the claimant's family whether or not that other dwelling is in Northern Ireland.

### **Full-time study**

4.—(1) Subject to sub-paragraph (2), where a claimant is a full-time student or on a training course and is liable to make owner-occupier payments in respect of either (but not both)—

- (a) the accommodation which the claimant occupies for the purpose of attending the course of study or training course; or
- (b) the accommodation which the claimant occupies when not attending the course of study or training course,

the claimant shall be treated as occupying as the claimant's home the accommodation in respect of which the claimant is liable to make the owner-occupier payments.

(2) A claimant who is a full-time student shall not be treated as occupying accommodation as the claimant's home for any week of absence from it outside the period of study, other than an absence occasioned by the need to enter hospital for treatment.

### **Living in other accommodation during essential repairs**

5. Where the claimant—

- (a) has been required to move into temporary accommodation by reason of essential repairs being carried out to the accommodation which the claimant occupies as claimant's home (“the home accommodation”); and
- (b) is liable to make owner-occupier payments in respect of either (but not both) the home accommodation or the temporary accommodation,

the claimant shall be treated as occupying as the claimant's home the accommodation in respect of which the claimant is liable to make those payments.

### **Living in other accommodation due to fear of violence, where a claimant's partner is a full-time student or where moving into new accommodation**

6. Where a claimant is liable to make owner-occupier payments in respect of 2 dwellings, the claimant shall be treated as occupying both dwellings as the claimant's home—

- (a) where—
  - (i) the claimant has left and remains absent from the accommodation which the claimant occupies as the claimant's home (“the home accommodation”) through fear of violence in the home or of violence by a close relative or former partner, and
  - (ii) it is reasonable that owner-occupier payments should be met in respect of both the claimant's home accommodation and the claimant's present accommodation which the claimant occupies as the home;
- (b) in the case of a couple or a member of a polygamous marriage, where—



- (i) one partner is a full-time student or is on a training course and it is unavoidable that the members of the couple or polygamous marriage should occupy 2 separate dwellings, and
  - (ii) it is reasonable that owner-occupier payments should be met in respect of both dwellings; or
- (c) where—
- (i) the claimant has moved into new accommodation occupied as the claimant's home, except where paragraph 5 applies, for a period not exceeding 4 benefit weeks from the first day of the benefit week in which the move occurs, and
  - (ii) the claimant's liability to make owner-occupier payments in respect of both the new accommodation and the accommodation from which the move was made is unavoidable.

### **Moving in delayed for certain reasons**

#### 7.—(1) Where—

- (a) a claimant was delayed in moving into accommodation (“the new accommodation”) and was liable to make owner-occupier payments in respect of that accommodation before moving in; and
  - (b) the delay was reasonable and one of the conditions in sub-paragraphs (2) to (4) applies,
- the claimant shall be treated as occupying the new accommodation as the claimant's home for the period of delay, not exceeding 4 weeks immediately prior to the date on which the claimant moved into the new accommodation.

(2) The first condition is that the delay occurred in order to adapt the accommodation to meet the needs of the claimant or a member of the claimant's family who is a disabled person.

#### (3) The second condition is that—

- (a) the move was delayed pending local welfare provision to meet a need arising out of the move or in connection with setting up the claimant's home in the new accommodation; and
- (b) in the case of a legacy benefit claimant only—
  - (i) a member of the claimant's family is aged 5 or under,
  - (ii) the claimant's applicable amount includes a pensioner premium or disability premium under Schedule 2 to the IS Regulations, Schedule 1 to the JSA Regulations or Schedule 4 to the ESA Regulations, or
  - (iii) a child tax credit is paid for a member of the claimant's family who is disabled or severely disabled for the purposes of section 9(6) of the Tax Credits Act 2002 <sup>M77</sup>;

(4) The third condition is that the claimant became liable to make owner-occupier payments in respect of the accommodation while the claimant was a patient or was in a residential home.

#### **Marginal Citations**

**M77** 2002 c. 21; section 9 is amended by section 13 of the [Welfare Reform and Work Act 2016 \(c. 7\)](#).

### **Temporary absence to try new accommodation of up to 13 weeks**

#### 8.—(1) This sub-paragraph applies to a claimant who enters residential accommodation—

- (a) for the purpose of ascertaining whether the accommodation suits the claimant's needs; and

*Status: Point in time view as at 20/10/2017. This version of this Rule contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the The Loans for Mortgage Interest Regulations (Northern Ireland) 2017. (See end of Document for details)*

(b) with the intention of returning to the accommodation which the claimant occupies as the claimant's home ("the home accommodation") in the event that the residential accommodation proves not to suit the claimant's needs, and while in the residential accommodation, the home accommodation is not let or sub-let to another person.

(2) A claimant to whom sub-paragraph (1) applies shall be treated as occupying the home accommodation during the period of absence, not exceeding 13 weeks in which the claimant is resident in the residential accommodation, but only where the total absence from the home accommodation does not exceed 52 consecutive weeks.

### **Temporary absence of up to 13 weeks**

9. A claimant, except where paragraph 10 applies, shall be treated as occupying accommodation as the claimant's home throughout any period of absence not exceeding 13 weeks, where—

- (a) the claimant intends to return to occupy the accommodation as the claimant's home;
- (b) the part of the accommodation occupied by the claimant has not been let or sub-let to another person; and
- (c) the period of absence is unlikely to exceed 13 weeks.

### **Absences for certain reasons up to 52 weeks**

10.—(1) Where sub-paragraph (2) applies, a claimant is to be treated as occupying accommodation as the claimant's home ("the home accommodation") during any period of absence from it not exceeding 52 weeks beginning with the first day of that absence.

(2) This paragraph applies where a claimant's absence from the home accommodation is temporary and—

- (a) the claimant intends to return to occupy the home accommodation;
- (b) the home accommodation has not been let or sub-let;
- (c) the claimant is—
  - (i) detained in custody on remand pending trial or, as a condition of bail, required to reside in a dwelling, other than the home accommodation,
  - (ii) detained pending sentence upon conviction,
  - (iii) resident in a hospital or similar institution as a patient,
  - (iv) undergoing or, the claimant's partner or child, or in the case of a SPC claimant, a person who has not attained the age of 20, is undergoing medical treatment, or medically approved convalescence, in accommodation other than residential accommodation,
  - (v) undertaking a training course,
  - (vi) undertaking medically approved care of another person,
  - (vii) undertaking the care of a child or, in the case of an SPC claimant, a person under the age of 20 whose parent or guardian is temporarily absent from the dwelling occupied by that parent or guardian for the purpose of receiving medically approved care or medical treatment,
  - (viii) a person who is receiving medically approved care provided in accommodation other than a residential home,
  - (ix) a full-time student to whom paragraph 4(1) or 6(b) does not apply,

- (x) a person, other than a person to whom paragraph 8(1) applies, who is receiving care provided in residential accommodation, or
  - (xi) a person to whom paragraph 6(a) does not apply and who has left the home accommodation through fear of violence in that accommodation, or by a person who was formerly his or her partner or is a close relative; and
- (d) the period of the claimant's absence is unlikely to exceed 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed that period.

## PART 3

### UC claimants

#### Application of Part 3

11. This Part applies to UC claimants.

#### Occupying accommodation: general rule

12.—(1) Subject to the following paragraphs of this Part, the accommodation which the claimant occupies as the claimant's home is the accommodation which the claimant normally occupies as the home.

(2) Where the claimant occupies more than one dwelling, in determining whether accommodation is the accommodation normally occupied as the home for the purposes of sub-paragraph (1), regard is to be had to all the circumstances including (among other things) any persons with whom the claimant occupies each dwelling.

#### Living in other accommodation due to essential repairs

13.—(1) Where a claimant—

- (a) is required to move into accommodation (“the other accommodation”) on account of essential repairs being carried out to the accommodation the claimant occupies as the claimant's home (“the home accommodation”);
- (b) intends to return to the home accommodation; and
- (c) is liable to make owner-occupier payments in respect of either the other accommodation or the home accommodation (but not both),

the claimant is to be treated as occupying as the claimant's home the accommodation in respect of which the owner-occupier payments are made.

#### Moving homes: adaptations to new homes for disabled person

14.—(1) Sub-paragraph (2) applies where—

- (a) a claimant has moved into accommodation (“the new accommodation”) and, immediately before the move, was liable to make owner-occupier payments in respect of the new accommodation; and
- (b) there was a delay in moving in to adapt the new accommodation in order to meet the needs of a disabled person.

(2) The claimant is to be treated as occupying both the new accommodation and the accommodation from which the move was made (“the old accommodation”) if—

**Status:** Point in time view as at 20/10/2017. This version of this Rule contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the The Loans for Mortgage Interest Regulations (Northern Ireland) 2017. (See end of Document for details)

- (a) immediately before the move, the claimant was receiving loan payments or, in the case of an existing claimant, a qualifying benefit which includes an amount for owner-occupier payments, in respect of the old accommodation; and
  - (b) the delay in moving into the new accommodation was reasonable.
- (3) A person is disabled under this Part if the person is—
- (a) a claimant or any child or qualifying young person for whom the claimant is responsible; and
  - (b) in receipt of—
    - (i) the care component of disability living allowance at the middle or highest rate,
    - (ii) attendance allowance, or
    - (iii) the daily living component of personal independence payment.
- (4) No claimant may be treated as occupying both the old accommodation and the new accommodation under this paragraph for more than one month.

#### **Living in other accommodation due to fear of violence**

- 15.—(1) Sub-paragraph (2) applies where—
- (a) a claimant is occupying accommodation (“the other accommodation”) other than the accommodation which the claimant occupies as the claimant's home (“the home accommodation”);
  - (b) it is unreasonable to expect the claimant to return to the home accommodation on account of the claimant's reasonable fear of violence in the home, or by a former partner, against the claimant or any child or qualifying young person for whom the claimant is responsible; and
  - (c) the claimant intends to return to the home accommodation.
- (2) The claimant is to be treated as occupying both the home accommodation and the other accommodation as the claimant's home if—
- (a) the claimant is liable to make payments in respect of both the other accommodation and the home accommodation; and
  - (b) it is reasonable to make loan payments in respect of both the home accommodation and the other accommodation.
- (3) Where the claimant is liable to make payments in respect of one accommodation only, the claimant is to be treated as occupying that accommodation as the claimant's home but only if it is reasonable to make loan payments in respect of that accommodation.
- (4) No claimant may be treated as occupying both the home accommodation and the other accommodation under this paragraph for more than 12 months.

#### **Moving in delayed by adaptations to accommodation to meet needs of disabled person**

- 16.—(1) The claimant is to be treated as having occupied accommodation before the claimant moved into it where—
- (a) the claimant has since moved in and, immediately before the move, the claimant is liable to make payments in respect of that accommodation;
  - (b) there was delay in moving in that was necessary to enable the accommodation to be adapted to meet the needs of a disabled person; and
  - (c) it was reasonable to delay moving in.

(2) No claimant may be treated as occupying accommodation under this paragraph for more than one month.

### **Moving into accommodation following a stay in hospital or a residential care home, nursing home or independent hospital**

17.—(1) The claimant is to be treated as having occupied accommodation before he or she moved into it where—

- (a) the claimant has since moved in and, immediately before the move, the claimant was liable to make payments in respect of that accommodation; and
- (b) the liability to make the payments arose while the claimant was a patient or accommodated in a residential care home, nursing home or independent hospital (or, in the case of joint claimants, where both individuals were patients or were accommodated in a residential care home, nursing home or independent hospital).

(2) No claimant may be treated as occupying the accommodation under this paragraph for more than one month.

### **Temporary absence exceeding 6 months**

18.—(1) Subject to sub-paragraph (2), a claimant is to be treated as no longer occupying accommodation from which the claimant is temporarily absent where the absence exceeds, or is expected to exceed, 6 months.

(2) Where a claimant who falls within paragraph 15 is temporarily absent from the relevant accommodation the claimant is to be treated as no longer occupying that accommodation where the absence exceeds, or is expected to exceed, 12 months.

## SCHEDULE 4

Regulation 17

### Direct payments to qualifying lenders

#### **Direct payments**

1. Each loan payment made to a qualifying lender directly under regulation 17(1) (direct payments to qualifying lenders) shall be the amount calculated under paragraph 2 or 3 of this Schedule.

#### **Determining the amount to be paid to a qualifying lender: one qualifying loan**

2.—(1) Where one qualifying loan or alternative finance arrangement has been made to a claimant by a qualifying lender, the amount that is to be paid direct to that lender is to be calculated as follows.

##### *Step 1*

Find the amount of each loan payment calculated under regulation 10 (calculation of each loan payment).

##### *Step 2*

Deduct from the amount resulting from step 1 the amount referred to in paragraph (2).

(2) The amount referred to is the amount payable under a policy of insurance taken out by the claimant to insure against the risk of not being able to maintain repayments of loan interest or alternative finance payments to a qualifying lender.

*Status: Point in time view as at 20/10/2017. This version of this Rule contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the The Loans for Mortgage Interest Regulations (Northern Ireland) 2017. (See end of Document for details)*

### **Determining the amount to be paid to a qualifying lender: more than one qualifying loan**

3. Where more than one qualifying loan or alternative finance arrangement has been made to a claimant by a qualifying lender, the amount that is to be paid direct to the qualifying lender is to be calculated as follows.

#### *Step 1*

Calculate an amount in accordance with Steps 1 and 2 of paragraph 2(1) in respect of each of these loans or alternative finance arrangements.

#### *Step 2*

Add those amounts together.

### **Qualifying lenders to apply direct payments to discharge of claimant's liability**

4. Where a direct payment is made under regulation 17(1) (direct payments to qualifying lenders) to a qualifying lender, the lender must apply the amount of the payment determined under either paragraph 2 or 3 of this Schedule towards discharging the claimant's liability to make owner-occupier payments in respect of which the direct payment was made.

### **Application by qualifying lenders of any amount which exceeds liability**

5.—(1) Where—

- (a) a direct payment is made to a qualifying lender under regulation 17(1) (direct payments to qualifying lenders); and
- (b) the amount paid exceeds the claimant's liability to make owner-occupier payments to the qualifying lender,

the qualifying lender must apply the amount of excess in accordance with sub-paragraph (2).

(2) Subject to sub-paragraph (3), the qualifying lender must apply the amount of excess as follows—

- (a) first, towards discharging the amount of any liability of the claimant for arrears of owner-occupier payments in respect of the qualifying loan or alternative finance arrangement in question;
- (b) if any amount of the excess is then remaining, towards discharging any liability of the claimant to repay—
  - (i) the principal sum in respect of the qualifying loan or alternative finance arrangement,  
or
  - (ii) any other sum payable by the claimant to that lender in respect of that qualifying loan or alternative finance arrangement.

(3) Where owner-occupier payments on 2 or more qualifying loans or alternative finance arrangements are payable to the same qualifying lender, the lender must apply the amount of the excess as follows—

- (a) first, towards discharging the amount of any liability of the claimant for arrears of owner-occupier payments in respect of the qualifying loans or alternative finance arrangements in question;
- (b) if any amount of the excess is then remaining, towards discharging any liability of the claimant to repay—
  - (i) the principal sum in respect of the qualifying loans or alternative finance arrangements, or

- (ii) any other sum payable by the claimant to that lender in respect of the qualifying loans or alternative finance arrangements.

### **Fees payable by qualifying lenders**

6.—(1) A fee is payable by a qualifying lender to the Department for the purpose of meeting the expenses of the Department in administering the making of direct payments to lenders.

(2) The fee is £0.39 in respect of each occasion on which a direct payment is made to the qualifying lender.

### **Election not to be regarded as a qualifying lender**

7.—(1) A body or person who would otherwise be within the definition of “qualifying lender” in the Order—

- (a) may elect not to be regarded as such for the purposes of these Regulations by giving notice to the Department in writing; and
- (b) may revoke any such notice by giving a further notice in writing.

(2) In respect of any financial year, a notice under sub-paragraph (1) which is given not later than 1st February before the start of the financial year, takes effect on 1st April following the giving of the notice.

(3) Where a body or person becomes a qualifying lender in the course of a financial year—

- (a) any notice of an election by the body or person under sub-paragraph (1)(a) must be given within 6 weeks (“the initial period”) beginning with the date on which the body or person becomes a qualifying lender; and
- (b) no direct payments may be made under regulation 17(1) (direct payments to qualifying lenders) to the body or person before the expiry of the initial period.

(4) Sub-paragraph (3)(b) does not apply in any case where—

- (a) the person or body gives the Department notice in writing that that provision should not apply; and
- (b) the notice is given before the start of the initial period or before that period expires.

(5) In relation to a notice under sub-paragraph (1)—

- (a) where the notice is given by an electronic communication, it must be given in accordance with Schedule 1 of the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations (Northern Ireland) 2016 <sup>M78</sup>;
- (b) where the notice is sent by post, it is to be treated as having been given on the day the notice was received.

#### **Marginal Citations**

M78 S.R. 2016 No. 220.

### **Provision of information**

8.—(1) A qualifying lender must, in respect of the claimant, provide the Department with information as to—

- (a) the owner-occupier payments payable by the claimant to the lender;

**Status:** Point in time view as at 20/10/2017. This version of this Rule contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the The Loans for Mortgage Interest Regulations (Northern Ireland) 2017. (See end of Document for details)

- (b) the amount of the qualifying loan or alternative finance arrangement in respect of which owner-occupier payments are payable;
- (c) the purpose for which the qualifying loan or alternative finance arrangement was made;
- (d) the amount outstanding on the qualifying loan or alternative finance arrangement;
- (e) the amount of arrears of owner-occupier payments due in respect of the qualifying loan or alternative finance payment;
- (f) any change in the owner-occupier payments payable by the claimant to the lender; and
- (g) the redemption of the qualifying loan or alternative finance arrangement,

in the circumstances specified in sub-paragraphs (2), (3) and (6).

(2) The information referred to in sub-paragraph (1)(a) to (e) must be provided at the request of the Department where the claimant has made a claim for a qualifying benefit, provided that the Department may only make one request under this sub-paragraph.

(3) The information referred to in sub-paragraph (1)(d) and (f) must be provided where the Department makes a request for that information on or after the first day in respect of which loan payments are paid, or to be paid, to the qualifying lender on behalf of the claimant (“the first day”), provided that the Department may only make a request under this sub-paragraph once in each period of 12 months referred to in sub-paragraph (4).

(4) The period of 12 months is the period of 12 months beginning with the first day and each subsequent period of 12 months commencing on the anniversary of that day.

(5) A request may be made under sub-paragraph (3) for the information referred to in sub-paragraph (1)(d) even though that information has been requested in the same 12 month period (as referred to in sub-paragraph (4)) under sub-paragraph (2).

(6) The information referred to in sub-paragraph (1)(g) must be provided to the Department as soon as reasonably practicable once the qualifying lender has received notice that the qualifying loan or alternative finance arrangement is to be redeemed.

### **Recovery of sum wrongly paid**

9.—(1) In the following circumstances, a qualifying lender must at the request of the Department repay any amount paid to the lender under regulation 17(1) (direct payments to qualifying lenders) which ought not to have been paid.

(2) The circumstances are that, in respect of a claimant—

- (a) the loan payments are terminated under regulation 9(2) (duration of loan payment);
- (b) the qualifying loan or alternative finance arrangement in respect of which owner-occupier payments are made has been redeemed; or
- (c) both of the conditions in sub-paragraphs (3) and (4) are met.

(3) The first condition is that the amount of each loan payment determined under regulation 10 (calculation of each loan payment) is reduced as a result of—

- (a) the standard rate determined under regulation 13 (standard rate to be applied under regulations 11 and 12) having been reduced; or
- (b) the amount outstanding on the qualifying loan or alternative finance arrangement having been reduced.

(4) The second condition is that no corresponding reduction was made to the amount calculated in respect of the qualifying lender under paragraph 2 or 3 of this Schedule.



(5) A qualifying lender is not required to make a repayment in the circumstances described in subparagraph (2)(a) unless the Department's request is made before the end of the period of 2 months starting with the date on which the loan payments are terminated.

VALID FROM 06/04/2018	
SCHEDULE 5	Regulation 18
Consequential amendments	
.....	

### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision for the Department to make loan payments to claimants of income-related employment and support allowance, income support, income-based jobseeker's allowance, state pension credit or universal credit (referred to as "qualifying benefits") or, if applicable, direct to the claimant's mortgage lender, in respect of the claimant's liability to make owner-occupier payments (principally mortgage interest) on the claimant's home.

The Regulations also make consequential changes to the regulations providing for the qualifying benefits so that support with owner-occupier payments is no longer payable as part of the benefit award.

Regulation 2 sets out the definitions which are used in these Regulations.

Regulation 3 provides that the Department may offer loan payments to a claimant in respect of any liability the claimant has, or is treated as having, to make owner-occupier payments in respect of the accommodation the claimant is, or is treated as, occupying as the claimant's home. The meaning of "owner-occupier payments", the circumstances in which a claimant is, or is to be treated as, liable to make owner-occupier payments and the circumstances in which a claimant is, or is to be treated as, occupying accommodation as the claimant's home (referred to as the "relevant accommodation") are set out in Schedules 1 to 3 to the Regulations.

Regulation 3(4) provides that a claimant of universal credit will not be eligible for the offer of loan payments if any member of the benefit unit (comprised of the claimant and his or her partner, (if any), has any earned income.

Regulation 4 provides that the offer of loan payments is accepted where the Department has received the loan agreement signed by, in the case of a single claimant, the claimant and the claimant's partner (if any), or joint claimants, and the relevant documents referred to in regulation 5(2).

Under regulation 5, the Department shall only make the loan payments if the offer is accepted and certain conditions are met. The conditions are that—

- (a) where the legal owners of the relevant accommodation are all in the benefit unit, each legal owner has executed a mortgage.

*Status: Point in time view as at 20/10/2017. This version of this Rule contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the The Loans for Mortgage Interest Regulations (Northern Ireland) 2017. (See end of Document for details)*

- (b) the Department has obtained written consent from any person in the benefit unit who is not a legal owner to the creation of a mortgage;
- (c) the Department has provided certain information about the loan payments, which is set out in regulation 6, to the claimant and the claimant's partner (if any).

Regulation 7 sets out the intervals at which the loan payments will be made to the claimant or, if relevant, direct to the claimant's mortgage lender.

Regulation 8 provides for the day from which loan payments will be made, which will not be before 6th April 2018.

Under regulation 9(1), loan payments will continue to be made at intervals indefinitely. However, if one of the circumstances in regulation 9(3) occurs (which includes where the claimant ceases to be entitled to a qualifying benefit), the loan payments will stop.

Regulation 9(4) provides that where a claimant ceases to be entitled to income support, an income-based jobseeker's allowance or an income-related employment and support allowance because, in the case of a single claimant, the claimant or the claimant's partner, or either joint claimant, starts remunerative work, the loan payments will be paid to the claimant for a period of 4 weeks if the conditions in paragraph (5) are met.

Regulation 10 provides that the amount of each loan payment will be the sum of the amounts calculated under regulations 11 and 12. Regulation 11 provides for the calculation of an amount to be included in each loan payment in respect of qualifying loans. Regulation 12 provides for the calculation of an amount to be included in respect of alternative finance arrangements (this is applicable to universal credit and state pension credit claimants only).

Regulation 13 sets out how the standard rate, which is used to determine the amount of each loan payment, is determined. Regulation 14 applies a non-dependant deduction to the loan payment calculated under regulation 10, save in the case of a universal credit claimant.

Regulation 15 makes provision as to the payment of interest on the sum of the loan payments made.

Regulation 16 provides the circumstances and manner in which a claimant must repay the sum of the loan payments and accrued interest. Under regulation 16(6) and (7) a claimant may repay the outstanding amount voluntarily.

Under regulation 17, each loan payment must be made direct to a claimant's lender where the conditions in paragraph (2) are met (including that the lender satisfies the definition of "qualifying lender" in the 2016 Order); otherwise the loan payments must be made to the claimant.

Regulation 18 gives effect to the amendments in Schedule 5.

Regulation 19 contains transitional provisions for the situation where an existing claimant is entitled to a qualifying benefit, including an amount for owner-occupier payments, on 5th April 2018. In this case, the amendments made by Schedule 5 are treated as if they were not in operation for a temporary period, enabling support with owner-occupier payments to continue to be paid as part of a claimant's qualifying benefit during this time.

Regulation 20 provides that where the Department determines that an existing claimant lacks capacity to make decisions about entering into a loan agreement, the amendments made by Schedule 5 are treated as if they were not in operation until a relevant person has made a decision (for example, a decision to appoint a controller with power to act on the claimant's behalf in respect of entering into a loan agreement), enabling support with owner-occupier payments to continue to be paid as part of a claimant's qualifying benefit during this time.

Regulation 21 provides that where a claimant or the claimant's former partner was entitled to a legacy benefit within one month before a claim for universal credit is made, and the claimant or the former partner was entitled to an amount in respect of housing costs as part of that benefit award or to loan payments, the claimant will be entitled to loan payments in conjunction with the award of universal credit without having to serve the qualifying period. Where the previous award did not include an amount for housing costs because the qualifying period was in the course of being served, the regulation provides for a modified qualifying period in relation to the universal credit award.

Regulation 22 enables any function of the Department under these Regulations to be delegated to a person authorised by the Department for that purpose.

Schedule 1 to the Regulations sets out the meaning of owner-occupier payments.

Schedule 2 sets out the circumstances in which a claimant is, or is to be treated as, liable to make owner-occupier payments.

Schedule 3 sets out the circumstances in which a claimant is, or is to be treated as, occupying accommodation as the claimant's home.

Schedule 4 makes provision for direct payments to qualifying lenders where the circumstances in regulation 17(2) apply.

Schedule 5 sets out amendments to the provisions of the regulations which currently provide for support with owner-occupier payments to be included in a claimant's qualifying benefit, so that such support is no longer included.

As these Regulations are made by virtue of Articles 13, 14 and 16 of the Welfare Reform and Work (Northern Ireland) Order 2016 and are made before the end of the period of 6 months from the commencement of those provisions they are, accordingly, exempt, by virtue of section 150(5) (b) of the Social Security Administration (Northern Ireland) Act 1992, from prior reference to the Social Security Advisory Committee.

An assessment of the impact of this instrument has been carried out. Copies of the impact assessment may be obtained from the Better Regulation Unit of the Department for Work and Pensions, 2D Caxton House, Tothill Street, London, SW1 9NA. It is also available alongside this instrument and the Explanatory Memorandum on [www.legislation.gov.uk](http://www.legislation.gov.uk).

**Status:**

Point in time view as at 20/10/2017. This version of this Rule contains provisions that are not valid for this point in time.

**Changes to legislation:**

There are currently no known outstanding effects for the The Loans for Mortgage Interest Regulations (Northern Ireland) 2017.