
STATUTORY RULES OF NORTHERN IRELAND

2017 No. 176

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

**[^{F1}Transitional provision: persons who lack capacity or may lack capacity identified before
6th April 2018**

20.—(1) Paragraph (2) applies in relation to an existing claimant (“a relevant claimant”) where, before 6th April 2018—

- (a) the Department believes that the claimant is a person who lacks capacity to make some or all decisions about accepting an offer of loan payments; or
- (b) on the basis of information received by the Department, the Department suspects that the claimant is a person who may lack such capacity.

(2) In relation to a relevant claimant, the amendments made by Schedule 5 (consequential amendments) shall be treated as though they were not in operation until the day (“the transitional end day”) that is the earlier of—

- (a) the relevant day in paragraph (3) or (8);
- (b) the day after the day on which entitlement to a qualifying benefit ends.

(3) Subject to paragraph (8), the relevant day is the later of—

- (a) 5th November 2018;
- (b) where, in a case where paragraph (1)(b) applies, the Department believes before 5th November 2018 that the claimant is a person who lacks capacity as referred to in paragraph (1)(a), the day after the last day of the period of 6 weeks beginning with the day on which the Department forms that belief;
- (c) where an application for a decision referred to in paragraph (7) is made before the later of 5th November 2018 and the relevant day under sub-paragraph (b), the day after the day specified in paragraph (4).

(4) The specified day is—

- (a) the last day of the period of 6 weeks beginning with the day on which a person referred to in paragraph (7) (“relevant person”) makes a decision referred to in paragraph (7); or
- (b) the last day of the period of 6 weeks beginning with the day on which a relevant person receives notification that the application for such a decision is withdrawn.

(5) Where more than one application for a decision as referred to in paragraph (7) is made to a relevant person within the period referred to in paragraph (3)(c), then the periods in paragraph (4) do not start to run until the relevant person has made a decision with respect to the last of the applications to be dealt with, or the relevant person receives notification that all of the applications are withdrawn.

(6) Where an application for a decision as referred to in paragraph (7) is made to more than one relevant person within the period referred to in paragraph (3)(c), then, where the specified day under paragraph (4) would be different as between the applications made to the different relevant persons, the specified day is the later of the two days.

Status: Point in time view as at 06/04/2018.

Changes to legislation: There are currently no known outstanding effects for the The Loans for Mortgage Interest Regulations (Northern Ireland) 2017, Section 20. (See end of Document for details)

- (7) The decisions referred to 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 whether or not to act on the claimant’s behalf in respect of accepting an offer of loan payments;
 - (b) whether or not the court makes an order under section 101 of the Mental Health (Northern Ireland) Order 1986 to appoint a controller with power to make a decision on behalf of the claimant with respect to accepting an offer of loan payments; or
 - (c) a decision of an attorney who has been appointed under the Power of Attorney Act (Northern Ireland) 1971 whether or not to act on the claimant’s behalf in respect of accepting an offer of loan payments.
- (8) Where, in a case where paragraph (1)(b) applies, the Department believes before 5th November 2018 that the claimant is not a person who lacks capacity as referred to in paragraph (1) (a), the relevant day is the day after the earlier of—
- (a) the day specified in paragraph (9);
 - (b) the day on which the Department receives notification from the claimant that the claimant does not wish to receive loan payments.
- (9) The specified day is—
- (a) the last day of the period of 6 weeks beginning with the day on which the Department forms the belief in paragraph (8); or
 - (b) where the loan payments offer date occurs during the period in sub-paragraph (a), the day referred to in regulation 19(3)(b) and (c) and (4).
- (10) Where in the case of—
- (a) a legacy benefit claimant or SPC claimant, the relevant day referred to in paragraph (3) or (8) is not the first day of the claimant’s benefit week, then the relevant day shall be the first day of the first benefit week that begins after the relevant day; or
 - (b) a UC claimant, the relevant day in paragraph (3) or (8) is not the first day of the claimant’s assessment period, then the relevant day shall be the first day of the first assessment period that begins after the relevant day.
- (11) 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.
- (12) For the purposes of paragraph (11), 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.]

Textual Amendments

- F1** Regs. 19, 19A, 20 substituted (6.4.2018) for regs. 19, 20 by [The Loans for Mortgage Interest and Social Fund Maternity Grant \(Amendment\) Regulations \(Northern Ireland\) 2018 \(S.R. 2018/37\)](#), regs. 1(2), 2(14)

Status:

Point in time view as at 06/04/2018.

Changes to legislation:

There are currently no known outstanding effects for the The Loans for Mortgage Interest Regulations (Northern Ireland) 2017, Section 20.