

2018 No. 37

SOCIAL SECURITY

The Loans for Mortgage Interest and Social Fund Maternity Grant (Amendment) Regulations (Northern Ireland) 2018

Made - - - - - *6th March 2018*

Laid before Parliament *7th March 2018*

Coming into operation in accordance with regulation 1(2) and (3)

The Secretary of State in exercise of the powers conferred by sections 122(1)(a), 132(3) and (4)(b), 133(1), 134(1)(a), (2) and (4) and 171(1) and (3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a), sections 5(1)(q), 13A(2), 165(1) and (4) and (6) and 167(1) of the Social Security Administration (Northern Ireland) Act 1992(b), Articles 2(2), 14(1) and (4)(b) of the Jobseekers (Northern Ireland) Order 1995(c), Articles 2(2), 11(3) and (6), 12(1) and 74(1) and (3) of the Social Security (Northern Ireland) Order 1998(d), sections 17(1) and (3)(b) and 24(1) of, the Welfare Reform Act (Northern Ireland) 2007(e) and Articles 13, 14, 16 and 22 of the Welfare Reform and Work (Northern Ireland) Order 2016(f), 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(g).

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- (a) 1992 c. 7; section 133(1) is cited for the meaning of “prescribed” and section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21).
- (b) 1992 c. 8; section 13A was inserted by paragraph 1 of the Schedule to the Social Security (Mortgage Interest Payments) (Northern Ireland) Order 1992 (S.I. 1992/1309 (N.I. 9)) and subsection (2) was amended by paragraph 9(b) and (c) of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.)), section 165 was amended by paragraph 49(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671), Schedule 7 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) and section 18(5) of the National Insurance Contributions Act 2014 (c. 7) and is amended by Article 108(1) of the Welfare Reform (Northern Ireland) Order 2015 and section 167(1) is cited for the meaning of “prescribe”.
- (c) S.I. 1995/2705 (N.I. 15); Article 2(2) is cited for the meaning of “prescribed” and “regulations”.
- (d) S.I. 1998/1506 (N.I. 10); Article 74(1) was amended by paragraph 17(2) of Schedule 4 to the Tax Credits Act 2002 (c.21) and is amended by Article 108(2) of the Welfare Reform (Northern Ireland) Order 2015; there are other amendments but none is relevant. Article 2(2) is cited for the meaning it gives to “prescribe” and “the Administration Act”.
- (e) 2007 c. 2 (N.I.); section 24(1) is cited for the meaning of “prescribed” and “regulations”.
- (f) S.I. 2016/999 (N.I. 1).
- (g) 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.)).

PART 1

Citation, commencement and interpretation

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Loans for Mortgage Interest and Social Fund Maternity Grant (Amendment) Regulations (Northern Ireland) 2018 and come into operation in accordance with paragraphs (2) and (3).

(2) Except for this regulation and regulation 2(18), these Regulations come into operation on 6th April 2018.

(3) This regulation and regulation 2(18) come into operation on 5th April 2018.

(4) The Interpretation Act (Northern Ireland) 1954(a) shall apply to these regulations as it applies to an Act of the Assembly.

PART 2

Loans for Mortgage Interest Amendments

Amendment of the Loans for Mortgage Interest Regulations (Northern Ireland) 2017

2.—(1) The Loans for Mortgage Interest Regulations (Northern Ireland) 2017(b) are amended as follows.

(2) In regulation 2(1) (interpretation)—

(a) after the definition of “the Order” insert—

““alternative finance arrangements” has the meaning given in paragraph 5(4) of Schedule 1 to these Regulations;”;

(b) for “Claims and Payment Regulations” substitute “Claims and Payments Regulations”;

(c) for the definition of “joint claimants” substitute—

““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) 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 —

(aa) equal to or exceeding the applicable amount, but

(bb) less than the sum of that applicable amount and the amount of a loan payment applicable to the joint-claim couple;

(b) in the case of universal credit means members of a couple who have jointly made a claim for, and are entitled to, universal credit;”;

(d) in the definition of “legacy benefit claimant” after “entitled to” insert “, or is treated as entitled to,”;

(e) for the definition of “single claimant” substitute—

““single claimant” means —

(a) an individual who has made a claim for, and is entitled to, a qualifying benefit;

(a) 1954 c. 33 (N.I.).

(b) S.R. 2017 No. 176; these Regulations came into operation on 20th October 2017 other than regulations 18 to 21 which come into operation on 6th April 2018.

- (b) an individual who has made a claim for, but is not entitled to, a legacy benefit or state pension credit by reason only that the individual has, or, if the individual is a member of a couple, they have, income—
 - (i) equal to or exceeding the applicable amount, but
 - (ii) less than the sum of that applicable amount and the amount of a loan payment applicable to the individual;”;
 - (f) in the definition of “SPC claimant” after “entitled to” insert “, or is treated as entitled to,”;
 - (g) in the definition of “transitional end day” for “(transitional provision: existing claimants) and 20(2) (transitional provision: lack of capacity)” substitute “(transitional provision: loan offer made before 6th April 2018), 19A(1) and (5) (transitional provision: loan offer made on or after 6th April 2018) and 20(2) (transitional provision: persons who lack capacity or may lack capacity identified before 6th April 2018)”;
 - (h) in paragraph (2), after sub-paragraph (a) insert—
 - “(aa) a person being treated as entitled to a qualifying benefit is to be read as a reference to a person who satisfies paragraph (a)(ii) of the definition of “joint claimants” or paragraph (b) of the definition of “single claimant”, except in the definition of “qualifying period”, regulation 21(5)(b) and paragraph 3 of Schedule 1;”.
- (3) In regulation 3 (the offer of loan payments)—
 - (a) in paragraph (1) omit the word “being”;
 - (b) in paragraph (2)(b) omit the word “being”.
- (4) In regulation 5(2)(a) (conditions to meet before the loan payments can be made) for “charge by way of legal mortgage” substitute “mortgage”.
- (5) In regulation 7 (time of each loan payment), for paragraph (b) substitute—
 - “(b) in the case of a legacy benefit claimant or SPC claimant, at 4 weekly intervals in arrears.”.
- (6) In regulation 8 (period covered by loan payments)—
 - (a) for paragraph (1)(c) substitute—
 - “(c) in the case of an SPC claimant, the first day of entitlement to state pension credit;”;
 - (b) after paragraph (1)(d) insert—
 - “(e) a date requested by the claimant.”;
 - (c) for paragraph (2) substitute—
 - “(2) If the day referred to in paragraph (1)(a) to (c) and (e) is not the first day of the claimant’s benefit week, in the case of a legacy benefit claimant or SPC claimant, or assessment period, in the case of a UC claimant, the day referred to shall be the first day of the first benefit week or first assessment period that begins after that date.”.
- (7) In regulation 9 (duration of loan payments)—
 - (a) in paragraph (3)(a) after the words “ceases to be entitled to” insert “, or treated as entitled to,”;
 - (b) for paragraph (7) substitute—
 - “(7) If a legacy benefit claimant ceases to be entitled to, or treated as entitled to, a legacy benefit (“the old entitlement”) but becomes entitled, or treated as entitled, again to the benefit (“the new entitlement”) within the period of 52 weeks beginning with the day on which the claimant ceased to be entitled, or treated as entitled, to the old entitlement, the loan payments may begin without a new qualifying period starting if the claimant wishes to receive loan payments on the basis of the new entitlement.”.
- (8) In regulation 10 (calculation of each loan payment), after “regulation 14 (non-dependant deductions)” insert “or 14A (insurance payment deduction)”.

(9) In regulation 12 (calculation in respect of alternative finance payments), in paragraph (5) for “in connection with a qualifying loan” substitute “in connection with alternative finance arrangements”.

(10) After regulation 14 (non-dependant deductions) insert—

“Insurance payment deduction

14A.—(1) In the case of a legacy benefit claimant or UC claimant, where the claimant or the claimant’s partner is in receipt of a payment under a policy of insurance taken out to insure against the risk of being unable to maintain owner-occupier payments within the meaning of Schedule 1, a deduction from the loan payment calculated under regulation 10 (calculation of each loan payment) shall be made equal to the amount received in respect of owner-occupier payments.

(2) Where the amount referred to in paragraph (1) is equal to or more than the loan payment, the amount of the loan payment shall be zero.”.

(11) In regulation 15 (interest)—

(a) in paragraph (1) after sub-paragraph (b) insert—

“(c) where the conditions in paragraph (1A) are met, the day on which the Department sends a completion statement to the claimant.”;

(b) after paragraph (1) insert—

“(1A) The conditions are—

(a) the claimant requests a completion statement from the Department in order to repay all of the outstanding amount in accordance with regulation 16(6) and (7) (repayment); and

(b) the outstanding amount is paid within 30 days beginning with the day on which the completion statement is sent by the Department to the claimant.

(1B) Where regulation 16(3) (repayment) applies, the Department shall continue to charge interest on the outstanding amount until the day referred to in 15(1) (interest).”;

(c) after paragraph (4) insert—

“(4A) For the purposes of this regulation, a “completion statement” means a written statement setting out the outstanding amount owed by the claimant to the Department.”.

(12) In regulation 16 (repayment)—

(a) in paragraph (1), for sub-paragraph (c) substitute—

“(c) in the case of—

(i) a claimant who is the sole legal owner of the relevant accommodation or the legal owner of the accommodation with someone other than a partner, the claimant’s death,

(ii) a claimant with a partner who is the sole legal owner of the relevant accommodation or the legal owner of the accommodation with someone other than the claimant, the partner’s death, or

(iii) a claimant and partner who are both legal owners (whether or not with anyone else) of the relevant accommodation, the death of the last member of the couple.”;

(b) in paragraph (3), after sub-paragraph (a) insert—

“(aa) the claimant, following the death of the claimant’s partner, where the claimant is in occupation of the relevant accommodation; or”.

(13) For regulation 18 (consequential amendments), substitute—

“Consequential amendments

18.—(1) Subject to paragraph (2) and regulations 19, 19A and 20, the amendments in Schedule 5 have effect.

(2) The amendments made by Part 2 of Schedule 5 (decisions and appeals) to the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999^(a) do not apply in relation to any decision or determination about an amount for owner-occupier payments under the substantive Regulations as those Regulations applied without the amendments made by Part 1 of Schedule 5.

(3) In this regulation, the “substantive Regulations” means the ESA Regulations, IS Regulations, JSA Regulations, SPC Regulations and UC Regulations.”.

(14) For regulation 19 (transitional provision: existing claimants) and regulation 20 (transitional provision: lack of capacity), substitute—

“Transitional provision: loan offer made before 6th April 2018

19.—(1) Subject to regulation 20 (transitional provision: persons who lack capacity or may lack capacity identified before 6th April 2018), in relation to an existing claimant in a case where the loan payments offer date occurs before 6th April 2018, the amendments made by Schedule 5 (consequential amendments) shall be treated as though they did not have effect until the earlier of the following days (where that day occurs after 6th April 2018) (“the transitional end day”)—

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

(2) The day referred to is the later of—

- (a) in the case of—
 - (i) a legacy benefit claimant or SPC claimant, where 6th April 2018 is not the first day of the claimant’s benefit week, the first day of the first benefit week that begins after 6th April 2018, or
 - (ii) a UC claimant, where 6th April 2018 is not the first day of the claimant’s assessment period, the first day of the first assessment period that begins after 6th April 2018;
- (b) the relevant day in paragraph (3).

(3) The relevant day is the day after the day that is the earlier 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) the last day of the period of 4 weeks, beginning with the day after the day on which the Department has received both the loan agreement and the documents referred to in regulation 5(2), duly executed, where both the loan agreement and the documents are received within the period of 6 weeks beginning with the loan payments offer date; or
- (c) the last day of the period of 6 weeks, beginning with the loan payments offer date, where the Department has not received both the loan agreement and the documents referred to in regulation 5(2), duly executed, within that period.

(4) Where in the case of—

- (a) a legacy benefit claimant or SPC claimant, the relevant day referred to in paragraph (3) 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

(a) S.R. 1999 No. 162

- (b) a UC claimant, the relevant day referred to in paragraph (3) 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.

Transitional provision: loan offer made on or after 6th April 2018

19A.—(1) Subject to regulation 20 (transitional provision: persons who lack capacity or may lack capacity identified before 6th April 2018) and paragraph (4), in relation to an existing claimant in a case where the loan payments offer date does not occur before 6th April 2018, the amendments made by Schedule 5 (consequential amendments) shall be treated as though they did not have effect until the earlier of the following days (where that day occurs after 6th April 2018) (“the transitional end day”)—

- (a) the relevant day in paragraph (2);
- (b) the day after the day on which entitlement to a qualifying benefit ends;
- (c) the day after the day on which the Department receives notification from the claimant that the claimant does not wish to receive loan payments.

(2) The relevant day is—

- (a) 7th May 2018; or
- (b) where the loan payments offer date occurs before 7th May 2018, the relevant day in regulation 19(3)(b) and (c) and (4).

(3) Where in the case of—

- (a) a legacy benefit claimant or SPC claimant, the day referred to in paragraph (1)(c), or the relevant day as referred to in paragraph (2)(a), is not the first day of the claimant's benefit week, then that day or that relevant day is the first day of the first benefit week that begins after that day or that relevant day; or
- (b) a UC claimant, the day referred to in paragraph (1)(c), or the relevant day as referred to in paragraph (2)(a), is not the first day of the claimant's assessment period, then that day or that relevant day is not the first day of the first assessment period that begins after that day or that relevant day.

(4) Paragraphs (1) to (3) do not apply in relation to an existing claimant where, as at the end of 5th April 2018—

- (a) the Department, or a person authorised to exercise functions of the Department, has, before 19th March 2018 made a request to the claimant, whether orally or in writing, to provide information that is needed in order for the Department or that person to—

- (i) take steps to ascertain whether the claimant wishes to receive an offer of loan payments or not, or
- (ii) be able to send to the claimant the loan agreement and documents referred to in regulation 5(2) (conditions to meet before the loan payments can be made); and

- (b) the claimant has not provided that information to the Department or that person.

(5) Subject to regulation 20, in the case of an existing claimant referred to in paragraph (4), where 6th April 2018 is not the first day of the claimant's benefit week, in the case of a legacy benefit or SPC claimant, or assessment period, in the case of a UC claimant, the amendments made by Schedule 5 (consequential amendments) shall be treated as though they did not have effect until the first day of the first benefit week or first assessment period that begins after that date (“the transitional end day”).

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.

(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(a) 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(b) 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

(a) S.I. 1987/1627 (N.I. 16).
(b) S.I. 1986/595 (N.I. 4).

- (c) a decision of an attorney who has been appointed under the Power of Attorney Act (Northern Ireland) 1971^(a) 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.”.
- (15) In regulation 21 (transition from legacy benefit to universal credit)—
- (a) in paragraph (1)(a)—
 - (i) in head (i), after “was entitled to” insert “, or was treated as entitled to,”;
 - (ii) in head (ii), after “at that time entitled to” insert “, or treated as entitled to,”;
 - (b) in paragraph (2)—
 - (i) in sub-paragraph (a), after “was not entitled to” insert “, or treated as entitled to,”;
 - (ii) in sub-paragraph (b), after “was entitled to” insert “, or treated as entitled to,”;
 - (iii) in sub-paragraph (c), after “was entitled to” insert “, or treated as entitled to,”.
- (16) In Schedule 1 (meaning of owner-occupier payments)—
- (a) in paragraph 3(5)(a), for “those loans” substitute “the amount of each loan payment calculated under regulation 10 (calculation of each loan payment)”;
 - (b) in paragraph 3(7)(b), after “the claimant’s family” insert “relating to housing costs”.
- (17) In Schedule 4 (direct payments to qualifying lenders)—
- (a) in paragraph 1, omit “or 3”;

(a) 1971 c. 33 (N.I.).

(b) for paragraph 2, substitute—

“Determining the amount to be paid to a qualifying lender: one or more qualifying loans

2.—(1) Where one qualifying loan or alternative finance arrangement has been provided to a claimant by a qualifying lender, the amount that is to be paid direct to that lender is the amount of each loan payment.

(2) Where more than one qualifying loan or alternative finance arrangement has been provided to a claimant by a qualifying lender, the amount that is to be paid direct to that lender is the amount of each loan payment in respect of each of those loans or alternative finance arrangements added together.”;

(c) omit paragraph 3;

(d) in paragraph 5, for sub-paragraph (3)(a) and (b) substitute—

“(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 respect of which the excess amount was paid;

(b) if any amount of the excess is then remaining, towards discharging any liability of the claimant to repay—

(i) in respect of the loan or alternative finance arrangement referred to in sub-paragraph (3)(a), the principal sum or any other sum payable by the claimant to that lender, or

(ii) in respect of any other loan or alternative finance arrangement, any sum payable by the claimant to that lender where the liability to pay that sum is not already discharged.”.

(18) In Schedule 5 (consequential amendments)—

(a) after the Schedule heading insert—

“PART 1

General”;

(b) in paragraph 1, after sub-paragraph (d) insert—

“(e) in Schedule 9—

(i) for paragraph 29(a) substitute—

“29. Any payment received under an insurance policy taken out to insure against the risk of being unable to maintain repayments on a loan which qualifies under Part 1 of Schedule 1 to the Loans for Mortgage Interest Regulations (Northern Ireland) 2017 (legacy benefit claimants and SPC claimants) and used to meet such repayments.”, and

(ii) in paragraph 30(1)—

(aa) in head (a) for “under Schedule 3 (housing costs” substitute “under Part 1 of Schedule 1 to the Loans for Mortgage Interest Regulations”,

(bb) for head (b) substitute—

“(b) any charge which qualifies in accordance with paragraph 17 of Schedule 3 (housing costs) to these Regulations or any interest payment on a loan which qualifies under Part 1 of Schedule 1 to the Loans for Mortgage

(a) Paragraph 29 of Schedule 9 was substituted by paragraph 1 of Schedule 3 to S.R. 1995 No.301.

Interest Regulations, to the extent that the charge or payment is not met under these Regulations or by loan payments (as the case may be);”;

(cc) in head (c) for “under paragraph 15 or 16 of Schedule 3” substitute “under Part 1 of Schedule 1 to the Loans for Mortgage Interest Regulations”;

(dd) after sub-paragraph (2) add—

“(3) In this paragraph—

“Loans for Mortgage Interest Regulations” means the Loans for Mortgage Interest Regulations (Northern Ireland) 2017;

“loan payments” has the meaning given in the Loans for Mortgage Interest Regulations.”.”;

(c) in paragraph 2, after sub-paragraph (f) insert—

“(g) in Schedule 6—

(i) for paragraph 30 substitute—

“**30.** Any payment received under an insurance policy taken out to insure against the risk of being unable to maintain repayments on a loan which qualifies under Part 1 of Schedule 1 to the Loans for Mortgage Interest Regulations (Northern Ireland) 2017 (legacy benefit claimants and SPC claimants) and used to meet such repayments.”, and

(ii) in paragraph 31(1)(a)—

(aa) in head (a) for “under Schedule 2 (housing costs)” substitute “under Schedule 1 to the Loans for Mortgage Interest Regulations”;

(bb) for head (b) substitute—

“(b) any charge which qualifies in accordance with paragraph 16 of Schedule 2 (housing costs) to these Regulations or any interest payment on a loan which qualifies under Part 1 of Schedule 1 to the Loans for Mortgage Interest Regulations, to the extent that the charge or payment is not met under these Regulations or by loan payments (as the case may be);”;

(cc) in head (c) for “under paragraph 14 or 15 of Schedule 2” substitute “under Part 1 of Schedule 1 to the Loans for Mortgage Interest Regulations”;

(dd) after sub-paragraph (2) add—

“(3) In this paragraph—

“Loans for mortgage Interest Regulations” means the Loans for Mortgage Interest Regulations (Northern Ireland) 2017;

“loan payments” has the meaning given in the Loans for Mortgage Interest Regulations.”.”;

(d) in paragraph 4, after sub-paragraph (c) insert—

“(d) in Schedule 8—

(i) for paragraph 30 substitute—

“**30.** Any payment received under an insurance policy taken out to insure against the risk of being unable to maintain repayments on a loan which qualifies under Part 1 of Schedule 1 to the Loans for Mortgage Interest Regulations (Northern Ireland) 2017 (legacy benefit claimants and SPC claimants) and used to meet such repayments.”, and

(a) Paragraph 31 was amended by regulation 5(a) of S.R. 1998 No. 176 and paragraph 23(e) of the Schedule to S.R. 2002 No. 132.

- (ii) in paragraph 31(1)—
 - (aa) in head (a) for “under Schedule 6” substitute “under Part 1 of Schedule 1 to the Loans for Mortgage Interest Regulations”,
 - (bb) for head (b) substitute—
 - “(b) any charge which qualifies in accordance with paragraph 18 of Schedule 6 (housing costs) to these Regulations or any interest payment on a loan which qualifies under Part 1 of Schedule 1 to the Loans for Mortgage Interest Regulations to the extent that the charge or payment is not met under these Regulations or by loan payments (as the case may be);”;
 - (cc) in head (c) for “under paragraph 16 or 17 of that Schedule” substitute “under Part 1 of Schedule 1 to the Loans for Mortgage Interest Regulations”;
 - (dd) after sub-paragraph (2) add—
 - “(3) In this paragraph—
 - “Loans for Mortgage Interest Regulations” means the Loans for Mortgage Interest Regulations (Northern Ireland) 2017;
 - “loan payments” has the meaning given in the Loans for Mortgage Interest Regulations.”;
- (e) after paragraph 6 add—
 - “7. The Claims and Payments Regulations(a) are amended as follows—
 - (a) omit regulations 34ZA(b) and 34ZB(c);
 - (b) in regulation 34A(1) omit “Except as provided for in regulation 34ZA and Schedule 8B,”;
 - (c) In Schedule 8A(d)—
 - (i) in paragraph 1(1), omit the definition of “mortgage payment”(e),
 - (ii) in paragraph 3—
 - (aa) omit sub-paragraph (2)(b)(i)(f);
 - (bb) in sub-paragraph (2)(b)(ii), for “for any other housing item” substitute “for any housing item”;
 - (cc) in sub-paragraph (2A)(b)(g) omit “4(8) or (11) or”, “5(9) or (12) or” and “6(10) or (13) or” in each place where these words occur;
 - (dd) for sub-paragraph (3)(h) substitute—
 - “(3) Sub-paragraph (1) shall not apply to any debt which is for any item of housing costs and is less than half the annual amount due to be paid by the beneficiary or his partner in respect of that item, unless, in the opinion of the Department it is in the overriding interests of the family that paragraph (1) should apply.”;
 - (ee) omit sub-paragraphs (4) and (5)(a),

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- (a) S.R. 1987 No.465; amending Rules are S.R. 1988 Nos. 67 and 141, S.R. 1992 Nos. 271 and 453, S.R. 1995 No. 301, S.R. 1996 Nos. 345 and 354, S.R. 1999 No. 472 (c. 36), S.R. 2003 No. 191, S.R. 2008 No. 286 and S.R. 2010 No. 129.
 - (b) Regulation 34ZA was inserted by regulation 2 of S.R. 1992 No. 271 and amended by regulation 12(1) of S.R. 2003 No. 191 and regulation 2(2) of S.R. 2010 No. 129.
 - (c) Regulation 34ZB was inserted by regulation 12(2) of S.R. 2003 No. 191 and amended by regulation 2(2) of S.R. 2010 No. 129.
 - (d) Schedule 8A was inserted by regulation 2(3) of S.R. 1988 No. 67.
 - (e) The definition of “mortgage payment” was substituted by regulation 2(26)(a)(iii) of S.R. 1996 No. 354 and amended by regulation 14(1)(a)(iv) of S.R. 2003 No. 191 and regulation 13(18)(a)(iii) of S.R. 2008 No. 286.
 - (f) Sub-paragraph (2) was amended by regulation 11(b) of S.R. 1988 No. 141, regulation 4(2)(b) of S.R. 1992 No. 271 and Article 9(2) of S.R. 1999 No. 472 (C. 36).
 - (g) Sub-paragraph 2A was inserted by regulation 4(2)(c) of S.R. 1992 No. 271 and amended by paragraph 1(3) of Schedule 2 to S.R. 1995 No. 301, regulation 2(26)(c) of S.R. 1996 No. 354, regulation 14(1)(b)(ii)(aa) of S.R. 2003 No. 191 and regulation 13(18)(b)(ii) of S.R. 2008 No. 286.
 - (h) Sub-paragraph (3) was amended by regulation 6(7)(a) of S.R. 1992 No. 453 and Article 9(2) of S.R. 1999 No. 472 (C. 36).

- (iii) in paragraph 9, omit sub-paragraph (2); and
- (d) omit Schedule 8B.

8. The Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations (Northern Ireland) 2016**(b)** are amended as follows—

- (a) omit regulation 54;
- (b) in regulation 55 omit “Except as provided for in regulation 54 and Schedule 4,”;
- (c) omit Schedule 4;
- (d) in paragraph 6 of Schedule 5 omit sub-paragraphs (5) and (6).

9. The Social Fund Maternity and Funeral Expenses (General) Regulations (Northern Ireland) 2005**(c)** are amended as follows—

- (a) in regulation 2—
 - (i) in paragraph (1), after the definition of “order freeing a child for adoption”**(d)** insert—

““owner-occupier loan payments” means loan payments under the Loans for Mortgage Interest Regulations (Northern Ireland) 2017;”
 - (ii) after paragraph (4)(b) insert—

“(c) a person being treated as entitled to a benefit has the meaning given to it in regulation 2(2)(aa) of the Loans for Mortgage Interest Regulations (Northern Ireland) 2017.”;
- (c) in regulation 5(2)**(e)**—
 - (i) at the end of sub-paragraph (f) omit “or”,
 - (ii) at the end of sub-paragraph (g) insert “or”; and
 - (iii) after sub-paragraph (g) add—

“(h) owner-occupier loan payments and is treated as entitled to a benefit specified in sub-paragraphs (a) to (c) and (f).”;
- (d) in regulation 7(4)(a)**(f)**—
 - (i) at the end of head (vii) omit “or”,
 - (ii) at the end of head (viii) insert “or”, and
 - (iii) after head (viii) add—

“(ix) owner-occupier loan payments and is treated as entitled to a benefit specified in sub-paragraphs (i) to (iii) and (vii).”.

10. The Social Fund (Cold Weather Payments) (General) Regulations (Northern Ireland) 1988**(g)** are amended as follows—

- (a) in regulation 1(2)—
 - (i) in the definition of “claimant”**(a)**, after “universal credit” insert “or who is in receipt of owner-occupier loan payments”, and

(a) Sub-paragraphs (4) and (5) were added by regulation 4(2)(d) of S.R. 1992 No. 271 and amended by regulation 14(1)(b)(iii) of S.R. 2003 No. 191.

(b) S.R. 2016 No.220.

(c) S.R. 2005 No. 506; relevant amending Regulations are S.R. 2010 No. 378, S.R. 2011 No. 130, S.R. 2012 No. 292 and S.R. 2016 No. 236.

(d) The definition of “order freeing a child for adoption” was inserted by regulation 2(2)(e) of S.R. 2010 No. 378.

(e) Regulation 5 was substituted by regulation 2(5) of S.R. 2010 No. 378 and paragraph 2 was amended by regulation 33(3) of S.R. 2016 No. 236

(f) Regulation 7(4)(a) was amended by regulation 33(4) of S.R. 2016 No. 236.

(g) S.R. 1988 No. 368; relevant amending Regulations are S.R. 1991 No. 464, S.R. 2005 No. 447, S.R. 2008 No. 286, S.R. 2010 No.344 and S.R. 2017 No. 116.

- (ii) after the definition of “overlap period” insert—
 - ““owner-occupier loan payments” means loan payments made under the Loans for Mortgage Interest Regulations (Northern Ireland) 2017;”;
- (b) in regulation 1A(2)(b)—
 - (i) at the end of sub-paragraph (d) omit “or”,
 - (ii) at the end of sub-paragraph (e) insert “or”, and
 - (iii) after sub-paragraph (e) insert—
 - “(f) owner-occupier loan payments and is treated as entitled to a benefit specified in sub-paragraphs (a) to (d).”;
 - (iv) in paragraph (3)—
 - (aa) for “(d) or (e)” substitute “(d), (e) or (f)”;
 - (bb) at the end of sub-paragraph (e) omit “or”;
 - (cc) at the end of sub-paragraph (f) insert “or”;
 - (dd) after sub-paragraph (f) insert—
 - “(g) where P has been awarded owner-occupier loan payments, P’s applicable amount, if P were entitled to a benefit specified in paragraph (2)(b) to (d), would include one or more of the premiums specified in—
 - (aa) where P is treated as entitled to income support, paragraphs 9 to 14 of Part 3 of Schedule 2 to the General Regulations;
 - (bb) where P is treated as entitled to jobseeker’s allowance, paragraphs 10 to 16 of Part 3 of Schedule 1 to the Jobseeker’s Allowance Regulations (Northern Ireland) 1996;
 - (cc) where P is treated as entitled to employment and support allowance, paragraphs 5 to 7 of Schedule 4 to the Employment and Support Allowance Regulations (Northern Ireland) 2008.”;
 - (ee) after paragraph (3) insert—
 - “(3A) In paragraph (3), a person being treated as entitled to benefit has the meaning given to it in regulation 2(2)(aa) of the Loans for Mortgage Interest Regulations (Northern Ireland) 2017.”.

PART 2

Decisions and Appeals

11. The Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(c) are amended as follows—

- (a) in regulation 1(2)—
 - (i) after the definition of “limited capability for work”(d) insert—
 - ““the Loans for Mortgage Interest Regulations” means the Loans for Mortgage Interest Regulations (Northern Ireland) 2017;”;
 - (ii) after the definition of “out of jurisdiction appeal”(e) insert—

(a) The definition of “claimant” was substituted by regulation 2(a) of S.R. 1991 No. 464 and was amended by regulation 2(a)(i) of S.R. 2005 No. 447, regulation 16(2)(b) of S.R. 2008 No. 286 and regulation 3(2)(b) of S.R. 2017 No. 116.

(b) Regulation 1A was substituted by regulation 2(3) of S.R. 2010 No. 344 and paragraph (2) was amended by regulation 3(3)(a) of S.R. 2017 No. 116.

(c) S.R. 1999 No. 162; relevant amending regulations are S.R. 1999 No. 271 (C.22), S.R. 2001 No. 120, S.R. 2003 No. 191, S.R. 2004 Nos. 110, 394 and 461, S.R. 2008 No. 286 and S.R. 2016 No. 221.

(d) Definition of “limited capability for work” was inserted by regulation 22(2) of S.R. 2008 No. 286.

(e) The definition of “out of jurisdiction appeal” was substituted by regulation 3(2) of S.R. 2003 No. 224 and amended by regulation 54(2)(c) of S.R. 2016 No. 221.

“owner-occupier loan payments” means loan payments made under the Loans for Mortgage Interest Regulations;

“owner-occupier payments” has the same meaning as in Part 1 of Schedule 1 to the Loans for Mortgage Interest Regulations;”;

(b) in regulation 7—

(i) after paragraph (12) insert—

“(12A) Paragraph (12) applies where—

- (a) the effect of a decision under Article 11 is that owner-occupier loan payments are to be made to a claimant in respect of the claimant’s liability to make owner-occupier payments; and
- (b) that decision could not have been made earlier because information necessary to make that decision, requested otherwise than in accordance with paragraph 8 of Schedule 4 to the Loans for Mortgage Interest Regulations (provision of information), had not been supplied to the Department by the lender.

(12B) Where a claimant is receiving owner-occupier loan payments and there is a reduction in the amount owing in connection with a qualifying loan or alternative finance arrangement (within the meaning in Schedule 1 to the Loans for Mortgage Interest Regulations (meaning of owner-occupier payments)), a decision made under Article 11 takes effect—

- (a) on the first anniversary of the date on which the claimant’s liability to make owner-occupier payments was first met by an owner-occupier loan payment; or
- (b) where the reduction in the amount owing in connection with a qualifying loan or alternative finance arrangement occurred after the first anniversary of the date referred to in sub-paragraph (a), on the next anniversary of that date following the date of the reduction.

(12C) Where a claimant is receiving owner-occupier loan payments, an insurance payment deduction is made under regulation 14A(1) of the Loans for Mortgage Interest Regulations (insurance payment deduction) in relation to any decision under Article 9 or 11 and there is a change in the amount of the owner-occupier payments payable—

- (a) on a qualifying loan or alternative finance arrangement (within the meaning in Schedule 1 to the Loans for Mortgage Interest Regulations (meaning of owner-occupier payments)) to which those payments relate; or
- (b) on a loan or alternative finance arrangement not so qualifying which is secured on the dwelling occupied as the home to which those payments relate,

a decision under Article 11 which is made as a result of that change in the amount of the owner-occupier payments payable shall take effect on whichever of the dates referred to in paragraph (12D) is appropriate in the claimant’s case.

(12D) The date on which a decision under Article 11 takes effect for the purposes of paragraph (12C) is—

- (a) the date on which the claimant’s liability to make owner-occupier payments is first met by an owner-occupier loan payment; or
- (b) where the change in the amount of the owner-occupier payments payable occurred after the date referred to in sub-paragraph (a), on the date of the next alteration in the standard rate following the date of that change.

(12E) In paragraph (12D), “standard rate” has the same meaning as it has in regulation 13 of the Loans for Mortgage Interest Regulations (standard rate to be applied under regulations 11 and 12).

(12F) Paragraph (12G) applies where—

- (a) a claimant is awarded state pension credit;
- (b) the claimant or the claimant's partner has reached pensionable age (within the meaning in section 133(1) of the Contributions and Benefits Act);
- (c) the claimant is in receipt of owner-occupier loan payments; and
- (d) after the date from which sub-paragraph (c) applies—
 - (i) a non-dependant (within the meaning in regulation 2(1) of the Loans for Mortgage Interest Regulations) begins to reside with the claimant, or
 - (ii) there has been a change of circumstances in respect of a non-dependant and this reduces the amount of the owner-occupier loan payments.

(12G) Where this paragraph applies, a decision made under Article 11 shall take effect—

- (a) where there is more than one change of the kind specified in paragraph (12F)(d) in respect of the same non-dependant within the same 26 week period, 26 weeks after the date on which the first such change occurred; and
- (b) in any other circumstances, 26 weeks after the date on which a change specified in paragraph (12F)(d) occurred.”;
- (ii) omit paragraphs (13) to (17G) and (18) to (23);
- (c) in regulation 13 for paragraph (1) substitute—

“(1) Where, for the purpose of a decision under Article 9 (decisions by the Department) or 11 (decisions superseding earlier decisions)—

- (a) a determination falls to be made by the Department in respect of a claimant of income support, state pension credit or employment and support allowance as to—
 - (i) the amount to be included in an owner-occupier loan payment under regulation 10 (calculation of each loan payment) of the Loans for Mortgage Interest Regulations, or
 - (ii) what housing costs are to be included in the claimant's applicable amount (in the case of income support or employment and support allowance) or the claimant's appropriate minimum guarantee (in the case of state pension credit); and
- (b) it appears to the Department that the Department is not in possession of all of the evidence or information which is relevant for the purposes of such a determination,

the Department shall make the determination on the assumption that the amounts to be included in an owner-occupier loan payment, the claimant's applicable amount, or the claimant's appropriate minimum guarantee, as the case may be, are those that can be immediately determined.”;

- (d) in paragraph 5 of Schedule 1 for sub-paragraph (r) substitute—

“(r) regulation 17(1) (direct payments to qualifying lenders by the Department where specified circumstances met) of the Loans for Mortgage Interest Regulations;”.

12. In Schedule 3 (decisions against which no appeal lies), in paragraph 1 of the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations (Northern Ireland) 2016(a) omit sub-paragraph (o).”

(a) S.R. 2016 No. 221.

PART 3

Social Fund Maternity Grant Amendments

Amendment of the Social Fund Maternity and Funeral Expenses (General) Regulations (Northern Ireland) 2005

3. In regulation 5A(3)(a) of the Social Fund Maternity and Funeral Expenses (General) Regulations (Northern Ireland) 2005 (entitlement where another member of the claimant's family is under the age of 16), after sub-paragraph (c) insert—

“(d) any child—

- (i) who was not, at the time of the child's birth, a child of the claimant (or, where the claimant has a partner at the date of claim, the claimant's partner), and
- (ii) whose age, at the time that the claimant (or, where the claimant has a partner at the date of claim, the claimant's partner) first became responsible for that child, exceeded 12 months.”.

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

Kit Malthouse
Parliamentary Under-Secretary of State
Department for Work and Pensions

6th March 2018

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Loans for Mortgage Interest Regulations (Northern Ireland) 2017 (S.R. 2017 No. 176, “the LMI Regulations”) and the Social Fund Maternity and Funeral Expenses (General) Regulations (Northern Ireland) 2005 (S.R. 2005 No. 506, “the SFMFE Regulations”).

Part 2 contains amendments to the LMI Regulations which make provision for the Department to make loan payments to benefit claimants in respect of a claimant's liability to make owner-occupier payments on the claimant's home.

Regulation 2(2) makes a number of amendments to regulation 2 (interpretation) of LMI Regulations. The definition of “joint claimant” is amended in the case of universal credit as an individual must have actual entitlement to universal credit to be offered and receive loan payments. The definition of “single claimant” is amended so that it includes: an individual who is claiming a qualifying benefit (for themselves or, as a member of a couple); or an individual who has made a claim for a qualifying benefit (for themselves or as a member of a couple), but is not entitled to the benefit due to the amount of their income so they are “treated as entitled” to benefit).

A definition of being “treated as entitled” to benefit is inserted into regulation 2 of the LMI Regulations by regulation 2(2). Amendments are also made to the definition of legacy benefit claimant and pension credit claimant, and other provisions in the LMI Regulations to provide for these cases.

Regulation 2(5) amends regulation 7 (time of each loan payment) of the LMI Regulations to provide that the loan payments will be made 4 weekly in arrears for legacy benefit claimants and SPC claimants in all cases.

Regulation 2(6) amends regulation 8 (period covered by loan payments) of the LMI Regulations to provide that the period in respect of which loan payments are made shall begin on a date requested by the claimant or, in respect of an SPC claimant, on the first day the claimant becomes entitled to state pension credit, where these dates are later than the other dates referred to in regulation 8.

(a) Regulation 5A was inserted by regulation 2(4) of S.R. 2011 No. 130 and amended by regulation 2 of S.R. 2012 No. 292.

Regulation 2(8) amends regulation 10 (calculation of each loan payment) of the LMI Regulations to refer to a deduction under regulation 14A (insurance payment deduction) which is inserted by regulation 2(10). Regulation 14A provides for a deduction from each loan payment where a claimant is receiving insurance payments relating to the repayment of owner-occupier payments.

Regulation 2(11) makes changes to regulation 15 (interest) of the LMI Regulations. It inserts new paragraph (1A) to enable the Department to stop charging interest if a claimant requests completion statement in order to repay all of the outstanding loan amount, but only if the outstanding amount is paid within the period of 30 days from the day the completion statement is sent to the claimant. It also inserts new paragraph (1B) to provide that interest will continue to be charged in certain circumstances following the transfer of title in the relevant accommodation.

Regulation 2(12) amends regulation 16 (repayment) of the LMI Regulations to clarify the circumstances where repayment is required following the death of the claimant or their partner.

Regulation 2(13) substitutes a new regulation 18 (consequential amendments) of the LMI Regulations which provides that the amendments made by Part 2 of Schedule 5 to the Social Security and Child Support (Decision and Appeals Regulations (Northern Ireland) 1999 and the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations (Northern Ireland) 2016 (the "Decisions and Appeals Regulations") do not apply in relation to any decision concerning help with owner-occupier payments as a benefit.

Regulation 2(14) substitutes regulations 19 (transitional provision: existing claimants) and 20 (transitional provision: lack of capacity) of the LMI Regulations with new regulations 19, 19A and 20.

New regulations 19 and 19A provide that help with owner-occupier payments as a benefit can continue for a temporary period after 5th April 2018 in respect of existing claimants (those entitled to an amount for owner-occupier payments as a benefit on 5th April 2018). New regulation 19 concerns cases where the Department has offered loan payments to claimants before 6th April 2018 whereas new regulation 19A concerns cases where the Department has not offered loan payments before 6th April 2018.

New regulation 20 provides that help with owner-occupier payments as a benefit can continue for a temporary period if, before 6th April 2018, the Department believes that existing claimants lack capacity, or suspects they may lack capacity, to make decisions about the loan payments.

Regulation 2(17) amends Schedule 4 of the LMI Regulations to provide for what happens where loan payments are made directly to a qualifying lender in excess of the claimant's liability to make owner-occupier payments.

Regulation 2(18) inserts additional consequential amendments into Schedule 5 to the LMI Regulations to various regulations which currently make provision for help with owner-occupier payments as a benefit. This includes:

- amendments to the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 to omit references to mortgage interest, including in respect of deductions from benefit, which are no longer relevant;
- amendments to the SFMFE Regulations and the Social Fund (Cold Weather Payments) (General) Regulations (Northern Ireland) 1988 to enable claimants receiving loan payments to access the passported benefits to which those regulations relate where they are treated as entitled to benefit, but do not have actual entitlement;
- amendments to the Decisions and Appeals Regulations so that the rules apply to loan payments.

The remaining paragraphs of regulation 2 make minor and consequential amendments.

Part 3 amends regulation 5A of the SFMFE Regulations to exclude from the definition of "existing member of the family" a child for whom the claimant is responsible under a formal or informal non-parental caring arrangement, provided that the child was over 12 months of age when the

claimant became responsible for them. This ensures that such a caring arrangement will not prevent the carer from claiming a Sure Start Maternity Grant for their own child.

An impact assessment has not been produced for this instrument as it has no impact on business or on civil society organisations.

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