

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 paragraph (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⁽¹⁾, for any purpose specified in paragraph (a) or (b) of sub-paragraph (2).

(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 paragraphs (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;

(1) 1974 c. 39.

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- (f) provision of facilities for preparing and cooking food;
- (g) provision of insulation;
- (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.

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 two 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(2); 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—

(2) Regulation 75(1)(a) was substituted by [S.I. 2012/2568](#).

- (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 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.

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).
- (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.

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(4) “Alternative finance arrangements” has the meaning given in Part 10A of the Income Tax Act 2007(3).

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 section 244 of the Trade Union and Labour Relations (Consolidation) Act 1992(4).

(3) 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).

(4) 1992 c. 52.

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.

(3) Sub-paragraph (1)(b)(ii) does not apply to a person in a polygamous marriage who is a single claimant by virtue of regulation 3(4) of the UC Regulations(5).

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—

(5) There have been amendments to regulation 3 which are not relevant to these Regulations.

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- (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 Secretary of State 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;

“care home”—

- (a) in England and Wales, has the meaning given in section 3 of the Care Standards Act 2000⁽⁶⁾;
- (b) in Scotland, means a care home service within the meaning of paragraph 2 of Schedule 12 to the Public Services Reform (Scotland) Act 2010⁽⁷⁾,

and in either case includes an independent hospital;

“croft” means a croft within the meaning of section 3(1) of the Crofters (Scotland) Act 1993⁽⁸⁾;

“full-time student” has the meaning given—

- (a) in the case of income support, in regulation 61(1) of the IS Regulations⁽⁹⁾;
- (b) in the case of jobseeker’s allowance, in regulation 1(3) of the JSA Regulations⁽¹⁰⁾;
- (c) in the case of employment and support allowance, in regulation 131 of the ESA Regulations⁽¹¹⁾;
- (d) in the case of state pension credit, in regulation 1(2) of the SPC Regulations⁽¹²⁾;

“independent hospital”—

⁽⁶⁾ 2000 c. 4. Section 3 was amended by paragraph 4(2) and (3) of Part 1 of Schedule 5 to the Health and Social Care Act 2008 (c. 14).

⁽⁷⁾ 2010 asp 8.

⁽⁸⁾ 1993 c. 44. Section 3(1) was amended by section 2(a) of the Crofting Reform etc. Act 2007 (asp 7) and section 22(1) of the Crofting Reform (Scotland) Act 2010 (asp 4).

⁽⁹⁾ The definition of “full-time student” was amended by S.I. 2000/1981 and 2006/718.

⁽¹⁰⁾ The definition of “full-time student” was amended by S.I. 1996/1516, 2001/1434 and 2319, 2006/718, 2008/3157, 2010/641 and 2015/971.

⁽¹¹⁾ There have been amendments to regulation 131 which are not relevant to these Regulations.

⁽¹²⁾ There have been amendments to regulation 1(2) which are not relevant to these Regulations.

- (a) in England, means a hospital as defined in section 275 of the National Health Service Act 2006⁽¹³⁾ that is not a health service hospital as defined by that section;
- (b) in Wales, has the meaning given in section 2 of the Care Standards Act 2000;
- (c) in Scotland means an independent healthcare service as defined in section 10F(1)(a) and (b) of the National Health Service (Scotland) Act 1978⁽¹⁴⁾;

“medically approved” means certified by a medical practitioner;

“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 given—

- (a) in the case of income support and state pension credit, in regulation 2(1) of the IS Regulations⁽¹⁵⁾;
- (b) in the case of jobseeker’s allowance, in regulation 1(3) of the JSA Regulations⁽¹⁶⁾;
- (c) in the case of employment and support allowance, in regulation 2 of the ESA Regulations⁽¹⁷⁾;

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

“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, Skills Development Scotland, Scottish Enterprise, Highlands and Islands Enterprise, a government department or the Secretary of State.

(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.

PART 2

Legacy benefit claimants and SPC claimants

Application of Part 2

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

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 Great Britain.

⁽¹³⁾ 2006 c. 41.

⁽¹⁴⁾ 1978 asp 29. Section 10F(1)(A) was inserted by the Public Services Reform (Scotland) Act 2010 (asp 8).

⁽¹⁵⁾ Regulation 2(1) was amended by S.I. 2000/1981 and other amending instruments which are not relevant to these Regulations.

⁽¹⁶⁾ Regulation 1(3) was amended by S.I. 2000/1922 and other amending instruments which are not relevant to these Regulations.

⁽¹⁷⁾ There have been amendments to regulation 2 which are not relevant to these Regulations.

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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 the 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 two 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 two 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 four 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 four 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(18), Schedule 1 to the JSA Regulations(19) or Schedule 4 to the ESA Regulations(20); 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(21);

(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.

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
 - (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

(18) Relevant amending instruments are: S.I. 1988/663, 1991/2742, 1993/1150 and 2119, 1994/2139 and 3061, 1995/482, 1998/2231, 2000/681 and 724, 2002/490, 2497 and 3019, 2003/455, 2379 and 2629, 2004/1141, 2006/2378, 2007/719, 2009/1488, 2010/1160 and 1907, 2011/674 and 2425, 2013/388 and 591, 2014/2888 and 2015/173 and 1754 and other amending instruments which are not relevant to these Regulations.

(19) Relevant amending instruments are: S.I. 1996/1516 and 2538, 1998/2231, 2000/681 and 724, 2002/490, 2003/455 and 511, 2006/2378, 2007/719, 2009/1488, 2010/1160, 2013/388 and 591, 2014/2888 and 2015/1754 and other amending instruments which are not relevant to these Regulations.

(20) Relevant amending instruments are: 2012/913, 2013/630 and 2017/204.

(21) 2002 c. 21. Section 9 is amended by the Act.

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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—
 - (aa) in a dwelling, other than the home accommodation; or
 - (bb) in premises approved under section 13 of the Offender Management Act 2007⁽²²⁾;
 - (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 an 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

⁽²²⁾ 2007 c. 21.

- (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 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.

(3) Where accommodation which a claimant occupies as the claimant's home is situated on or pertains to a croft, croft land used for the purposes of the accommodation is to be treated as included in the accommodation.

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 home 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—

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- (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 a 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 care home

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 care home (or, in the case of joint claimants, where both individuals were patients or were accommodated in a care home).

(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 14 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) 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.

Step 2

Deduct from the amount resulting from step 1 the amount referred to in sub-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 05/04/2018.

Changes to legislation: There are currently no known outstanding effects for the The Loans for Mortgage Interest Regulations 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) 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); 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 two 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 Secretary of State for the purpose of meeting the expenses of the Secretary of State 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 Act—

- (a) may elect not to be regarded as such for the purposes of these Regulations by giving notice to the Secretary of State 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) 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 Secretary of State 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 2 of the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013(23);
- (b) where the notice is sent by post, it is to be treated as having been given on the day the notice was received.

Provision of information

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

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

(23) S.I. 2013/380.

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- (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 Secretary of State where the claimant has made a claim for a qualifying benefit, provided that the Secretary of State 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 Secretary of State 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 Secretary of State 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 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 Secretary of State 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 Secretary of State repay any amount paid to the lender under regulation 17(1) 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);
 - (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 is reduced as a result of—
- (a) the standard rate determined under regulation 13 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 sub-paragraph (2)(a) unless the Secretary of State’s request is made before the end of the period of two months starting with the date on which the loan payments are terminated.

SCHEDULE 5

Regulation 18

Consequential amendments

[^{F1}PART 1

General]

F1 Sch. 5 Pt. 1 heading inserted (5.4.2018) by [The Loans for Mortgage Interest and Social Fund Maternity Grant \(Amendment\) Regulations 2018 \(S.I. 2018/307\)](#), regs. 1(3), **2(18)(a)**

1. The ESA Regulations are amended as follows—

- (a) in regulation 67(1), in sub-paragraph (c) for “mortgage interest payments or such other housing costs as are prescribed” substitute “housing costs as prescribed”;
- (b) in regulation 68(1), in sub-paragraph (d) for “mortgage interest payments or such other housing costs as are prescribed” substitute “housing costs as prescribed”;
- (c) in Schedule 6—
 - (i) in paragraph 1(1)(b), for “under paragraph 16 to 18” substitute “under paragraph 18”;
 - (ii) in paragraph 1(2), omit the definition of “standard rate”;
 - (iii) in paragraph 3—
 - (aa) in sub-paragraph (1)(a), for “under paragraphs 14 to 16 of Schedule 2” substitute “under paragraph 16 of Schedule 2” and for “paragraphs 15 to 17 of Schedule 3” substitute “paragraph 17 of Schedule 3”;
 - (bb) in paragraph (2)(a), for “under paragraphs 11 to 13 of Schedule 2” substitute “under paragraph 13 of Schedule 2”;
 - (iv) in paragraph 6, omit sub-paragraphs (2) to (14);
 - (v) in paragraph 9, omit sub-paragraphs (1)(a)(i) and (2);
 - (vi) in paragraph 10, omit sub-paragraph (2)(a)(i);
 - (vii) omit paragraphs 11 to 14;
 - (viii) in paragraph 15—
 - (aa) omit sub-paragraph (6);
 - (bb) in sub-paragraph (12)(b), for “any loan or payment which qualifies under paragraphs 16 to 18” substitute “any payment which qualifies under paragraph 18”;
 - (ix) omit paragraphs 16 and 17;
 - (x) in paragraph 18—
 - (aa) for the heading substitute “Housing costs”;
 - (bb) in sub-paragraph (2)(c), for “the same meaning it has in paragraph 17(2)” substitute “the meaning in sub-paragraph (6)”;
 - (cc) after sub-paragraph (5) insert—
 - “(6) For the purposes of sub-paragraph (2)(c), “repairs and improvements” means any of the following measures undertaken with a view to maintaining the fitness of the dwelling for human habitation

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or, where the dwelling forms part of a building, any part of a building containing that dwelling—

- (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 system;
- (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 of the dwelling occupied as the home;
- (h) provision of electric lighting and sockets;
- (i) provision of storage facilities for fuel or refuse;
- (j) repairs of unsafe structural defects;
- (k) adapting a dwelling 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.”;

(xi) in paragraph 19, after sub-paragraph (2) insert—

“(2A) Where a non-dependant deduction is being made under the Loans for Mortgage Interest Regulations 2017, the amount of the deduction under sub-paragraph (1) or (2) is to be reduced by an amount equal to that non-dependant deduction.”; and

(xii) in paragraph 20, omit sub-paragraph (2)^[F2];

(d) in Schedule 8 (sums to be disregarded in the calculation of income other than earnings)—

(i) for paragraph 31 substitute—

“**31.** 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 2017 (legacy benefit claimants and SPC claimants) and used to meet such repayments.”; and

(ii) in paragraph 32—

(aa) in sub-paragraph (1)(a) for “under Schedule 6” substitute “under Part 1 of Schedule 1 to the Loans for Mortgage Interest Regulations”;

(bb) for sub-paragraph (1)(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 sub-paragraph (1)(c) for “under paragraph 16 or 17 of Schedule 6” substitute “under Part 1 of Schedule 1 to the Loans for Mortgage Interest Regulations”;

(dd) after sub-paragraph (2) insert—

“(3) In this paragraph—

- (a) “Loans for Mortgage Interest Regulations” means the Loans for Mortgage Interest Regulations 2017;
- (b) “loan payments” has the meaning given in the Loans for Mortgage Interest Regulations.”.]

F2 Sch. 5 para. 1(d) inserted (5.4.2018) by The Loans for Mortgage Interest and Social Fund Maternity Grant (Amendment) Regulations 2018 (S.I. 2018/307) , regs. 1(3), 2(18)(b)

2. The IS Regulations are amended as follows—

(a) in regulation 6(5)(c)—

- (i) in paragraph (i), for “under paragraphs 15 to 17” substitute “under paragraph 17”;
- (ii) in paragraph (ii), for “under paragraphs 14 to 16” substitute “under paragraph 16”;
- (iii) in paragraph (iii), for “under paragraphs 16 to 18” substitute “under paragraph 18”;

(b) in regulation 17(1), in sub-paragraph (e) for “mortgage interest payments or such other housing costs as are prescribed” substitute “housing costs as prescribed”;

(c) in regulation 18(1), in sub-paragraph (f) for “mortgage interest payments or such other housing costs as are prescribed” substitute “housing costs as prescribed”;

(d) in Schedule 3—

(i) in paragraph 1(1)(b), for “under paragraphs 15 to 17” substitute “under paragraph 17”;

(ii) in paragraph 1(2), the definition of “standard rate” is omitted;

(iii) in paragraph 1A(1)(a)—

(aa) for “under paragraph 14 to 16 of Schedule 2” substitute “under paragraph 16 of Schedule 2”; and

(bb) for “paragraphs 16 to 18 of Schedule 6” substitute “paragraph 18 of Schedule 6”;

(iv) in paragraph 1A(1A)(a), for “under paragraphs 11 to 13 of Schedule II” substitute “paragraph 13 of Schedule II”;

(v) in paragraph 4, omit sub-paragraphs (2) to (12);

(vi) in paragraph 8, omit sub-paragraphs (1)(a)(i), (1A) and (1B);

(vii) in paragraph 9, omit sub-paragraph (2)(a)(i);

(viii) omit paragraphs 10 to 13;

(ix) in paragraph 14—

(aa) omit sub-paragraph (3AA);

(bb) in sub-paragraph (6)(b), for “any loan or payment which qualifies under paragraphs 15 to 17” substitute “any payment which qualifies under paragraph 17”;

(x) omit paragraphs 15 and 16;

(xi) in paragraph 17—

(aa) for the heading substitute “Housing costs”;

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(bb) in sub-paragraph (2)(c), for “the same meaning it has in paragraph 16(2)” substitute “the meaning in sub-paragraph (6);

(cc) after sub-paragraph (5) insert—

“(6) For the purposes of sub-paragraph (2)(c), “repairs and improvements” means any of the following measures undertaken with a view to maintaining the fitness of the dwelling for human habitation or, where the dwelling forms part of a building, any part of a building containing that dwelling—

- (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 system;
- (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 of the dwelling occupied as the home;
- (h) provision of electric lighting and sockets;
- (i) provision of storage facilities for fuel or refuse;
- (j) repairs of unsafe structural defects;
- (k) adapting a dwelling 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.”; and

(xii) in paragraph 18, after sub-paragraph (2) insert—

“(2A) Where a non-dependant deduction is being made under the Loans for Mortgage Interest Regulations 2017, the amount of the deduction under sub-paragraph (1) or (2) is to be reduced by an amount equal to that non-dependant deduction.”^{F3};

(e) in Schedule 9 (sums to be disregarded in the calculation of income other than earnings)—

(i) for paragraph 29 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 2017 (legacy benefit claimants and SPC claimants) and used to meet such repayments.”; and

(ii) in paragraph 30—

(aa) in sub-paragraph (1)(a) for “under Schedule 3 (housing costs)” substitute “under Part 1 of Schedule 1 to the Loans for Mortgage Interest Regulations”;

(bb) for sub-paragraph (1)(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 Interest Regulations, to the extent that the

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

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

(dd) after sub-paragraph (2) insert—

“(3) In this paragraph—

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

(b) “loan payments” has the meaning given in the Loans for Mortgage Interest Regulations.”.]

F3 Sch. 5 para. 2(e) inserted (5.4.2018) by [The Loans for Mortgage Interest and Social Fund Maternity Grant \(Amendment\) Regulations 2018 \(S.I. 2018/307\)](#), regs. 1(3), **2(18)(c)**

3. The JSA Regulations are amended as follows—

(a) in regulation 83, in paragraph (f) for “mortgage interest payments or such other housing costs as are prescribed” substitute “housing costs as prescribed”;

(b) in regulation 84(1), in paragraph (g) for “mortgage interest payments or such other housing costs as are prescribed” substitute “housing costs as prescribed”;

(c) in regulation 86A, in paragraph (d) for “mortgage interest payments or such other housing costs as are prescribed” substitute “housing costs as prescribed”;

(d) in regulation 86B, in paragraph (e) for “mortgage interest payments or such other housing costs as are prescribed” substitute “housing costs as prescribed”;

(e) omit regulation 87(4) and (5);

(f) in Schedule 2—

(i) in paragraph 1(1)(b), for “under paragraph 14 to 16” substitute “under paragraph 16”;

(ii) in paragraph 1(2), omit the definition of “standard rate” ;

(iii) in paragraph 1A(1)(a)—

(aa) for “under paragraph 15 to 17 of Schedule 3” substitute “under paragraph 17 of Schedule 3”; and

(bb) for “paragraphs 16 to 18 of Schedule 6” substitute “under paragraph 18 of Schedule 6”;

(iv) in paragraph 1A(1ZA)(a), for “under paragraphs 11 to 13 of Schedule II” substitute “under paragraph 13 of Schedule II”;

(v) in paragraph 1A(1A)(a)—

(aa) for “under paragraph 15 or 16 of Schedule 3” substitute “under paragraph 17 of Schedule 3”; and

(bb) for “paragraphs 16 or 17 of schedule 6” substitute “under paragraph 18 of Schedule 6”;

(vi) in paragraph 1A(1B)(a), for “under paragraphs 11 to 13 of Schedule II” substitute “under paragraph 13 of Schedule II”;

(vii) in paragraph 4, omit sub-paragraphs (2) to (12);

(viii) in paragraph 7, omit sub-paragraphs (1)(a)(i), (2), (2A) and (2B);

(ix) in paragraph 8, omit sub-paragraph (2)(a)(i);

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- (x) omit paragraphs 9 to 12;
- (xi) in paragraph 13—
 - (aa) omit sub-paragraph (4A);
 - (bb) in sub-paragraph (9)(b), for “any loan or payment which qualifies under paragraphs 14 to 16” substitute “any payment which qualifies under paragraph 16”;
- (xii) omit paragraphs 14 and 15;
- (xiii) in paragraph 16—
 - (aa) for the heading substitute “Housing costs”;
 - (bb) in sub-paragraph (2)(c), for “the same meaning it has in paragraph 15(2)” substitute “the meaning in sub-paragraph (6)”;
 - (cc) after sub-paragraph (5) insert—
 - “(6) For the purposes of sub-paragraph (2)(c), “repairs and improvements” means any of the following measures undertaken with a view to maintaining the fitness of the dwelling for human habitation or, where the dwelling forms part of a building, any part of a building containing that dwelling—
 - (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 system;
 - (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 of the dwelling occupied as the home;
 - (h) provision of electric lighting and sockets;
 - (i) provision of storage facilities for fuel or refuse;
 - (j) repairs of unsafe structural defects;
 - (k) adapting a dwelling 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.”;
- (xiv) in paragraph 17, after sub-paragraph (2) insert—
 - “(2A) Where a non-dependant deduction is being made under the Loans for Mortgage Interest Regulations 2017, the amount of the deduction under sub-paragraph (1) or (2) is to be reduced by an amount equal to that non-dependant deduction.”; and
- (xv) in paragraph 18, omit sub-paragraph (2)^{F4};
- (g) in Schedule 7 (sums to be disregarded in the calculation of income other than earnings)—
 - (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 2017 (legacy benefit claimants and SPC claimants) and used to meet such repayments.”; and

(ii) in paragraph 31—

(aa) in sub-paragraph (1)(a) for “under Schedule 2 (housing costs)” substitute “under Part 1 of Schedule 1 to the Loans for Mortgage Interest Regulations”;

(bb) for sub-paragraph (1)(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 sub-paragraph (1)(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) insert—

“(3) In this paragraph—

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

(b) “loan payments” has the meaning given in the Loans for Mortgage Interest Regulations.”.]

<p>F4 Sch. 5 para. 3(g) inserted (5.4.2018) by The Loans for Mortgage Interest and Social Fund Maternity Grant (Amendment) Regulations 2018 (S.I. 2018/307), regs. 1(3), 2(18)(d)</p>

4. Schedule 2 of the SPC Regulations is amended as follows—

(a) in paragraph 1—

(i) in sub-paragraph (1)(b), for “under paragraphs 11 to 13” substitute “under paragraph 13”;

(ii) omit sub-paragraph (2);

(b) in paragraph 5, omit sub-paragraphs (2) to (13);

(c) omit paragraphs 7 to 12;

(d) in paragraph 13—

(i) for the heading substitute “Housing costs”;

(ii) in sub-paragraph (2)(c), for “the same meaning it has in paragraph 12(2)” substitute “the meaning in sub-paragraph (7)”;

(iii) after sub-paragraph (6) insert—

“(7) For the purposes of sub-paragraph (2)(c), “repairs and improvements” means any of the following measures undertaken with a view to maintaining the fitness of the dwelling for human habitation or, where the dwelling forms part of a building, any part of a building containing that dwelling—

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- (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 system;
 - (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 of the dwelling occupied as the home;
 - (h) provision of electric lighting and sockets;
 - (i) provision of storage facilities for fuel or refuse;
 - (j) repairs of unsafe structural defects;
 - (k) adapting a dwelling 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.”; and
- (e) in paragraph 14, after sub-paragraph (2) insert—

“(2A) Where a non-dependant deduction is being made under the Loans for Mortgage Interest Regulations 2017, the amount of the deduction under sub-paragraph (1) or (2) is to be reduced by an amount equal to that non-dependant deduction.”.

5. The UC Regulations are amended as follows—

- (a) omit regulation 25(2)(b);
- (b) omit regulation 26(3)(b)(i);
- (c) in regulation 26(3)(b)(ii), omit “only”;
- (d) omit regulation 66(1)(h)(ii);
- (e) in Schedule 1—
 - (i) in paragraph 3(f), for “within the meaning of paragraph 4” substitute “within the meaning of Schedule 1 of the Loans for Mortgage Regulations 2017”;
 - (ii) omit paragraphs 4 to 6;
 - (iii) in paragraph 7(3)(a), for “a loan that falls within paragraph 5” substitute “a qualifying loan within the meaning of regulation 2 of the Loans for Mortgage Interest Regulations 2017”;
- (f) in Schedule 5—
 - (i) in paragraph 2, omit the definitions of “alternative finance arrangements”, “alternative finance payments”, “loan interest payments” and “standard rate”;
 - (ii) for paragraph 3(1), substitute—

“(1) “Relevant payments” means one or more payments which are service charge payments.”;
 - (iii) omit paragraph 3(2);
 - (iv) in paragraph 9, for “the aggregate of the amounts resulting from paragraphs 10, 11 and 13” substitute “the amount resulting from paragraph 13”; and
 - (v) omit paragraphs 10, 11 and 12.

6. Regulation 29 of the Transitional Provisions Regulations is amended as follows—
- (a) in paragraph (1)(b)(i), for “paragraphs 14 to 16 of Schedule 2” substitute “paragraph 16 of Schedule 2”;
 - (b) in paragraph (1)(b)(ii), for “paragraphs 16 to 18 of Schedule 6” substitute “paragraph 18 of Schedule 6”; and
 - (c) in paragraph (1)(b)(iii), for “paragraphs 15 to 17 of Schedule 3” substitute “paragraph 17 of Schedule 3”.

[^{F57}—(1) The Claims and Payment Regulations are amended as follows.

(2) Omit regulations 34A (deductions of mortgage interest which shall be made from benefit and paid to qualifying lenders) and 34B (deductions of mortgage interest which may be made from benefits and paid to qualifying lenders in other cases).

(3) In regulation 35 (deductions which may be made from benefit and paid to third parties), omit “Except as provided for in regulation 34A and Schedule 9A,”.

(4) In Schedule 9 (deductions from benefit and direct payment to third parties)—

- (a) in paragraph 1(1), omit the definition of “mortgage payment”;
- (b) in paragraph 3—
 - (i) omit sub-paragraph (2)(b)(i);
 - (ii) in sub-paragraph (2)(b)(ii), for “for any other housing item” substitute “for any housing item”;
 - (iii) in sub-paragraph (2A)(b)—
 - (aa) in both places where the words occur omit “paragraph 4(8) or (11) or”;
 - (bb) omit “paragraph 5(9) or (12) or”;
 - (cc) omit “paragraph 6(10) or (13) or”;
 - (iv) for sub-paragraph (4) substitute—

“(4) 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 Secretary of State it is in the overriding interests of the family that paragraph (1) should apply.”;
 - (v) omit sub-paragraphs (5) and (6);
- (c) in paragraph 9, omit sub-paragraph (2).

(5) Omit Schedule 9A (deductions of mortgage interest from benefit and payment to qualifying lenders).]

F5 Sch. 5 paras. 7-10 inserted (5.4.2018) by [The Loans for Mortgage Interest and Social Fund Maternity Grant \(Amendment\) Regulations 2018 \(S.I. 2018/307\)](#), regs. 1(3), **2(18)(e)**

[^{F58}8. The Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013 are amended as follows—

- (a) omit regulation 59 (direct payment to lender of deductions in respect of interest on secured loans);
- (b) in regulation 60 (deductions which may be made from benefit and paid to third parties), omit “Except as provided for in regulation 59 and Schedule 5,”;

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- (c) omit Schedule 5 (direct payment to lender of deductions in respect of interest on secured loans);
- (d) in Schedule 6 (deductions from benefit and direct payment to third parties), omit paragraph 6(5) and (6).]

F5 Sch. 5 paras. 7-10 inserted (5.4.2018) by [The Loans for Mortgage Interest and Social Fund Maternity Grant \(Amendment\) Regulations 2018 \(S.I. 2018/307\)](#), regs. 1(3), **2(18)(e)**

[^{F5}9.—(1) The Social Fund Maternity and Funeral Expenses (General) Regulations 2005 are amended as follows.

- (2) In regulation 3 (interpretation), in paragraph (1)—
 - (a) in the appropriate place insert—
 - ““owner-occupier loan payments” means loan payments made under the Loans for Mortgage Interest Regulations 2017;”;
 - (b) after paragraph (4) insert—
 - “(5) For the purposes of these Regulations, 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 2017.”.
- (3) In regulation 5 (entitlement), in paragraph (2)—
 - (a) omit “or” between sub-paragraphs (f) and (g);
 - (b) after sub-paragraph (g) insert—
 - “; or
 - (h) owner-occupier loan payments and is treated as entitled to a benefit specified in sub-paragraphs (a) to (c) and (f).”.
- (4) In regulation 7 (funeral payments: entitlement), in paragraph (4)(a)—
 - (a) omit “or” between sub-paragraphs (viii) and (ix);
 - (b) after sub-paragraph (ix) insert—
 - “; or
 - (x) owner-occupier loan payments and is treated as entitled to a benefit specified in sub-paragraphs (i) to (iii) and (viii).”.]

F5 Sch. 5 paras. 7-10 inserted (5.4.2018) by [The Loans for Mortgage Interest and Social Fund Maternity Grant \(Amendment\) Regulations 2018 \(S.I. 2018/307\)](#), regs. 1(3), **2(18)(e)**

[^{F5}10.—(1) The Social Fund Cold Weather Payments (General) Regulations 1988 are amended as follows.

- (2) In regulation 1 (citation, commencement and interpretation), in paragraph (2)—
 - (a) in the definition of “claimant” after “universal credit” insert “or who is in receipt of owner-occupier loan payments”;
 - (b) in the appropriate place insert—
 - ““owner-occupier loan payments” means loan payments made under the Loans for Mortgage Interest Regulations 2017;”.
- (3) In regulation 1A (prescribed description of persons)—
 - (a) in paragraph (2)—

- (i) omit “or” between sub-paragraphs (d) and (e);
- (ii) after sub-paragraph (e) insert—
 - “; or
 - (f) owner-occupier loan payments and is treated as entitled to a benefit specified in sub-paragraphs (a) to (d).”;
- (b) in paragraph (3)—
 - (i) in the opening words for “(d) or (e)” substitute “(d), (e) or (f)”;
 - (ii) omit “or” between sub-paragraphs (e) and (f);
 - (iii) after sub-paragraph (f) insert—
 - “; or
 - (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 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 2008.”;
- (c) after paragraph (3) insert—
 - “(3A) In paragraph (3), 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 2017.”.]

F5 Sch. 5 paras. 7-10 inserted (5.4.2018) by [The Loans for Mortgage Interest and Social Fund Maternity Grant \(Amendment\) Regulations 2018 \(S.I. 2018/307\)](#), regs. 1(3), **2(18)(e)**

[^{F6}PART 2

Decisions and Appeals

F6 Sch. 5 Pt. 2 inserted (5.4.2018) by [The Loans for Mortgage Interest and Social Fund Maternity Grant \(Amendment\) Regulations 2018 \(S.I. 2018/307\)](#), regs. 1(3), **2(18)(e)**

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

(2) In regulation 1 (citation, commencement, application and interpretation), in paragraph (3) in the appropriate places insert—

““the Loans for Mortgage Interest Regulations” means the Loans for Mortgage Interest Regulations 2017;”

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

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

(3) In regulation 7 (date from which a decision superseded under section 10 takes effect)—

(a) after paragraph (12) insert—

“(12A) Paragraph (12) applies where—

- (a) the effect of a decision under section 10 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 Secretary of State 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 section 10 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 section 8 or 10 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 section 10 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 section 10 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;

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- (b) the claimant or the claimant's partner has reached pensionable age (within the meaning in section 122(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 section 10 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.”;

(b) omit paragraphs (13) to (17G) and (18) to (23).

(4) In regulation 13 (income support and social fund determinations on incomplete evidence), for paragraph (1) substitute—

“(1) Where, for the purpose of a decision under section 8 (decisions by Secretary of State) or 10 (decisions superseding earlier decisions)—

- (a) a determination falls to be made by the Secretary of State 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 of the Loans for Mortgage Interest Regulations (calculation of each loan payment); 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 Secretary of State that the Secretary of State is not in possession of all of the evidence or information which is relevant for the purposes of such a determination,

the Secretary of State 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.”.

(5) In Schedule 2 (decisions against which no appeal lies), in paragraph 5 for sub-paragraph (u) substitute—

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

12.—(1) The Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations 2013 are amended as follows.

(2) In Schedule 3 (decisions against which no appeal lies), in paragraph 1 omit sub-paragraph (o).]

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Changes to legislation:

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