STATUTORY INSTRUMENTS

2018 No. 307

SOCIAL SECURITY

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

Made - - - - *5th March 2018*

Laid before Parliament *6th March 2018*

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

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 123(1)(a), 136(3) and (5)(b), 137(1), 138(1)(a), (2) and (4) and 175(1) and (3) of the Social Security Contributions and Benefits Act 1992(**1**), sections 5(1)(p), 15A(2), 189(1), (4) and (6) and 191 of the Social Security Administration Act 1992(**2**), sections 12(1) and (4)(b), 35(1) and 36(2) of the Jobseekers Act 1995(**3**), sections 10(3) and (6), 11(1), 79(1) and (4) and 84 of the Social Security Act 1998(**4**), sections 17(1) and (3)(b), 24(1) and 25(2) and (3) of the Welfare Reform Act 2007(**5**) and sections 18, 19, 21 and 34 of the Welfare Reform and Work Act 2016(**6**).

In accordance with section 173(1)(b) of the Social Security Administration Act 1992, the Social Security Advisory Committee has agreed that the proposals in respect of these Regulations should not be referred to it.

(**1**) 1992 c. 4. Section 123 was repealed by Part 1 of Schedule 14 to the Welfare Reform Act 2012 (c. 5) which had effect on 1st April 2013, subject to savings and transitional provisions specified in S.I. 2013/358, to provide for the supersession of benefits by universal credit only in so far as they relate to the abolition of council tax benefit. Sections 137(1) and 138(4) are cited for the meaning of "prescribed". Amendments have been made to section 137(1) which are not relevant to these Regulations. Section 138(1) was substituted by section 70(1) of the Social Security Act 1998 (c. 14), subject to transitional provisions specified in S.I. 1999/1055. The word "and" at the end of section 138(1)(a) was repealed by Part 8 of Schedule 14 to the Welfare Reform Act 2012 which had effect on 1st April 2012, as specified in S.I. 2012/3090, subject to savings only in so far as they relate to budgeting loans, community care grants and crisis loans. Section 138 was amended by section 23(5) of the Scotland Act 2016 (c. 11) with the effect of devolving the relevant powers to the Scottish Parliament for the purposes of making regulations only, with effect from 17th May 2017. For all other purposes, the powers devolved to the Scottish Parliament by section 23(5) do not come into force until 1st April 2020 as specified in S.I. 2017/455. Section 175(1) was amended by paragraphs 29(1) and (2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).

(**2**) 1992 c. 5. Section 15A(2) was amended by paragraphs 9(3) and (4) of Schedule 2 to the State Pension Credit Act 2002 (c. 16). Section 189(1) was amended by paragraph 57(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 and by paragraph 1 of Schedule 6 to the Tax Credits Act 2002 (c. 21). Section 191 is cited for the meaning of "prescribe". The definition of "prescribe" was amended by paragraph 10 of Schedule 5 to the Welfare Reform Act 2007 (c. 5).

(**3**) 1995 c. 18. Section 35(1) is cited for the meaning of "prescribed" and "regulations". The definitions of "prescribed" and "regulations" were amended by paragraph 62 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999.

(**4**) 1998 c. 14. Section 79(1) was amended by S.I. 2008/2833 (except in relation to Scotland for the purposes specified in article 3(3)(a) and (b)) and paragraphs 12 and 13 of Schedule 4 to the Tax Credits Act 2002. Section 84 is cited for the meaning of "prescribe".

(**5**) 2007 c. 5. Section 24(1) is cited for the meaning of "prescribed" and "regulations".

(**6**) 2016 c. 7.

PART 1

Citation, commencement and extent

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Loans for Mortgage Interest and Social Fund Maternity Grant (Amendment) Regulations 2018.

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

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

(4) These Regulations extend to England and Wales and Scotland only.

PART 2

Loans for Mortgage Interest Amendments

Amendments to the Loans for Mortgage Interest Regulations 2017

2.—(1) The Loans for Mortgage Interest Regulations 2017(**7**) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) in the appropriate place insert—

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

(b) 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;";

(c) in the definition of "legacy benefit claimant" after "entitled to" insert ", or is treated as entitled to,";

(d) for the definition of "single claimant" substitute—

> ""single claimant" means—

(**7**) S.I. 2017/725. These Regulations came into force on 27th July 2017 other than regulations 18 to 21 which come into force on 6th April 2018.

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

(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;";

(e) in the definition of "SPC claimant" after "entitled to" insert ", or is treated as entitled to,";

(f) in the definition of "transitional end day" after "regulations 19(1)" insert ", 19A(1) and (5)";

(g) 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 sub-paragraph (a)(ii) of the definition of "joint claimants" or sub-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 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.".

(4) 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.".

(5) 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.".

(6) In regulation 10 (calculation of each loan payment), after "regulation 14" insert "or 14A".

(7) 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".

(8) 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 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.".

(9) 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 Secretary of State 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 Secretary of State in order to repay all of the outstanding amount in accordance with regulation 16(8) and (9); and

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

(1B) Where regulation 16(3) applies, the Secretary of State shall continue to charge interest on the outstanding amount until the day referred to in regulation 15(1).";

(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 Secretary of State.".

(10) 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".

(11) 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 to the Social Security and Child Support (Decisions and Appeals) Regulations 1999(**8**) 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.".

(12) 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, 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 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 Secretary of State 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 Secretary of State 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 Secretary of State 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—

(**8**) S.I. 1999/991.