STATUTORY RULES OF NORTHERN IRELAND

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(**1**), sections 5(1)(q), 13A(2), 165(1) and (4) and (6) and 167(1) of the Social Security Administration (Northern Ireland) Act 1992(**2**), Articles 2(2), 14(1) and (4)(b) of the Jobseekers (Northern Ireland) Order 1995(**3**), Articles 2(2), 11(3) and (6), 12(1) and 74(1) and (3) of the Social Security (Northern Ireland) Order 1998(**4**), sections 17(1) and (3)(b) and 24(1) of, the Welfare Reform Act (Northern Ireland) 2007(**5**) and Articles 13, 14, 16 and 22 of the Welfare Reform and Work (Northern Ireland) Order 2016(**6**), 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(**7**).

(**1**) 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).
(**2**) 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".
(**3**) S.I. 1995/2705 (N.I. 15); Article 2(2) is cited for the meaning of "prescribed" and "regulations".
(**4**) 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".
(**5**) 2007 c. 2 (N.I.); section 24(1) is cited for the meaning of "prescribed" and "regulations".
(**6**) S.I. 2016/999 (N.I. 1).
(**7**) 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. 481and 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(**8**) 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(**9**) 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—

(**8**) 1954 c. 33 (N.I.).
(**9**) S.R. 2017 No. 176; these Regulations came into operation on 20th October 2017 other than regulations 18 to 21which come into operation on 6th April 2018.

""single claimant" means —

(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;";

(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(**10**) 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—

(**10**) S.R. 1999 No. 162