
STATUTORY INSTRUMENTS

1992 No. 1309

**The Social Security (Mortgage Interest
Payments) (Northern Ireland) Order 1992**

Title and commencement

1. This Order may be cited as the Social Security (Mortgage Interest Payments) (Northern Ireland) Order 1992 and shall come into operation on the seventh day after the day on which it is made.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(1) shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order “the Department” means the Department of Health and Social Services.

Payment out of benefit of sums in respect of mortgage interest, etc.

3.—(1) After Article 52 of the Social Security (Northern Ireland) Order 1986(2) (regulations about claims for and payments of benefit) there shall be inserted the following Article

“Payment out of benefit of sums in respect of mortgage interest, etc.

52A.—(1) This Article applies in relation to cases where—

- (a) mortgage interest is payable to a qualifying lender by a person (“the borrower”) who is entitled, or whose partner, former partner or qualifying associate is entitled, to income support; and
- (b) a sum in respect of that mortgage interest is or was brought into account in determining the applicable amount for the purposes of income support in the case of the borrower or the partner, former partner or qualifying associate; and any reference in this Article to “the relevant beneficiary” is a reference to the person whose applicable amount for the purposes of income support is or was determined as mentioned in sub-paragraph (b).

(2) Without prejudice to sub-paragraphs (j) and (q) of Article 52(1), regulations may, in relation to cases where this Article applies, make provision—

- (a) requiring that, in prescribed circumstances, a prescribed part of any relevant benefits to which the relevant beneficiary is entitled shall be paid by the Department directly to the qualifying lender and applied by that lender towards the discharge of the liability in respect of the mortgage interest;
- (b) for the expenses of the Department in administering the making of payments under the regulations to be defrayed, in whole or in part, at the expense of qualifying lenders, whether by requiring them to pay prescribed fees or by deducting and

(1) 1954 c. 33 (N.I.)

(2) 1986 NI 18

- retaining a prescribed part of the payments that would otherwise be made to them under the regulations or by such other method as may be prescribed;
- (c) for requiring a qualifying lender, in a case where by virtue of sub-paragraph (b) the amount of the payment made to him under the regulations is less than it would otherwise have been, to credit against the liability in respect of the mortgage interest (in addition to the payment actually made) an amount equal to the difference between—
- (i) the payment that would have been so made, apart from sub-paragraph (b); and
 - (ii) the payment actually made; and, in any such case, for treating the amount so credited as properly paid on account of benefit due to the relevant beneficiary;
- (d) for enabling a body which, or person who, would otherwise be a qualifying lender to elect not to be regarded as such for the purposes of this Article, other than this sub-paragraph;
- (e) for the recovery from any body or person—
- (i) of any sums paid to that body or person by way of payment under the regulations that ought not to have been so paid; or
 - (ii) of any fees or other sums due from that body or person by virtue of sub-paragraph (b);
- (f) for cases where the same person is the borrower in relation to mortgage interest payable in respect of two or more different loans; and
- (g) for any person of a prescribed class or description who would otherwise be regarded for the purposes of this Article as the borrower in relation to any mortgage interest not to be so regarded, except for the purposes of this sub-paragraph; but the Department shall not make any regulations under sub-paragraph
- (b) unless it has consulted with such organisations representing qualifying lenders likely to be affected by the regulations as it considers appropriate.
- (3) The bodies and persons who are “qualifying lenders” for the purposes of this Article are—
- (a) any authorised institution, within the meaning of the Banking Act 1987⁽³⁾, to which section 67 of that Act applies (companies and partnerships which may describe themselves as banks, etc.),
 - (b) any building society incorporated under the Building Societies Act 1986⁽⁴⁾,
 - (c) any body or person carrying on insurance business, within the meaning of the Insurance Companies Act 1982⁽⁵⁾,
 - (d) any district council,
 - (e) the Northern Ireland Housing Executive, and such bodies or persons not falling within sub-paragraphs (a) to (e) as may be prescribed.
- (4) In this Article—
- “mortgage interest” means interest on a loan which is secured by a mortgage of or charge over land and which has been taken out to defray money applied for any of the following purposes, that is to say—
- (a) acquiring any residential land which was intended, at the time of the acquisition, for occupation by the borrower as his home;

(3) 1987 c. 22
(4) 1986 c. 53
(5) 1982 c. 50

- (b) carrying out repairs or improvements to any residential land which was intended, at the time of taking out the loan, for occupation by the borrower as his home;
- (c) paying off another loan; or
- (d) any prescribed purpose not falling within sub-paragraphs (a) to (c);

but interest shall be regarded as mortgage interest by virtue of sub-paragraph (c) only to the extent that interest on that other loan would have been regarded as mortgage interest for the purposes of this Article had the loan not been paid off;

“partner” means—

- (a) any person to whom the borrower is married and who is a member of the same household as the borrower; or
- (b) any person to whom the borrower is not married but who lives together with the borrower as husband and wife, otherwise than in prescribed circumstances;

and “former partner” means a person who has at some time been, but no longer is, the borrower’s partner;

“qualifying associate”, in relation to the borrower, means a person who, for the purposes of income support, falls to be treated by regulations under Part III as responsible for so much of the expenditure which relates to housing costs (within the meaning of those regulations) as consists of any of the mortgage interest payable by the borrower, and who falls to be so treated because—

- (a) the borrower is not meeting those costs, so that the person has to meet them if he is to continue to live in the dwelling occupied as his home; and
- (b) the person is one whom it is reasonable, in the circumstances, to treat as liable to meet those costs;

“relevant benefits” means such of the following benefits as may be prescribed, namely—

- (a) benefits under the principal Act;
- (b) income support; “residential land” means any land which consists of or includes a dwelling.

(5) For the purposes of this Article, regulations may make provision—

- (a) as to circumstances in which residential land is or is not to be treated as intended for occupation by the borrower as his home; or
- (b) as to circumstances in which persons are to be treated as being or not being members of the same household.”.

(2) For the purpose of incorporating provisions of this Order into the Social Security Administration (Northern Ireland) Act 1992(6) (which consolidates certain statutory provisions relating to the administration of social security and which comes into force on 1st July 1992) that Act shall have effect, and be taken always to have had effect, as if it had originally been enacted with the amendments specified in the Schedule; and paragraph (1) shall accordingly cease to have effect on the coming into force of that Act.

Financial provision

4. Any sums recovered by the Department under this Order shall be paid—

- (a) into the Consolidated Fund, to the extent that the Department estimates that those sums relate to payments out of money appropriated by Measure; and

- (b) into the Northern Ireland National Insurance Fund, to the extent that the Department estimates that they relate to payments out of that Fund; and any other sums received by the Department under this Order shall be paid into the Consolidated Fund. Supplementary provisions

5.—(1) The Department may by regulations make such transitional or consequential provision, and such savings, as it considers necessary or expedient for, or in connection with, the coming into operation of any provision of this Order.

(2) Subsections (1) to (3A) of section 155 of the principal Act (general provisions about regulations and orders) shall apply in relation to the powers to make regulations conferred by paragraph (1) as they apply in relation to any power conferred by that Act to make regulations, but as if for references to that Act there were substituted references to that paragraph.

(3) Regulations under paragraph (1), other than those to which paragraph (4) applies, shall be subject to negative resolution.

(4) This paragraph applies to regulations under paragraph (1) which are contained in a statutory rule which includes any regulations subject to the confirmatory procedure.

(5) Regulations to which paragraph (4) applies shall be subject to the confirmatory procedure.

(6) In this Article—

“the confirmatory procedure” means the procedure described in section 156(1) of the principal Act;

“the principal Act” means the Social Security (Northern Ireland) Act 1975(7).

G. I. de Deney
Clerk of the Privy Council