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STATUTORY INSTRUMENTS

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**1992 No. 1309 (N.I.9)**

**NORTHERN IRELAND**

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

<i>Made</i>	- - - -	<i>4th June 1992</i>
<i>Laid before Parliament</i>		<i>10th June 1992</i>
<i>Coming into operation</i>		<i>11th June 1992</i>

At the Court at Buckingham Palace, the 4th day of June 1992

Present,

The Queen's Most Excellent Majesty in Council

Whereas this Order is made only for purposes corresponding to those of the Social Security (Mortgage Interest Payments) Act 1992<sup>(1)</sup>:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974<sup>(2)</sup> (as modified by section 2(7) of the said Act of 1992) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

*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<sup>(3)</sup> 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.

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<sup>(1)</sup> 1992 c. 33  
<sup>(2)</sup> 1974 c. 28  
<sup>(3)</sup> 1954 c. 33 (N.I.)

*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<sup>(4)</sup> (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 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<sup>(5)</sup>, 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<sup>(6)</sup>,
- (c) any body or person carrying on insurance business, within the meaning of the Insurance Companies Act 1982<sup>(7)</sup>,
- (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;
- (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—

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<sup>(5)</sup> 1987 c. 22

<sup>(6)</sup> 1986 c. 53

<sup>(7)</sup> 1982 c. 50

- (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<sup>(8)</sup> (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<sup>(9)</sup>.

*G. I. de Deney*  
Clerk of the Privy Council

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<sup>(9)</sup> 1975 c. 15

## SCHEDULE

Article 3(2).

CORRESPONDING AMENDMENT OF THE SOCIAL SECURITY  
ADMINISTRATION (NORTHERN IRELAND) ACT 1992(10)

1. After section 13 of the Social Security Administration (Northern Ireland) Act 1992 there shall be inserted—

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

**13A.**—(1) This section 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 section 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 paragraph (b) above.

(2) Without prejudice to paragraphs (j) and (q) of section 5(1) above, regulations may, in relation to cases where this section 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 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 paragraph (b) above 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 paragraph (b) above; 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 section, other than this 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 paragraph (b) above;
- (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 section as the borrower in relation to any mortgage interest not to be so regarded, except for the purposes of this paragraph;

but the Department shall not make any regulations under paragraph (b) above 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 section are—

- (a) any authorised institution, within the meaning of the Banking Act 1987<sup>(11)</sup>, 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<sup>(12)</sup>;
- (c) any body or person carrying on insurance business, within the meaning of the Insurance Companies Act 1982<sup>(13)</sup>;
- (d) any district council;
- (e) the Housing Executive; and such bodies or persons not falling within paragraphs (a) to (e) above as may be prescribed.

(4) In this section—

“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;
- (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 paragraphs (a) to (c) above; but interest shall be regarded as mortgage interest by virtue of paragraph (c) above only to the extent that interest on that other loan would have been regarded as mortgage interest for the purposes of this section 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;

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<sup>(11)</sup> 1987 c. 22

<sup>(12)</sup> 1986 c. 53

<sup>(13)</sup> 1982 c. 50

*Status: This is the original version (as it was originally made).*

“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 VII of the Contributions and Benefits Act 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, as defined in section 121 of the Contributions and Benefits Act;
- (b) income support;

“residential land” means any land which consists of or includes a dwelling.

- (5) For the purposes of this section, 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.—(1) In section 144 of that Act, in subsection (6) (which consolidates certain statutory provisions making provision about the destination of receipts) for the words “paid to the Department” there shall be substituted the words “recovered by the Department under section 13A above or paid to it”.

- (2) At the end of that section there shall be added—

“(7) Any sums received by the Department under regulations made by virtue of section 13A(2)(b) above shall be paid into the Consolidated Fund.”.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order is made only for purposes corresponding to those of the Social Security (Mortgage Interest Payments) Act 1992.

Article 3(1) introduces a new Article into the Social Security (Northern Ireland) Order 1986. It enables provision to be made by regulations for sums allowed for mortgage interest in the determination of the entitlement of the borrower, or his partner, former partner or other qualifying associate, to income support, to be paid directly to the lender by the Department of Health and Social Services and for the cost to that Department of making these payments to be met in whole or in part by lenders. Articles 4 and 5 make financial and supplementary provisions.

Article 3(2) and the Schedule make amendments to the Social Security Administration (Northern Ireland) Act 1992 (a consolidation measure) which correspond to Articles 3(1) and 4.



