

2010 No. 129

SOCIAL SECURITY

**The Social Security (Claims and Payments) (Amendment)
Regulations (Northern Ireland) 2010**

Made - - - - - *26th March 2010*

Coming into operation - - - - - *8th April 2010*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 5(1)(q), 13A(2)(a), (aa) and (f) and 165(1), (4) and (5) of the Social Security Administration (Northern Ireland) Act 1992(a), and now vested in it(b).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Claims and Payments) (Amendment) Regulations 2010 and shall come into operation on 8th April 2010.

(2) The Interpretation Act (Northern Ireland) 1954(c) shall apply to these Regulations as it applies to an Act of the Assembly.

Amendment of the Social Security (Claims and Payments) Regulations

2.—(1) The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(d) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 34ZA(e) and regulation 34ZB(f) (deductions of mortgage interest from benefit and payment to qualifying lenders)—

(a) in paragraph (1) at the end add “or, insofar as the payment exceeds that liability, in accordance with paragraph 4A of that Schedule”, and

(b) for paragraph (2) substitute—

“(2) The provisions of Schedule 8B shall have effect in relation to payments made under this regulation.”.

(3) In Schedule 8B(g) (deductions of mortgage interest from benefit and payment to qualifying lenders) after paragraph 4 (more than one loan) insert—

(a) 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.)) and section 165(1) 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)

(b) See Article 8(b) of S.R. 1999 No. 481

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

(d) S.R. 1987 No. 465; relevant amending Regulations are S.R.1992 No. 271 and S.R. 2003 No. 191

(e) Regulation 34ZA was inserted by regulation 2 of S.R. 1992 No. 271 and amended by regulation 12(1) of S.R. 2003 No. 191

(f) Regulation 34ZB was inserted by regulation 12(2) of S.R. 2003 No. 191

(g) Schedule 8B was inserted by regulation 5 of S.R. 1992 No. 271

“Application of payment where it exceeds borrower’s actual mortgage interest

4A.—(1) Subject to sub-paragraph (2), insofar as the sum paid to a qualifying lender under this Schedule in respect of a particular loan exceeds the borrower’s liability in respect of the mortgage interest payable on that loan the excess shall be applied by that lender in the following order of priority—

- (a) first, towards the discharge of any liability for arrears of mortgage interest in respect of that loan;
- (b) second, towards the discharge of any liability to repay the principal sum, or any other sum payable by the borrower to that lender, in respect of that loan.

(2) Where the borrower is liable to pay mortgage interest to the same qualifying lender in respect of two or more different loans, insofar as the sum paid to that lender under this Schedule in respect of one of those loans (“loan A”) exceeds the borrower’s liability in respect of the mortgage interest payable on that loan the excess shall be applied by that lender in the following order of priority—

- (a) first, towards the discharge of any liability for arrears of mortgage interest payable in respect of loan A;
- (b) second, towards the discharge of any liability to repay the principal sum, or any other sum payable by the borrower to that lender, in respect of loan A or (insofar as that liability is not already discharged by the application of any other sum paid to the qualifying lender under this Schedule) any of the other loans.”.

Sealed with the Official Seal of the Department for Social Development on 26th March 2010

(L.S.)

Anne McCleary
A senior officer of the Department for Social Development

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 to provide that, where payments of mortgage interest are deducted from income support, an income-based jobseeker's allowance, the guarantee credit element or savings credit element of state pension credit or an income-related employment and support allowance and paid to a qualifying lender, any amount paid in excess of the borrower's actual mortgage interest liability shall be applied first to pay off any arrears of mortgage interest and then to repay the principal sum of that mortgage or any other liability to the qualifying lender in respect of that mortgage.

Provision is also made for the application of any such excess in cases where the borrower is liable to pay mortgage interest to the same qualifying lender in respect of more than one loan.

These Regulations make in relation to Northern Ireland only provision corresponding to provision contained in Regulations made by the Secretary of State for Work and Pensions in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992, are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.

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