

**EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (HOUSING COSTS AND MISCELLANEOUS
AMENDMENTS) REGULATIONS 2007**

2007 No. 3183

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of her Majesty.

2. Description

2.1 The Regulations make a series of amendments relating to the housing costs that can be met by income support (IS), income-based jobseeker's allowance (JSA(IB)) and state pension credit (SPC). They also make a minor amendment to the Social Security Claims and Payments Regulations.

2.2 A claimant in receipt of IS, JSA(IB), or SPC may receive help towards the eligible interest on loans taken out to purchase their home, certain home improvement loans as well as other housing costs (such as ground rent and specific service charges). No help can be provided towards the cost of loan arrears, endowment premiums or capital repayments.

3. Matters of special interest to the Joint Committee on Statutory Instruments.

3.1 None

4. Legislative Background

4.2 The purpose of these regulations is to:

- promote consistency concerning entitlement to housing costs after claimants move into work (see paragraphs 7.1 to 7.2);
- promote consistency in the treatment of housing costs when claimants move between certain benefits (see paragraphs 7.3 to 7.4);
- make a minor definitional change following changes to child benefit (see paragraph 7.5);
- clarify when housing costs are not met when a loan was incurred at a time when a claimant was entitled to benefit or in a 26 week period between claims (see paragraphs 7.6 to 7.7); and
- remove spent references in legislation (see paragraph 7.8).

5. Extent

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

As the instrument is subject to negative resolution and does not amend primary legislation, no statement is required.

7. Policy Background

Mortgage Interest Run On

7.1 The Income Support (General) Regulations 1987 allow certain claimants whose benefit included an amount for housing costs in relation to a property-related loan to continue to receive help with their housing costs for an additional 4 weeks after they move into work, (known as mortgage interest run-on).

7.2 Regulation 3(2) amends those Regulations so that claimants who were receiving help with other housing costs such as rent or service charges can also benefit from the 4 week mortgage interest run on. This amendment is consistent with the work incentive scheme in housing benefit which includes payments towards eligible rent and service charges for the first 4 weeks after a claimant moves into work.

Continuity between claims for IS/JSA/SPC

7.3 Where a claimant or his partner were previously in receipt of benefit some housing costs can be carried forward from an IS to an income-based JSA claim (and vice versa), including where there is a break in entitlement. Currently, these provisions only apply to allowable interest on mortgages and loans for repairs and home improvements. Regulations 3(3)(a) and 4(2)(a) amend the Income Support and Jobseeker's Allowance Regulations so that other qualifying housing costs (such as service charges and ground rent) are treated in an equivalent manner.

7.4 Regulations 3(3)(a) and 4(2)(a) also make similar provision in relation to income support and jobseeker's allowance where a claimant or his partner was previously entitled to state pension credit.

Other minor amendments

Definition of "family"

7.5 The Child Benefit Act 2005 (c.6) made provision to extend child benefit entitlement to qualifying 19 year olds. Under the Claims and Payments Regulations, mortgage interest payments may be made directly to lenders in state pension credit cases where the Secretary of State has determined that this

would be in the best interests of the claimant or his family. Regulation 2(2) makes a minor amendment to the definition of “family” so that this refers to young people under the age of 20 instead of, as now, to those aged under 19 years.

Housing costs not met

7.6 No help is usually provided with housing costs if loans are taken out during a period when a person is entitled to benefit, or in a period of up to 26 weeks between two periods of entitlement. This is designed to prevent claimants “upmarketing” by taking out home loans at public expense.

7.7 However, for the purposes of determining a claimant’s entitlement to housing costs, breaks of entitlement between claims (which may be up to 104 weeks) can be treated as periods when a claimant is deemed as being in receipt of benefit. The effect of this is to protect housing cost entitlement between the old and new claims (for example, a person would not have to re-serve any waiting period already served before housing costs can be met). The amendments made by regulations 3(3)(b) and 4(2)(b) put it beyond doubt that these “deeming” rules do not apply to the circumstances in which housing costs are not met because a loan was incurred at a time when a claimant was entitled to benefit or in a 26 week period between claims.

Spent references

7.8 Regulations 3(3)(c), 4(2)(c) and 5 revoke spent provisions which relate to the period following the introduction of the standard rate which is used to calculate the amount of housing costs that will be met.

Benefit Simplification

7.9 The proposed changes have no impact on the complexity of the benefits system, nor add further complexity to the existing legislation.

Consultation

7.10 The Department presented these regulations to the Social Security Advisory Committee on 3rd October 2007. The Committee has given approval to proceed without public consultation. The Council of Mortgage Lenders will be informed of these changes when the regulations are laid.”

Consolidation

7.11 There are no plans for consolidation of the legislation. We are not intending to consolidate the existing Regulations once this S.I. has been laid. Our reasons being that the blue volumes provide this function and will eventually incorporate this S.I. into the existing Regulations. They are held on line and are available to the public free of charge.

Guidance

7.12 Guidance will be available to Jobcentre Plus and The Pension Service concerning the amendments made by the Regulations.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or the voluntary sector.

8.2 The impact on the public sector is negligible.

9. Contact

Phillipa Fallowfield at The Department for Work and Pensions: Telephone 020 7962 8305; or email Phillipa.Fallowfield@dwpgsi.gov.uk can answer any queries regarding this instrument.