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STATUTORY INSTRUMENTS

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**2017 No. 725**

**SOCIAL SECURITY**

**The Loans for Mortgage Interest Regulations 2017**

*Made* - - - - *5th July 2017*

*Laid before Parliament* *6th July 2017*

*Coming into force in accordance with regulation 1(2)*

The Secretary of State, in exercise of the powers conferred by sections 4(5), 35(1), 36(2) and (4) of the Jobseekers Act 1995(1), sections 2(3)(b) and sections 17(1) and 19(1) of the State Pension Credit Act 2002(2), sections 123(1)(a), 135(1), 137(1) and (2)(d) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(3), sections 4(2)(a), 24(1) and 25(2), (3) and (5)(a) of the Welfare Reform Act 2007(4), sections 11(3) and (4) and 42(1), (2) and (3)(a) of, and paragraph 1(1) of Schedule 6 to, the Welfare Reform Act 2012(5) and sections 18, 19 and 21 of the Welfare Reform and Work Act 2016(6), makes the following Regulations.

This instrument contains only regulations made under, by virtue of, or consequential upon, sections 18, 19 and 21 of the Welfare Reform and Work Act 2016 and is made before the end of the period of 6 months beginning with the coming into force of those sections. Therefore, in accordance with section 173(5) of the Social Security Administration Act 1992(7), these Regulations are not required to be referred to the Social Security Advisory Committee.

**Citation and commencement**

- 1.—(1) These Regulations may be cited as the Loans for Mortgage Interest Regulations 2017.
- (2) These Regulations come into force—
  - (a) for the purposes of regulations 18 to 21, on 6th April 2018;
  - (b) for all other purposes, on 27th July 2017.

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(1) 1995 c. 18. Section 35(1) is cited for the meaning of “prescribed” and “regulations”. Section 36(4) was amended by paragraph 63 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 9).

(2) 2002 c. 16. Section 17(1) is cited for the meaning of “prescribed” and “regulations”. Section 19(1) applies section 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992 (c. 4) to regulations under the State Pension Credit Act 2002.

(3) 1992 c. 4. Section 137(1) is cited for the meaning of “prescribed”. Section 175(1) and (4) was amended by paragraph 29(2) and (4) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999.

(4) 2007 c. 5. Section 24(1) is cited for the meaning of “prescribed” and “regulations”.

(5) 2012 c. 5.

(6) 2016 c. 7.

(7) 1992 c. 5.

**Interpretation****2.—(1) In these Regulations—**

“the Act” means the Welfare Reform and Work Act 2016;

“alternative finance payments” has the meaning given in paragraph 5(3) of Schedule 1 to these Regulations;

“applicable amount” means—

- (a) in the case of employment and support allowance, the claimant’s weekly applicable amount under regulations 67 to 70 of the ESA Regulations**(8)**;
- (b) in the case of income support, the claimant’s weekly applicable amount under regulations 17 to 21AA of the IS Regulations**(9)**;
- (c) in the case of jobseeker’s allowance, the claimant’s weekly applicable amount under regulations 83 to 86C of the JSA Regulations**(10)**;
- (d) in the case of an SPC claimant, the claimant’s weekly appropriate minimum guarantee under section 2 of the State Pension Credit Act 2002**(11)**;
- (e) in the case of a UC claimant, the maximum amount of a claimant’s award of universal credit under regulation 23(1) of the UC Regulations**(12)**;

“assessment period” has the meaning given in regulation 21 of the UC Regulations**(13)**;

“benefit unit” means a single claimant and his or her partner (if any) or joint claimants;

“benefit week” has the meaning given—

- (a) in the case of employment and support allowance, in regulation 2 of the ESA Regulations**(14)**;
- (b) in the case of income support, in paragraph 4 of Schedule 7 to the Claims and Payment Regulations**(15)**;
- (c) in the case of jobseeker’s allowance, in regulation 1 of the JSA Regulations**(16)**;
- (d) in the case of state pension credit, in regulation 1 of the SPC Regulations**(17)**;

“charge by way of legal mortgage” has the meaning given in section 132(1) of the Land Registration Act 2002**(18)**;

“child” means a person under the age of 16;

“claimant” means a single claimant or each of joint claimants;

“Claims and Payment Regulations” means the Social Security (Claims and Payments) Regulations 1987**(19)**;

**(8)** S.I. 2008/794. Regulation 67 was amended by S.I. 2009/3228 and 2017/204.

**(9)** S.I. 1987/1967. Regulation 17 was amended by S.I. 1988/1445, 1989/1678, 1991/387, 2003/455, 2005/2687, 2006/588 and 2009/3228.

**(10)** S.I. 1996/207. Regulation 83 was amended by S.I. 2003/455 and 1121 and 2009/3228. Regulation 84 was amended by S.I. 1996/1516, 2001/3767, 2003/455 and 1121 and 2009/3228. Regulations 86A and 86B were amended by S.I. 2000/1978, 2001/3767, 2003/1121 and 2009/3228.

**(11)** 2002 c. 6. Section 2 is amended by paragraph 14 of Schedule 24 to the Civil Partnership Act 2004 (c. 33).

**(12)** S.I. 2013/376. Regulation 23(1) was amended by S.I. 2017/204.

**(13)** Regulation 21 was amended by S.I. 2014/2887 and 2015/1362.

**(14)** There have been amendments to regulation 2 which are not relevant to these Regulations.

**(15)** S.I. 1987/1968. Paragraph 4 was amended by S.I. 1988/522.

**(16)** Regulation 2 was amended by S.I. 2009/604 and other amending instruments which are not relevant to these Regulations.

**(17)** There have been amendments to regulation 1 which are not relevant to these Regulations.

**(18)** 2002 c. 9.

**(19)** S.I. 1987/1968.

“close relative” means a parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother, sister, or, if any of the preceding persons is one member of a couple, the other member of that couple;

“couple” means—

- (a) two people who are married to, or civil partners of, each other and are members of the same household;
- (b) two people who are not married to, or civil partners of, each other but are living together as a married couple or civil partners;

“disabled person” has the meaning given—

- (a) in the case of employment and support allowance, in paragraph 1(3) of Schedule 6 to the ESA Regulations**(20)**;
- (b) in the case of income support, in paragraph 1(3) of Schedule 3 to the IS Regulations**(21)**;
- (c) in the case of jobseeker’s allowance, in paragraph 1(3) of Schedule 2 to the JSA Regulations**(22)**;
- (d) in the case of state pension credit, in paragraph 1(2)(a) of Schedule 2 to the SPC Regulations**(23)**;
- (e) in the case of universal credit, in paragraph 14(3) of Schedule 3 to these Regulations;

“dwelling”—

- (a) in England and Wales, means a dwelling within the meaning of Part 1 of the Local Government Finance Act 1992**(24)**;
- (b) in Scotland, means a dwelling within the meaning of Part 2 of that Act;

“earned income” has the meaning given in Chapter 2 of Part 6 of the UC Regulations;

“ESA Regulations” means the Employment and Support Allowance Regulations 2008**(25)**;

“existing claimant” means a claimant who is entitled to a qualifying benefit, including an amount for owner-occupier payments, on 5th April 2018;

“financial year” has the meaning given in section 25(2) of the Budget Responsibility and National Audit Act 2011**(26)**;

“income” means any income which is, or which is treated as, an individual’s, including payments which are treated as earnings, and which is not disregarded, under—

- (a) in the case of employment and support allowance, Part 10 of the ESA Regulations;
- (b) in the case of income support, Part 5 of the IS Regulations;
- (c) in the case of jobseeker’s allowance, Part 8 of the JSA Regulations;
- (d) in the case of state pension credit, Part 3 of the SPC Regulations;

“IS Regulations” means the Income Support (General) Regulations 1987**(27)**;

“joint claimants”—

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**(20)** Paragraph 1(3) was amended by [S.I. 2012/913](#), [2013/630](#) and [2017/204](#).

**(21)** Paragraph 1(3) was amended by [S.I. 1995/2927](#), [2006/2378](#), [2008/1554](#), [2012/913](#), [2013/630](#) and [2017/204](#).

**(22)** Paragraph 1(3) was amended by [S.I. 1989/534](#), [1996/1516](#), [2006/2378](#), [2008/1554](#), [2012/913](#), [2013/630](#) and [2017/204](#).

**(23)** Paragraph 1(2)(a) was amended by [S.I. 2002/3197](#), [2005/3360](#), [2006/718](#), [2008/1554](#), [2012/913](#), [2013/388](#), [591](#) and [630](#), [2014/2888](#) and [2017/204](#).

**(24)** 1992 c. 14.

**(25)** [S.I. 2008/794](#). The Regulations have been modified in their application to certain claimants by [S.I. 2008/3195](#), as amended by [S.I. 2009/3257](#).

**(26)** 2011 c. 4.

**(27)** [S.I. 1987/1967](#). The Regulations have been modified in their application to certain claimants by [S.I. 2008/3195](#), as amended by [S.I. 2009/3257](#).

- (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) where Schedule 5 applies, 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 equal to or exceeding the applicable amount but less than the sum of that applicable amount and the amount of a loan payment they would receive under regulation 10 if they were so entitled;
- (b) in the case of universal credit means—
  - (i) members of a couple who have jointly made a claim for, and are entitled to, universal credit; or
  - (ii) where Schedule 5 applies, members of a couple who have made a claim for, but are not entitled to, such a benefit by reason only that they have unearned income equal to or exceeding the applicable amount but less than the sum of that applicable amount and the amount of a loan payment they would receive under regulation 10 if they were so entitled;

“joint-claim couple” has the meaning in section 1(4) of the Jobseekers Act 1995;

“JSA Regulations” means the Jobseeker’s Allowance Regulations 1996**(28)**;

“legacy benefit” means income-related employment and support allowance, income support or income-based jobseeker’s allowance;

“legacy benefit claimant” means a claimant who is entitled to a legacy benefit;

“legal estate” means any of the legal estates set out in section 1(1) of the Law of Property Act 1925**(29)**;

“legal owner” means the owner, whether alone or with others, of a legal estate or, in Scotland, a heritable or registered interest, in the relevant accommodation;

“loan agreement” means an agreement entered into by a single claimant and his or her partner (if any), or each joint claimant, and the Secretary of State, which sets out the terms and conditions upon which the loan payments are made to the claimant;

“loan payments” means one or more payments, calculated under regulation 10, in respect of a claimant’s liability to make owner-occupier payments in respect of the relevant accommodation;

“loan payments offer date” means the day on which the Secretary of State sends the loan agreement to a claimant;

“Modified Rules” means the Social Security (Housing Costs Special Arrangements) (Amendment and Modification) Regulations 2008**(30)**;

“new claimant partner” has the meaning given in regulation 7 of the Transitional Provisions Regulations **(31)**;

“non-dependant” has the meaning given—

- (a) in the case of employment and support allowance, in regulation 71 of the ESA Regulations;

**(28)** [S.I. 1996/207](#). The Regulations have been modified in their application to certain claimants by [S.I. 2008/3195](#), as amended by [S.I. 2009/3257](#).

**(29)** [1925 c. 20](#).

**(30)** [S.I. 2008/3195](#). The Regulations were amended by [S.I. 2009/3257](#).

**(31)** [S.I. 2014/1230](#). Regulation 7 was amended by [S.I. 2014/2887](#).

- (b) in the case of income support, in regulation 3 of the IS Regulations**(32)**;
  - (c) in the case of jobseeker’s allowance, in regulation 2 of the JSA Regulations**(33)**;
  - (d) in the case of state pension credit, in paragraph 1(4) of Schedule 2 to the SPC Regulations;
- “owner-occupier payments” has the meaning given in regulation 3(2)(a);

“partner” means—

- (a) where a claimant is a member of a couple, the other member of that couple;
- (b) where a claimant is married polygamously to two or more members of the claimant’s household, all such members;

“person who lacks capacity”—

- (a) in England and Wales, has the meaning given in section 2 of the Mental Capacity Act 2005**(34)**;
- (b) in Scotland, means a person who is incapable under section 1(6) of the Adults with Incapacity (Scotland) Act 2000**(35)**;

“polygamous marriage” means a marriage during which a party to it is married to more than one person and which took place under the laws of a country which permits polygamy;

“qualifying benefit” means income-related employment and support allowance, income support, income-based jobseeker’s allowance, state pension credit or universal credit;

“qualifying lender” has the meaning given in section 19(7) of the Act;

“qualifying loan” means—

- (a) in the case of a legacy benefit or state pension credit, a loan which qualifies under paragraph 2(2) or (4) of Schedule 1 to these Regulations;
- (b) in the case of universal credit, a loan which qualifies under paragraph 5(2) of Schedule 1 to these Regulations;

“qualifying period” means a period of—

- (a) nine consecutive assessment periods in which a claimant has been entitled to universal credit;
- (b) 39 consecutive weeks in which a claimant—
  - (i) has been entitled to a legacy benefit; or
  - (ii) is treated as having been entitled to such a benefit under —
    - (aa) paragraph 14 of Schedule 3 to the IS Regulations**(36)**;
    - (bb) paragraph 13 of Schedule 2 to the JSA Regulations**(37)**; or
    - (cc) paragraph 15 of Schedule 6 to the ESA Regulations**(38)**;

“qualifying young person” has the meaning given—

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**(32)** Regulation 3 was amended by S.I. 1988/1445, 1989/534 and 1678, 1990/1776, 1991/2334, 1994/3061 and 1995/516.

**(33)** There have been amendments to regulation 2 which are not relevant to these Regulations.

**(34)** 2005 c. 9.

**(35)** 2000 asp 4.

**(36)** Paragraph 14 was amended by S.I. 1995/2927, 1996/206 and 1944, 1997/2863, 1998/2231, 1999/714, 1921 and 3178, 2000/724 and 1981, 2001/488 and 1029, 2002/841 and 3019, 2005/2465, 2006/2378, 2008/698, 1554, 2428 and 2767 and 2011/674.

**(37)** Paragraph 13 was amended by S.I. 1996/1516, 1517 and 2538, 1997/827 and 2863, 1998/2231, 1999/714, 1921 and 2860, 2000/724 and 1978, 2001/488 and 1029, 2002/841 and 3019, 2005/2465, 2006/2378, 2008/698, 1554, 1826 and 2767, 2009/480 and 2011/674 and 2425.

**(38)** Paragraph 15 was amended by S.I. 2008/2428, 2011/674, 2425 and 2428, 2013/388 and 599 and 2015/1647.

- (a) in the case of a legacy benefit, in section 142 of the Social Security Contributions and Benefits Act 1992<sup>(39)</sup>;
- (b) in the case of state pension credit, in regulation 4A of the SPC Regulations<sup>(40)</sup>;
- (c) in the case of universal credit, in regulation 5 of the UC Regulations;

“relevant accommodation” means the accommodation which the claimant occupies, or is treated as occupying, as the claimant’s home under Schedule 3;

“relevant date”, apart from in regulation 21, means the first day with respect to which a claimant’s liability to make owner-occupier payments is met by a loan payment;

“single claimant” means—

- (a) an individual who has made a claim for, and is entitled to, a qualifying benefit as a single person; or
- (b) where Schedule 5 applies, an individual who has made a claim for, but is not entitled to, a qualifying benefit as a single person by reason only that the individual has income or, in the case of universal credit, unearned income, equal to or exceeding the applicable amount but less than the sum of that applicable amount and the amount of a loan payment he or she would receive under regulation 10 if he or she were so entitled;

“single person” means an individual who is not a member of a couple;

“SPC claimant” means a claimant who is entitled to state pension credit;

“SPC Regulations” means the State Pension Credit Regulations 2002<sup>(41)</sup>;

“standard security” has the meaning in Part 2 of the Conveyancing and Feudal Reform (Scotland) Act 1970<sup>(42)</sup>;

“transitional end day” has the meaning given in regulations 19(1) and 20(2);

“Transitional Provisions Regulations” means the Universal Credit (Transitional Provisions) Regulations 2014<sup>(43)</sup>;

“UC claimant” means a claimant who is entitled to universal credit;

“UC Regulations” means the Universal Credit Regulations 2013<sup>(44)</sup>; and

“unearned income” has the meaning given in Chapter 3 of Part 6 of the UC Regulations.

(2) For the purposes of these Regulations, a reference to—

- (a) entitlement to a qualifying benefit is to be read as a reference to entitlement as determined under the ESA Regulations, IS Regulations, JSA Regulations, SPC Regulations and UC Regulations;
- (b) the claimant’s family or to being a member of the claimant’s family means a reference to the claimant’s partner and any child or qualifying young person who is the responsibility of the claimant or the claimant’s partner, where that child or qualifying young person is a member of the claimant’s household;
- (c) a person being responsible for a child or qualifying young person is to be read as a reference to a person being treated as responsible for a child or qualifying young person in the circumstances specified in—

<sup>(39)</sup> 1992 c. 4. Section 142 was substituted by section 1(2) of the Child Benefit Act 2005 (c. 6).

<sup>(40)</sup> Regulation 4A was inserted by S.I. 2016/624.

<sup>(41)</sup> S.I. 2002/1792. The Regulations have been modified in their application to certain claimants by S.I. 2008/3195, as amended by S.I. 2009/3257.

<sup>(42)</sup> 1970 c. 35.

<sup>(43)</sup> S.I. 2014/1230.

<sup>(44)</sup> S.I. 2013/376.

- (i) in the case of employment and support allowance, regulation 156(10) of the ESA Regulations(45);
  - (ii) in the case of income support, regulation 15 of the IS Regulations(46);
  - (iii) in the case of jobseeker's allowance, regulation 77 of the JSA Regulations(47);
  - (iv) in the case of state pension credit and universal credit, regulation 4 of the UC Regulations(48);
- (d) a person being a member of a household is to be read as a reference to a person being treated as a member of the household in the circumstances specified in—
- (i) in the case of employment and support allowance, in regulation 156 of the ESA Regulations(49);
  - (ii) in the case of income support, in regulation 16 of the IS Regulations(50);
  - (iii) in the case of jobseeker's allowance, in regulation 78 of the JSA Regulations(51);
  - (iv) in the case of state pension credit and universal credit, in regulation 5 of the SPC Regulations(52);
- (e) a person being engaged in remunerative work is to be read as a reference to a person being treated as engaged in remunerative work—
- (i) in the case of employment and support allowance, in regulations 41 to 43 of the ESA Regulations(53);
  - (ii) in the case of income support, in regulations 5 and 6 of the IS Regulations(54);
  - (iii) in the case of jobseeker's allowance, in regulations 51 to 53 of the JSA Regulations(55);
  - (iv) in the case of state pension credit, in paragraph 2 of Schedule 2 to the SPC Regulations(56).

### **The offer of loan payments**

3.—(1) The Secretary of State may make an offer of loan payments to a claimant in respect of any owner-occupier payments the claimant is, or is to be treated as, liable to make in respect of the accommodation which the claimant is, or is to be treated as, occupying as the claimant's home, unless paragraph (4) applies.

- (2) For the purposes of paragraph (1)—
- (a) owner-occupier payments are—

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(45) Regulation 156(10) was amended by S.I. 2008/2428, 2011/1740 and 2015/643.

(46) Regulation 15 was amended by S.I. 1993/2119 and 2002/2402.

(47) Regulation 77 was amended by S.I. 2002/2402.

(48) Regulation 4 was amended by S.I. 2013/1508.

(49) Regulation 156 was amended by S.I. 2008/2428, 2011/1740 and 2015/643.

(50) Regulation 16 was amended by S.I. 1988/663, 1989/534, 1990/547, 1992/468 and 3147, 1993/2119, 1996/206 and 1944, 2005/445, 2078 and 2687, 2006/2378, 2011/1740 and 2015/643.

(51) Regulation 78 was amended by S.I. 1996/1516 and 1517, 2000/1978, 2005/2687, 2006/588 and 2378, 2008/1554, 2011/1740, and 2015/643.

(52) Regulation 5 was amended by S.I. 2002/1792, 3019 and 3197, 2003/2274, 2005/445, 2078 and 2687, 2006/2378, 2008/2424 and 2016/624.

(53) Regulation 43 was amended by S.I. 2009/3228, 2013/2536 and 2014/3255.

(54) Regulation 5 was amended by S.I. 1988/663, 1445 and 2022, 1990/547, 1991/1559, 1993/2119, 1995/516, 1996/1944, 1999/3178, 2000/681, 2001/488, 2002/2689, 2007/2618, 2008/698 and 2014/3255. Regulation 6 was amended by S.I. 1999/2556, 2000/681, 2003/1589, 2004/963, 2007/3183, 2008/1554, 2009/3228 and 2010/641.

(55) Regulation 53 was amended by S.I. 2009/3228, 2013/2536, 2014/3255 and 2015/389.

(56) Paragraph 2 was amended by S.I. 2002/3197, 2003/2274 and 2014/3255.

- (i) in the case of a legacy benefit claimant or SPC claimant, payments within the meaning of Part 1 of Schedule 1;
- (ii) in the case of a UC claimant, payments within the meaning of Part 2 of Schedule 1;
- (b) the circumstances in which a claimant is, or is to be treated as, liable to make owner-occupier payments are—
  - (i) in the case of a legacy benefit claimant or SPC claimant, the circumstances specified in Part 1 of Schedule 2;
  - (ii) in the case of a UC claimant, the circumstances specified in Part 2 of Schedule 2;
- (c) the circumstances in which a claimant is, or is to be treated as, occupying accommodation as the claimant's home are—
  - (i) in the case of a legacy benefit claimant or SPC claimant, the circumstances specified in Part 2 of Schedule 3;
  - (ii) in the case of a UC claimant, the circumstances specified in Part 3 of Schedule 3.
- (3) Where the liability for owner-occupier payments is shared with a person not in the benefit unit, the claimant shall be, or shall be treated as, liable to make owner-occupier payments by reference to the appropriate proportion of the payments for which the claimant is responsible.
- (4) A UC claimant shall not be eligible for the offer of loan payments if—
  - (a) where the claimant is a single person, the claimant has any earned income; or
  - (b) where the claimant is a member of a couple, either member of the couple has any earned income.

#### **Acceptance of loan payments offer**

4. The offer of loan payments is accepted where the Secretary of State has received the loan agreement signed by, in the case of a single claimant, the claimant and his or her partner (if any), or, in the case of joint claimants, each member of the couple, and the documents referred to in regulation 5(2).

#### **Conditions to meet before the loan payments can be made**

- 5.—(1) The Secretary of State may make the loan payments if—
- (a) the loan payments offer is accepted in accordance with regulation 4; and
  - (b) the conditions in paragraph (2) are met.
- (2) The conditions are—
- (a) in England and Wales—
    - (i) where all of the legal owners are within the benefit unit, each legal owner has executed a charge by way of legal mortgage in favour of the Secretary of State in respect of the relevant accommodation;
    - (ii) where one or more legal owners are not within the benefit unit, each legal owner within the benefit unit (if any) has executed an equitable charge in respect of their beneficial interest in the relevant accommodation;
  - (b) in Scotland, each legal owner within the benefit unit has executed a standard security in respect of his or her interest in the relevant accommodation;
  - (c) the Secretary of State has obtained the written consent referred to in paragraph (3); and
  - (d) the information condition in regulation 6 is met within the period of 6 months ending with the day on which the loan payments offer is accepted.

(3) The consent required by paragraph (2)(c) is consent given in writing to the creation of the charge or, in Scotland, the standard security by any person in the benefit unit in occupation of the relevant accommodation, who is not a legal owner.

#### **Information condition**

6.—(1) The information condition is that the Secretary of State has provided relevant information about the loan payments to a single claimant and his or her partner (if any) or each joint claimant.

(2) For the purposes of this regulation, “relevant information” is information about the loan payments which must include—

- (a) a summary of the terms and conditions included within the loan agreement;
- (b) where the circumstances in regulation 5(2)(a)(i) or (b) apply, an explanation that the Secretary of State will seek to obtain a charge or, in Scotland, a standard security in respect of the relevant accommodation;
- (c) an explanation of the consent referred to in regulation 5(3); and
- (d) information as to where a single claimant and his or her partner (if any) or each joint claimant can obtain further information and independent legal and financial advice regarding loan payments.

#### **Time of each loan payment**

7. Each loan payment shall be made—

- (a) in the case of a UC claimant, at monthly intervals in arrears; and
- (b) in the case of a legacy benefit claimant or SPC claimant—
  - (i) where direct payments are made to a qualifying lender under regulation 17(1), at 4 weekly intervals in arrears; or
  - (ii) where payments are made to the claimant under regulation 17(3), at the same intervals as the qualifying benefit is paid.

#### **Period covered by loan payments**

8.—(1) The period in respect of which the loan payments shall be made shall begin on the later of—

- (a) 6th April 2018;
- (b) in the case of a UC claimant or legacy benefit claimant, the day after the day on which the qualifying period ends;
- (c) in the case of an SPC claimant, the date of claim in respect of the claimant’s award of state pension credit;
- (d) the transitional end day.

(2) For the purposes of paragraph (1)(c), “date of claim” has the meaning given by whichever is applicable of regulation 4F or regulation 19(2) and (3) of the Claims and Payments Regulations(57).

#### **Duration of loan payments**

9.—(1) Subject to paragraph (2), loan payments shall continue to be made indefinitely at the intervals specified in regulation 7.

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(57) Regulation 4F was inserted by S.I. 2002/3019 and amended by S.I. 2003/1632, 2004/2327 and 2006/832. Regulation 19(3) was amended by S.I. 2002/2497, 2004/182, 2005/777, 2008/2424 and 2017/422.

(2) If one of the circumstances in paragraph (3) occurs, the Secretary of State shall terminate the loan payments immediately but subject to paragraph (4).

(3) The circumstances are that—

- (a) the claimant ceases to be entitled to a qualifying benefit;
- (b) the claimant ceases to be, or to be treated as, liable to make owner-occupier payments under Schedule 2;
- (c) the claimant ceases to be, or to be treated as, occupying the relevant accommodation under Schedule 3;
- (d) the loan agreement is terminated in accordance with its terms;
- (e) in the case of a UC claimant only, regulation 3(4) applies.

(4) The Secretary of State shall make the loan payments direct to the claimant for the period specified in paragraph (6) if—

- (a) a claimant ceases to be entitled to a legacy benefit by reason that, in the case of a single claimant, the claimant or his or her partner (if any), or, in the case of joint claimants, either member of the couple, is engaged in remunerative work; and
- (b) the conditions in paragraph (5) are met.

(5) The conditions are that, in the case of a single claimant, the claimant or his or her partner (if any), or, in the case of joint claimants, either member of the couple—

- (a) is engaged in remunerative work which is expected to last for a period of no less than 5 weeks;
- (b) is still liable or treated as liable to make owner-occupier payments under Schedule 2;
- (c) has, for a continuous period of 26 weeks ending with the day on which he or she commences the work referred to in sub-paragraph (a), been entitled to a legacy benefit; and
- (d) was, on the day before the day on which he or she commenced the work referred to in sub-paragraph (a), receiving loan payments under these Regulations.

(6) The period specified is the period of 4 weeks commencing with the day on which the relevant person is first engaged in remunerative work.

(7) If a legacy benefit claimant ceases to be entitled to a legacy benefit but becomes entitled again to the legacy benefit within the period of 52 weeks beginning with the day the claimant ceased to be entitled to it, the claimant shall not be required to satisfy the qualifying period if the claimant wishes to receive loan payments on the basis of the new entitlement.

### **Calculation of each loan payment**

**10.** Subject to any deduction under regulation 14, each loan payment shall be the aggregate of the amounts resulting from regulations 11 and 12.

### **Calculation in respect of qualifying loans**

**11.—(1)** Subject to paragraphs (3) and (4), the amount to be included in each loan payment for owner-occupier payments which are payments of interest on qualifying loans is determined as follows.

#### *Step 1*

Determine the amount of capital for the time being owing in connection with each qualifying loan to which the owner-occupier payments relate.

#### *Step 2*

If there is more than one qualifying loan, add together the amounts determined in step 1.

*Step 3*

Determine the identified amount which is the lower of—

- (a) (a) the amount resulting from step 1 or 2; and
- (b) (b) the capital limit specified in paragraph (2)(a) or (b).

If both amounts in (a) and (b) are the same, that is the identified amount.

*Step 4*

In respect of a legacy benefit claimant or SPC claimant, apply the following formula to achieve a weekly sum—

$$\frac{A \times SR}{52} - I$$

In respect of a UC claimant, apply the following formula to achieve a monthly sum —

$$\frac{A \times SR}{12} - I$$

In either case—

“A” is the identified amount in step 3,

“SR” is the standard rate that applies at the end of the calculation (see regulation 13), and

“I” is the amount of any income, in the case of a legacy benefit or SPC claimant, or unearned income, in the case of a UC claimant, above the claimant’s applicable amount.

The result is the amount to be included in each loan payment for owner-occupier payments which are payments of interest on qualifying loans.

(2) The capital limit is—

(a) £200,000—

(i) in the case of a legacy benefit claimant or SPC claimant where the Modified Rules apply;

(ii) in the case of a UC claimant;

(b) £100,000 in all other cases.

(3) In the application of paragraph (2) to a qualifying loan (or any part of a qualifying loan) which was taken out for the purpose of making necessary adaptations to the accommodation to meet the needs of a disabled person—

(a) the qualifying loan (or the part of the qualifying loan) is to be disregarded for the purposes of steps 2 and 3; and

(b) “A” in step 4 is to be read as the amount resulting from step 1 in respect of the qualifying loan (or the sum of those amounts if there is more than one qualifying loan taken out for the purpose of making such adaptations) plus the amount (if any) resulting from step 3 in relation to any other qualifying loan or loans.

(4) Subject to paragraph (5), any variation in the amount of capital for the time being owing in connection with a qualifying loan is not to be taken into account after the relevant date until such time as the Secretary of State recalculates the amount which shall occur—

(a) on the first anniversary of the relevant date; and

(b) in respect of any variation after the first anniversary, on the next anniversary which follows the date of the variation.

(5) In respect of an existing claimant, the Secretary of State shall recalculate the amount of capital owing in connection with a qualifying loan on the anniversary of the date on which the claimant's qualifying benefit first included an amount for owner-occupier payments.

### **Calculation in respect of alternative finance payments**

**12.—(1)** The amount to be included in each loan payment for owner-occupier payments which are alternative finance payments is determined as follows.

#### *Step 1*

Determine the purchase price of the accommodation to which the alternative finance payments relate.

#### *Step 2*

Determine the identified amount which is the lower of—

- (a) (a) the amount resulting from step 1; and
- (b) (b) the capital limit specified in paragraph (2)(a) or (b).

If both amounts are the same, that is the identified amount.

#### *Step 3*

In respect of an SPC claimant, apply the following formula to achieve a weekly sum—

$$\frac{A \times SR}{52} - I$$

In respect of a UC claimant, apply the following formula to achieve a monthly sum—

$$\frac{A \times SR}{12} - I$$

In either case—

“A” is the identified amount in step 2,

“SR” is the standard rate that applies at the date of the calculation (see regulation 13), and

“I” is the amount of any income, in the case of an SPC claimant, or unearned income, in the case of a UC claimant, above the claimant's applicable amount.

The result is the amount to be included in each loan payment for owner-occupier payments which are alternative finance payments.

(2) The capital limit is—

- (a) £200,000 in the case of an SPC claimant where the Modified Rules apply or a UC claimant;
- (b) £100,000 in all other cases.

(3) For the purposes of paragraph (1), “purchase price” means the price paid by a party to the alternative finance arrangements other than the claimant in order to acquire the interest in the accommodation to which those arrangements relate less—

- (a) the amount of any initial payment made by the claimant in connection with the acquisition of that interest; and
- (b) the amount of any subsequent payments made by the claimant or any partner to another party to the alternative finance arrangements before—
  - (i) the relevant date; or
  - (ii) in the case of an existing claimant, the date on which the claimant's qualifying benefit first included an amount for owner-occupier payments,

which reduce the amount owed by the claimant under the alternative finance arrangements.

(4) Subject to paragraph (5), any variation in the amount for the time being owing in connection with alternative finance arrangements is not to be taken into account after the relevant date until such time as the Secretary of State recalculates the amount which shall occur—

- (a) on the first anniversary of the relevant date; and
- (b) in respect of any variation after the first anniversary, on the next anniversary which follows the date of the variation.

(5) In respect of an existing claimant, the Secretary of State shall recalculate the amount for the time being owing in connection with a qualifying loan on the anniversary of the date on which the claimant's qualifying benefit first included an amount for owner-occupier payments.

### **Standard rate to be applied under regulations 11 and 12**

**13.**—(1) The standard rate is the average mortgage rate published by the Bank of England which has effect on the 5th April 2018.

(2) The standard rate is to be varied each time that paragraph (3) applies.

(3) This paragraph applies when, on any reference day, the Bank of England publishes an average mortgage rate which differs by 0.5 percentage points or more from the standard rate that applies on that reference day (whether it applies by virtue of paragraph (1) or by virtue of a previous application of this paragraph).

(4) The average mortgage rate published on that reference day then becomes the new standard rate in accordance with paragraph (5).

(5) Any variation in the standard rate by virtue of paragraphs (2) to (4) shall come into effect at the end of the period of 6 weeks beginning with the day referred to in paragraph (3).

(6) At least 7 days before a variation of the standard rate comes into effect under paragraph (5), the Secretary of State must arrange for notice to be published on a publicly accessible website of—

- (a) the new standard rate; and
- (b) the day on which the new standard rate comes into effect under paragraph (5).

(7) For the purposes of this Regulation—

“average mortgage rate” means the effective interest rate (non-seasonally adjusted) of United Kingdom resident banks and building societies for loans to households secured on dwellings, published by the Bank of England in respect of the most recent period specified for that rate at the time of publication; and

“reference day” means any day falling on or after 6th April 2018.

### **Non-dependant deductions**

**14.**—(1) In the case of a legacy benefit claimant or SPC claimant, a deduction from each loan payment shall be made in respect of any non-dependant in accordance with paragraph (2).

(2) The amount to be deducted is calculated as follows.

#### *Step 1*

Identify the amount which is the sum of the loan payment calculated under regulation 10 and the amount of housing costs (if any) paid to a claimant under—

- (a) (a) paragraph 17 of Schedule 3 to the IS Regulations(58);

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(58) Paragraph 17 was amended by [S.I. 2006/217](#) and [2378](#).

- (b) (b) paragraph 16 of Schedule 2 to the JSA Regulations(**59**);
- (c) (c) paragraph 18 of Schedule 6 to the ESA Regulations; or
- (d) (d) paragraph 13 of Schedule 2 to the SPC Regulations(**60**).

*Step 2*

Identify the total amount of the non-dependant deductions applicable to the claimant under—

- (a) (a) paragraph 18 of Schedule 3 to the IS Regulations(**61**);
- (b) (b) paragraph 17 of Schedule 2 to the JSA Regulations(**62**);
- (c) (c) paragraph 19 of Schedule 6 to the ESA Regulations(**63**); or
- (d) (d) paragraph 14 of Schedule 2 to the SPC Regulations(**64**).

*Step 3*

Identify the proportion of the non-dependant deductions applicable to the loan payment and housing costs (if any) in Step 1 by applying the formula—

$$A \times (B \div C)$$

where—

- “A” is the total amount of the non-dependant deductions identified in Step 2,
- “B” is the amount of the loan payment calculated under regulation 10, and
- “C” is the amount identified in Step 1.

The result is the amount of the non-dependant deduction to be made from each loan payment in the case of a legacy benefit claimant or SPC claimant.

**Interest**

**15.**—(1) The Secretary of State shall charge interest on the sum of the loan payments until the earlier of—

- (a) the day on which the loan payments and accrued interest are repaid in full;
- (b) the event referred to in regulation 16(1)(c).

(2) Interest at the relevant rate shall accrue daily, with effect from the first day a loan payment is made to a qualifying lender or the claimant under regulation 17, and shall be added to the outstanding amount at the end of each month (or part month).

(3) The relevant rate is the interest rate for the relevant period.

(4) For the purposes of this regulation and regulation 16, the outstanding amount is the sum of the loan payments and interest which has been charged under paragraph (1).

(5) The interest rate referred to in paragraph (3) is the weighted average interest rate on conventional gilts specified in the most recent report published before the start of the relevant period

(59) Paragraph 16 was amended by S.I. 2006/217 and 2378.

(60) Paragraph 13 was amended by S.I. 1987/1967, 1996/207, 2002/3019, 2006/2378, 2008/794 and 2017/524.

(61) Paragraph 18 was amended by S.I. 1995/2927, 1996/2518, 2004/2327, 2005/3360, 2006/217, 2008/1553 and 2767, 2010/641, 2011/2425, 2013/388, 443, 591 and 630, 2014/2888 and 2017/204 and 329.

(62) Paragraph 17 was amended by S.I. 1996/1517 and 2538, 1997/827, 1999/2518 and 2860, 2003/1195, 2004/2327, 2005/3360, 2006/217, 2008/1554 and 2767, 2010/641, 2011/2425, 2013/388, 443, 591 and 630, 2014/2888, 2017/204, 260 and 329.

(63) Paragraph 19 was amended by S.I. 2008/2428, 2013/388, 591 and 630, 2014/2888 and 2017/204.

(64) Paragraph 14 was amended by S.I. 1987/1968, 2002/3197, 2003/526, 1195 and 2274, 2004/552 and 2327, 2005/522 and 3360, 2006/645 and 2378, 2007/668, 2008/632, 1554 and 2767, 2009/497, 2010/641 and 793, 2011/821 and 2425, 2012/780, 2013/388, 443, 574, 591 and 630, 2014/516 and 2888, 2015/457, 2016/242, 2017/204, 260 and 329.

by the Office for Budget Responsibility under section 4(3) of the Budget Responsibility and National Audit Act 2011(65).

- (6) The relevant period is the period starting on—
  - (a) 1st January and ending on 30th June in any year; or
  - (b) 1st July and ending on 31st December in any year.

## Repayment

**16.**—(1) The outstanding amount shall become immediately due and payable, together with any further interest which accrues on that amount under regulation 15, where one of the following events occurs—

- (a) the relevant accommodation is sold;
  - (b) legal or beneficial title in, or in Scotland, heritable or registered title to, the relevant accommodation is transferred, assigned or otherwise disposed of, unless paragraph (3) applies;
  - (c) in the case of a claimant with no partner, the claimant’s death, or, in the case of a claimant with a partner, the death of the last member of the benefit unit (“the relevant person”).
- (2) Subject to paragraphs (4) to (7), repayment shall occur—
- (a) in the event described in paragraph (1)(a) or (b), from the proceeds of sale, transfer, assignment or disposition;
  - (b) in the event described in paragraph (1)(c), from the relevant person’s estate.
- (3) This paragraph applies where legal or beneficial title is transferred to—
- (a) the claimant’s partner, following the death of the claimant, where the partner is in occupation of the relevant accommodation; or
  - (b) the claimant, from a former spouse or civil partner, under a court order or an agreement for maintenance where the claimant is in occupation of the relevant accommodation.
- (4) Where, in England and Wales—
- (a) the Secretary of State has a charge by way of legal mortgage over the relevant accommodation; and
  - (b) there is insufficient equity available in the relevant accommodation to discharge the outstanding amount,

repayment shall be limited to the amount of available equity in the relevant accommodation after any prior ranking charges by way of legal mortgage have been repaid, and, in the event described in paragraph (1)(c), this shall be taken to be the amount of equity at the date of death of the relevant person.

- (5) Where, in England and Wales—
- (a) the Secretary of State has an equitable charge over one legal owner’s equitable interest in the relevant accommodation, repayment shall be limited to the amount of that legal owner’s equitable interest in the relevant accommodation and, in the event described in paragraph (1)(c), this shall be taken to be the value of that equitable interest at the date of death of the relevant person;
  - (b) the Secretary of State has an equitable charge over more than one legal owner’s equitable interest in the relevant accommodation, repayment shall be limited to the sum of the equitable interests in the relevant accommodation of all legal owners within the benefit

unit and, in the event described in paragraph (1)(c), this shall be taken to be the value of those equitable interests at the date of death of the relevant person.

(6) Where, in Scotland—

- (a) the Secretary of State has a standard security over the whole or part of the relevant accommodation; and
- (b) there is insufficient equity available in the whole or part of the relevant accommodation over which the standard security is held,

repayment shall be limited to the amount of available equity in the whole or part of the relevant accommodation over which the standard security is held after any prior ranking standard securities have been repaid, and, in the event described in paragraph (1)(c), this shall be taken to be the amount of equity at the date of death of the relevant person.

(7) In the event that the relevant accommodation is sold or legal or beneficial title in, or in Scotland, heritable or registered title to, the relevant accommodation is transferred, assigned or otherwise disposed of for less than market value, the disposal shall be treated as if it occurred at market value for the purposes of repayment.

(8) Subject to paragraph (9), a claimant shall be permitted to repay some or all of the outstanding amount before an event in paragraph (1) occurs if the amount of each repayment is equal to or more than £100.

(9) Where the outstanding amount is less than £100, a claimant shall be permitted to repay that sum in full in one repayment.

#### **Direct payments to qualifying lenders**

17.—(1) Where the circumstances specified in paragraph (2) are met, the loan payments must be made by the Secretary of State direct to a claimant's lender.

(2) The circumstances referred to in paragraph (1) are that—

- (a) money was lent to the claimant in respect of which owner-occupier payments in respect of the relevant accommodation are payable to a qualifying lender; and
- (b) those owner-occupier payments are taken into account in calculating the amount of each loan payment under regulation 10.

(3) Where the circumstances in paragraph (2) are not met, the loan payments must be made to the claimant.

(4) Schedule 4 has effect in relation to payments made under paragraph (1).

#### **Consequential amendments**

18. The amendments in Schedule 5 have effect.

#### **Transitional provision: existing claimants**

19.—(1) Subject to regulation 20, in relation to an existing claimant the amendments made by Schedule 5 shall be treated as though they were not in force until the day that is the earlier of (“the transitional end day”)—

- (a) the day referred to in paragraph (2); or
- (b) the day immediately following the day on which entitlement to a qualifying benefit ends.

(2) The day referred to is the later of—

- (a) the day immediately following the end of the first benefit week, in the case of a legacy benefit claimant or SPC claimant, or the end of the first assessment period, in the case of a UC claimant, that ends on or after 6th April 2018; or
  - (b) the day immediately following the day referred to in paragraph (3).
- (3) The day referred to is the earliest of—
- (a) the day on which the Secretary of State receives notification from the claimant that the claimant does not wish to accept the offer of loan payments;
  - (b) (i) where the Secretary of State has received both the loan agreement and the documents referred to in regulation 5 within the period of 6 weeks beginning with the loan payments offer date, the day referred to in paragraph (4); or
  - (ii) where the Secretary of State has not received both the loan agreement and the documents referred to in regulation 5 within the period of 6 weeks beginning with the loan payments offer date, the day on which that period ends.
- (4) The day referred to is the last day of the period of 4 weeks beginning with the first day at the beginning of which the Secretary of State has received the loan agreement and documents referred to in regulation 5(2).

**Transitional provision: lack of capacity**

**20.**—(1) Paragraph (2) applies where the following conditions are met in relation to an existing claimant—

- (a) the Secretary of State is satisfied on or before 5th April 2018, or later than that date but within 6 weeks beginning with the loan payments offer date, that the claimant is a person who lacks capacity to make some or all decisions about entering into the loan agreement;
  - (b) an application for a decision as referred to in paragraph (6) is made on or before 5th April 2018, or later than that date but within 6 weeks beginning with the loan payments offer date; and
  - (c) at the time the Secretary of State is satisfied as referred to in sub-paragraph (a), he has not received the loan agreement and the documents referred to in regulation 5 and has not received a notification from the claimant that the claimant does not wish to accept the offer of loan payments.
- (2) Where this paragraph applies, the amendments made by Schedule 5 shall be treated as though they were not in force until the day that is the earlier of (“the transitional end day”)—
- (a) the day referred to in paragraph (3); or
  - (b) the day immediately following the day on which entitlement to a qualifying benefit ends.
- (3) The day referred to is the later of—
- (a) the day immediately following the end of the first benefit week, in the case of a legacy benefit claimant or SPC claimant, or the end of the first assessment period, in the case of a UC claimant, that ends on or after 6th April 2018; or
  - (b) the day immediately following the day referred to in paragraph (4).
- (4) The day referred to is the earlier of—
- (a) the last day of the period of 6 weeks beginning with the day on which the relevant person makes a determination as to whether to make a decision referred to in paragraph (6); or
  - (b) the last day of the period of 6 weeks beginning with the day on which the relevant person receives notification that the application for such a decision is withdrawn.

(5) In paragraph (4), a relevant person makes a determination where the person makes a determination that is not dependent on receiving more information about the claimant's circumstances.

(6) The decisions referred to in paragraph (4) are—

(a) in England and Wales—

- (i) a decision by the Court of Protection under section 16(2) of the Mental Capacity Act 2005<sup>(66)</sup> to appoint a deputy with power to act on the claimant's behalf in respect of entering into a loan agreement;
- (ii) the making of an order by the Court of Protection under section 16(2) of the Mental Capacity Act 2005 that embraces a decision on behalf of the claimant with respect to entering into a loan agreement; or
- (iii) a decision by the Public Guardian to register a lasting power of attorney under the Mental Capacity Act 2005 where the power includes power to act on the claimant's behalf in respect of entering into a loan agreement; or

(b) in Scotland—

- (i) the making of an intervention order by the sheriff under section 53 of the Adults with Incapacity (Scotland) Act 2000<sup>(67)</sup> that embraces a decision on behalf of the claimant with respect to entering into a loan agreement;
- (ii) the making of an order by the sheriff under section 58 of the Adults with Incapacity (Scotland) Act 2000<sup>(68)</sup> to appoint a guardian with power to act on the claimant's behalf in respect of entering into a loan agreement; or
- (iii) the making of an order by the sheriff or the Court of Session under the Judicial Factors Act 1849<sup>(69)</sup> to appoint a judicial factor with power to act on the claimant's behalf in respect of entering into a loan agreement.

### **Transition from legacy benefit to universal credit**

**21.**—(1) Paragraph (3) applies where—

(a) an award of universal credit is made to a claimant who—

- (i) was entitled to a legacy benefit (a “relevant award”) at any time during the period of one month ending with the day on which the claim for universal credit was made or treated as made (or would have been so entitled were it not for termination of that award by virtue of an order made under section 150(3) of the Welfare Reform Act 2012<sup>(70)</sup> or the effect of the Transitional Provisions Regulations <sup>(71)</sup>); or
- (ii) was at any time during the period of one month ending with the day on which the claim for universal credit was made or treated as made, the partner of a person (“P”) who was at that time entitled to a relevant award, where the award of universal credit is not a joint award to the claimant and P;

(b) on the relevant date—

- (i) the relevant award included an amount in respect of housing costs under—
  - (aa) paragraphs 14 to 16 of Schedule 2 to the JSA Regulations<sup>(72)</sup>;

<sup>(66)</sup> 2005 c. 9.

<sup>(67)</sup> 2000 asp 4. Section 53 was amended by the Adult Support and Protection (Scotland) Act 2007 (asp 10).

<sup>(68)</sup> Section 58 was amended by the Adult Support and Protection (Scotland) Act 2007.

<sup>(69)</sup> 1849 c. 51.

<sup>(70)</sup> 2012 c. 5.

<sup>(71)</sup> S.I. 2014/1230.

<sup>(72)</sup> Paragraph 15 was amended by S.I. 2008/2767. Paragraph 16 was amended by S.I. 2006/217 and 2378. The Regulations have been modified in their application to certain claimants by S.I. 2008/3195, as amended by S.I. 2009/3257 and 2011/2425.

- (bb) paragraphs 16 to 18 of Schedule 6 to the ESA Regulations; or
  - (cc) paragraphs 15 to 17 of Schedule 3 to the IS Regulations(73); or
  - (ii) the claimant was entitled to loan payments under these Regulations; and
  - (c) the amendments made by Schedule 5 apply in relation to the award of universal credit.
- (2) In this regulation, the “relevant date” means—
- (a) where paragraph (1)(a)(i) applies and the claimant was not entitled to the relevant award on the date on which the claim for universal credit was made or treated as made, the date on which the relevant award terminated;
  - (b) where paragraph (1)(a)(i) applies, the claimant is not a new claimant partner and he or she was entitled to the relevant award on the date on which the claim for universal credit was made, that date;
  - (c) where paragraph (1)(a)(i) applies, the claimant is a new claimant partner and he or she was entitled to the relevant award on the date on which the claim for universal credit was treated as made, that date;
  - (d) where paragraph (1)(a)(ii) applies, the date on which the claimant ceased to be the partner of P or, if earlier, the date on which the relevant award terminated.
- (3) Where this paragraph applies, regulation 8(1)(b) does not apply.
- (4) Paragraph (5) applies where paragraph (1)(a) applies and the amendments made by Schedule 5 apply in relation to the award of universal credit, but—
- (a) the relevant award did not include an amount in respect of housing costs because the claimant’s entitlement (or, as the case may be, P’s entitlement) was nil by virtue of—
    - (i) paragraph 7(1)(b) of Schedule 2 to the JSA Regulations(74);
    - (ii) paragraph 9(1)(b) of Schedule 6 to the ESA Regulations(75); or
    - (iii) paragraph 8(1)(b) of Schedule 3 to the IS Regulations(76); or
  - (b) the amendments made by Schedule 5 applied in relation to the relevant award but the claimant was not entitled to loan payments by virtue of regulation 8(1)(b).
- (5) Where this paragraph applies—
- (a) the definition of “qualifying period” in regulation 2(1) does not apply; and
  - (b) “qualifying period” means the period of 273 days starting with the first day on which the claimant (or, as the case may be, P) was entitled to the relevant award, taking into account any period which was treated as a period of continuing entitlement under—
    - (i) paragraph 13 of Schedule 2 to the JSA Regulations(77);
    - (ii) paragraph 15 of Schedule 6 to the ESA Regulations(78); or
    - (iii) paragraph 14 of Schedule 3 to the IS Regulations(79),

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(73) Paragraph 16 was amended by S.I. 2008/2767. Paragraph 17 was amended by S.I. 2006/217 and 2378.

(74) Paragraph 7(1)(b) was amended by S.I. 2015/1647.

(75) Paragraph 9(1) was amended by S.I. 2015/1647.

(76) Paragraph 8(1)(b) was amended by S.I. 1995/2927 and 2015/1647.

(77) Paragraph 13 was amended by S.I. 1996/1516, 1517 and 2538, 1997/827 and 2863, 1998/2231, 1999/714, 1921 and 2860, 2000/724 and 1978, 2001/488 and 1029, 2002/841 and 3019, 2005/2465, 2006/2378, 2008/698, 1554, 1826 and 2767, 2009/480 and 2011/674 and 2425.

(78) Paragraph 15 was amended by S.I. 2008/2428, 2011/674, 2425 and 2428 and 2013/388 and 591.

(79) Paragraph 14 was amended by S.I. 1995/2927, 1996/206 and 1944, 1997/2863, 1998/2231, 1999/714, 1921 and 3178, 2000/724 and 1981, 2001/488 and 1029, 2002/841 and 3019, 2005/2465, 2006/2378, 2008/698, 1554, 2428 and 2767 and 2011/674.

provided that, throughout that part of the qualifying period after the award of universal credit is made, receipt of universal credit is continuous and the claimant otherwise qualifies for loan payments under these Regulations.

- (6) Paragraph (7) applies where—
- (a) a claimant has an award of universal credit which becomes subject to the amendments made by Schedule 5; and
  - (b) regulation 29 of the Transitional Provisions Regulations<sup>(80)</sup> applied in relation to the award.
- (7) Where this paragraph applies—
- (a) where paragraph (3) of regulation 29 of the Transitional Provisions Regulations applied in relation to the award, regulation 8(1)(b) does not apply; and
  - (b) where paragraph (5) of regulation 29 of the Transitional Provisions Regulations applied in relation to the award, paragraph (5) of this regulation applies in relation to the award.

### **Delegation**

**22.** A function of the Secretary of State under these Regulations may be exercised by a person authorised for that purpose by the Secretary of State.

Signed by authority of the Secretary of State for Work and Pensions

5th July 2017

*Caroline Dinéage*  
Parliamentary Under-Secretary of State  
Department for Work and Pensions

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<sup>(80)</sup> Regulation 29 was amended by [S.I. 2015/1647](#)

## SCHEDULE 1

Regulation 3(2)(a)

### Meaning of owner-occupier payments

## PART 1

### Legacy benefit claimants and SPC claimants

#### Application of Part 1

1. This Part applies to legacy benefit claimants and SPC claimants.

#### Payments of interest on qualifying loans and alternative finance payments

- 2.—(1) “Owner-occupier payments” means—

- (a) payments of interest on a loan which qualifies under sub-paragraph (2) or (4); and
- (b) in respect of an SPC claimant only, alternative finance payments within the meaning of paragraph 5(3).

(2) A loan qualifies under this sub-paragraph where the loan was taken out to defray monies applied for any of the following purposes—

- (a) acquiring an interest in the relevant accommodation; or
- (b) paying off another loan which would have qualified under paragraph (a) had it not been paid off.

(3) For the purposes of sub-paragraph (2), references to a loan also include a reference to money borrowed under a hire purchase agreement, as defined in section 189 of the Consumer Credit Act 1974<sup>(81)</sup>, for any purpose specified in paragraph (a) or (b) of sub-paragraph (2).

(4) A loan qualifies under this sub-paragraph if it was taken out, with or without security, for the purpose of—

- (a) carrying out repairs and improvements to the relevant accommodation;
- (b) paying any service charge imposed to meet the cost of repairs and improvements to the relevant accommodation;
- (c) paying off another loan that would have qualified under paragraphs (a) and (b) had it not been paid off,

as long as the loan is used for that purpose within 6 months beginning with the date of receipt or as soon as reasonably practicable.

(5) In sub-paragraph (4), “repairs and improvements” means any of the following measures undertaken with a view to maintaining the fitness of the relevant accommodation, or any part of the building containing the relevant accommodation, for human habitation—

- (a) provision of a fixed bath, shower, wash basin, sink or lavatory, and necessary associated plumbing, including the provision of hot water not connected to a central heating system;
- (b) repairs to existing heating systems;
- (c) damp proof measures;
- (d) provision of ventilation and natural lighting;
- (e) provision of drainage facilities;

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(81) 1974 c. 39.

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

- (f) provision of facilities for preparing and cooking food;
- (g) provision of insulation;
- (h) provision of electric lighting and sockets;
- (i) provision of storage facilities for fuel or refuse;
- (j) repairs of unsafe structural defects;
- (k) adapting the accommodation for the special needs of a disabled person; or
- (l) provision of separate sleeping accommodation for persons of different sexes aged 10 or over but under the age of 20 who live with the claimant and for whom the claimant or the claimant's partner is responsible.

(6) Where a loan is applied only in part for the purposes specified in sub-paragraph (2) or (4), only that portion of the loan which is applied for that purpose shall qualify.

### **Loans incurred during relevant period**

3.—(1) Subject to sub-paragraph (5), loans which, apart from this paragraph, qualify under paragraph 2(2) or (4) shall not so qualify where the loan was incurred during the relevant period.

(2) The “relevant period” for the purposes of this paragraph is any period during which the person to whom the loan was made—

- (a) is entitled to, or is treated as entitled to, a legacy benefit or state pension credit; or
- (b) is living as a member of a family one of whom is entitled to, or is treated as entitled to, a legacy benefit or state pension credit,

together with any period falling between two such periods of entitlement separated by not more than 26 weeks.

(3) For the purposes of sub-paragraph (2), a person shall be treated as entitled to either a legacy benefit or state pension credit during any period when the person, the person's partner, or, where that person is a member of a joint-claim couple, the other member of that couple was not so entitled because—

- (a) that person, the person's partner or, where that person is a member of a joint-claim couple, the other member of that couple, was participating in an employment programme specified in regulation 75(1)(a) of the JSA Regulations<sup>(82)</sup>; and
- (b) in consequence of such participation that person, the person's partner, or, where that person is a member of a joint-claim couple, the other member of that couple, was a person engaged in remunerative work and had income equal to or in excess of the applicable amount.

(4) Where a loan which qualifies under paragraph 2(2) was incurred during the relevant period—

- (a) for paying off an earlier loan, and that earlier loan qualified under paragraph 2(2) and was incurred during the relevant period; or
- (b) to finance the purchase of a property where an earlier loan, which qualified under paragraph 2(2) or (4) and was incurred during the relevant period in respect of another property, is paid off (in whole or in part) with monies received from the sale of that property,

then the amount of the loan to which sub-paragraph (1) applies is the amount (if any) by which the new loan exceeds the earlier loan.

(5) Loans taken out during the relevant period shall qualify as loans under paragraph 2(2) or (4), where a claimant satisfies any of the conditions specified in sub-paragraphs (6), (8) and (9), but—

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<sup>(82)</sup> Regulation 75(1)(a) was substituted by [S.I. 2012/2568](#).

- (a) where the claimant satisfies the condition in sub-paragraph (6), those loans shall be subject to the additional limitation imposed by sub-paragraph (7); and
  - (b) where the claimant satisfies the conditions in more than one of these sub-paragraphs, only one sub-paragraph shall apply in the claimant's case, which shall be the one most favourable to the claimant.
- (6) The first condition is that—
- (a) during the relevant period, the claimant or a member of the claimant's family acquires an interest ("the relevant interest") in the relevant accommodation; and
  - (b) in the week preceding the week in which the relevant interest was acquired, the claimant or a member of the claimant's family was entitled to housing benefit.
- (7) Where the condition in sub-paragraph (6) is satisfied, the amount of the loans which qualify shall initially not exceed the aggregate of—
- (a) the housing benefit entitlement referred to in sub-paragraph (6)(b); and
  - (b) any amount included in the applicable amount of the claimant or a member of the claimant's family in that week,
- and shall be increased subsequently only to the extent that it is necessary to take account of any increase in the standard rate under regulation 13 arising after the date of acquisition.
- (8) The second condition is that the loan was taken out, or an existing loan increased, to acquire alternative accommodation more suited to the needs of a disabled person than the relevant accommodation which was occupied before the acquisition by the claimant.
- (9) The third condition is that—
- (a) the loan commitment increased in consequence of the disposal of the relevant accommodation and the acquisition of alternative accommodation; and
  - (b) the change of accommodation was made solely by reason of the need to provide separate sleeping accommodation for persons of different sexes aged 10 or over but under the age of 20 who live with the claimant and for whom the claimant or the claimant's partner is responsible.

## PART 2

### UC claimants

#### **Application of Part 2**

4. This Part applies to UC claimants.

#### **Payments of interest on loans and alternative finance payments**

- 5.—(1) "Owner-occupier payments" means—
- (a) payments of interest on a loan which qualifies under sub-paragraph (2);
  - (b) alternative finance payments within the meaning of sub-paragraph (3).
- (2) A loan qualifies under this sub-paragraph if it is secured on the relevant accommodation.
- (3) "Alternative finance payments" means payments that are made under alternative finance arrangements which were entered into to enable a person to acquire an interest in the relevant accommodation.

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(4) “Alternative finance arrangements” has the meaning given in Part 10A of the Income Tax Act 2007<sup>(83)</sup>.

## SCHEDULE 2

Regulation 3(2)(b)

Circumstances in which a claimant is, or is to be treated as, liable to make owner-occupier payments

### PART 1

Legacy benefit claimants and SPC claimants

#### Application of Part 1

1. This Part applies to legacy benefit claimants and SPC claimants.

#### Liable or treated as liable to make payments

2.—(1) A claimant is liable to make owner-occupier payments where in the case of a single claimant, the claimant or the claimant's partner (if any), or, in the case of joint claimants, either member of the couple, has a liability to make the payments.

(2) A claimant is to be treated as liable to make owner-occupier payments where—

(a) all of the following conditions are met—

- (i) the person who is liable to make the payments is not doing so;
- (ii) the claimant has to make the payments in order to continue occupation of the relevant accommodation; and
- (iii) it is reasonable in all the circumstances to treat the claimant as liable to make the payments; or

(b) all of the following conditions are met—

- (i) the claimant in practice shares the responsibility for the owner-occupier payments with other members of the household, none of whom are close relatives of, in the case of a single claimant, the claimant or the claimant's partner (if any), or, in the case of joint claimants, either member of the couple;
- (ii) one or more of those members is liable to meet those payments; and
- (iii) it is reasonable in all the circumstances to treat that member as sharing responsibility.

(3) Where any one or more, but not all, members of the claimant's family are affected by a trade dispute, the owner-occupier payments shall be treated as wholly the responsibility of those members of the family not so affected.

(4) For the purposes of sub-paragraph (3), “trade dispute” has the meaning given in section 244 of the Trade Union and Labour Relations (Consolidation) Act 1992<sup>(84)</sup>.

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<sup>(83)</sup> 2007 c. 3. Part 10A was inserted by section 365 of, and Part 1 of Schedule 2 to, the Taxation (International and Other Provisions) Act 2010 (c. 8).

<sup>(84)</sup> 1992 c. 52.

### **Treated as not liable to make payments**

3. A claimant is to be treated as not liable to make owner-occupier payments where the liability to make the payments is owed to a person who is a member of the claimant's household.

## **PART 2**

### **UC claimants**

#### **Application of Part 2**

4. This Part applies to UC claimants.

#### **Liable or treated as liable to make payments**

5.—(1) A claimant is liable to make owner-occupier payments where in the case of a single claimant, the claimant or the claimant's partner (if any), or, in the case of joint claimants, either member of the couple, has a liability to make the payments.

(2) A claimant is to be treated as liable to make owner-occupier payments where—

- (a) the person who is liable to make the payments is a child or qualifying young person for whom the claimant is responsible;
- (b) all of the following conditions are met—
  - (i) the person who is liable to make the payments is not doing so;
  - (ii) the claimant has to make the payments in order to continue occupation of the relevant accommodation;
  - (iii) the claimant's circumstances are such that it would be unreasonable to expect them to make other arrangements; and
  - (iv) it is otherwise reasonable in all the circumstances to treat the claimant as liable to make the payments; or
- (c) the claimant—
  - (i) has a liability to make the payments which is waived by the person ("P") to whom the liability is owed; and
  - (ii) the waiver of that liability is by way of reasonable compensation for reasonable repair or re-decoration works carried out by the claimant to the relevant accommodation which P would otherwise have carried out or been required to carry out.

(3) Sub-paragraph (1)(b)(ii) does not apply to a person in a polygamous marriage who is a single claimant by virtue of regulation 3(4) of the UC Regulations<sup>(85)</sup>.

#### **Treated as not liable to make payments**

6. A claimant is to be treated as not liable to make owner-occupier payments—

- (a) where the liability to make the payments is owed to a person who is a member of the claimant's household;
- (b) in respect of any amount which represents an increase in the sum that would otherwise be payable and is the result of—

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(85) There have been amendments to regulation 3 which are not relevant to these Regulations.

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- (i) outstanding arrears of any payment or charge in respect of the relevant accommodation;
  - (ii) outstanding arrears of any payment or charge in respect of other accommodation previously occupied by the claimant; or
  - (iii) any other unpaid liability to make a payment or charge; or
- (c) where the Secretary of State is satisfied that the liability to make the owner-occupier payments was contrived in order to secure the offer of loan payments or increase the amount of each loan payment.

### SCHEDULE 3

Regulation 3(2)(c)

Circumstances in which a claimant is, or is to be, treated as occupying accommodation

## PART 1

### General

#### Interpretation

**1.—(1)** In this Schedule—

“Abbeyfield Home” means an establishment run by the Abbeyfield Society including all bodies corporate or incorporate which are affiliated to that Society;

“care home”—

- (a) in England and Wales, has the meaning given in section 3 of the Care Standards Act 2000<sup>(86)</sup>;
- (b) in Scotland, means a care home service within the meaning of paragraph 2 of Schedule 12 to the Public Services Reform (Scotland) Act 2010<sup>(87)</sup>,

and in either case includes an independent hospital;

“croft” means a croft within the meaning of section 3(1) of the Crofters (Scotland) Act 1993<sup>(88)</sup>;

“full-time student” has the meaning given—

- (a) in the case of income support, in regulation 61(1) of the IS Regulations<sup>(89)</sup>;
- (b) in the case of jobseeker’s allowance, in regulation 1(3) of the JSA Regulations<sup>(90)</sup>;
- (c) in the case of employment and support allowance, in regulation 131 of the ESA Regulations<sup>(91)</sup>;
- (d) in the case of state pension credit, in regulation 1(2) of the SPC Regulations<sup>(92)</sup>;

<sup>(86)</sup> 2000 c. 4. Section 3 was amended by paragraph 4(2) and (3) of Part 1 of Schedule 5 to the Health and Social Care Act 2008 (c. 14).

<sup>(87)</sup> 2010 asp 8.

<sup>(88)</sup> 1993 c. 44. Section 3(1) was amended by section 2(a) of the Crofting Reform etc. Act 2007 (asp 7) and section 22(1) of the Crofting Reform (Scotland) Act 2010 (asp 4).

<sup>(89)</sup> The definition of “full-time student” was amended by S.I. 2000/1981 and 2006/718.

<sup>(90)</sup> The definition of “full-time student” was amended by S.I. 1996/1516, 2001/1434 and 2319, 2006/718, 2008/3157, 2010/641 and 2015/971.

<sup>(91)</sup> There have been amendments to regulation 131 which are not relevant to these Regulations.

<sup>(92)</sup> There have been amendments to regulation 1(2) which are not relevant to these Regulations.

“independent hospital”—

- (a) in England, means a hospital as defined in section 275 of the National Health Service Act 2006<sup>(93)</sup> that is not a health service hospital as defined by that section;
- (b) in Wales, has the meaning given in section 2 of the Care Standards Act 2000;
- (c) in Scotland means an independent healthcare service as defined in section 10F(1)(a) and (b) of the National Health Service (Scotland) Act 1978<sup>(94)</sup>;

“medically approved” means certified by a medical practitioner;

“patient” means a person who is undergoing medical or other treatment as an inpatient in a hospital or similar institution;

“period of study” has the meaning given—

- (a) in the case of income support and state pension credit, in regulation 2(1) of the IS Regulations<sup>(95)</sup>;
- (b) in the case of jobseeker’s allowance, in regulation 1(3) of the JSA Regulations<sup>(96)</sup>;
- (c) in the case of employment and support allowance, in regulation 2 of the ESA Regulations<sup>(97)</sup>;

“residential accommodation” means accommodation which is a care home, Abbeyfield Home or independent hospital;

“training course” means a course of training or instruction provided wholly or partly by or on behalf of or in pursuance of arrangements made with, or approved by or on behalf of, Skills Development Scotland, Scottish Enterprise, Highlands and Islands Enterprise, a government department or the Secretary of State.

(2) In this Schedule, a reference to a claimant being liable to make owner-occupier payments is to be read as a reference to a person being treated as liable to make owner-occupier payments under Schedule 2.

## PART 2

### Legacy benefit claimants and SPC claimants

#### Application of Part 2

- 2. This Part applies to legacy benefit claimants and SPC claimants.

#### Occupying accommodation: general rule

3.—(1) Subject to the following paragraphs of this Part, the accommodation which the claimant occupies as the claimant’s home or, if the claimant is a member of a family, the claimant and the claimant’s family occupy as their home, is the accommodation which is normally occupied as the home.

(2) In determining whether accommodation is the accommodation normally occupied as the home for the purposes of sub-paragraph (1), regard shall be had to any other dwelling occupied by the claimant or, if the claimant is a member of a family, by the claimant and the claimant’s family, whether or not that other dwelling is in Great Britain.

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<sup>(93)</sup> 2006 c. 41.

<sup>(94)</sup> 1978 asp 29. Section 10F(1)(A) was inserted by the Public Services Reform (Scotland) Act 2010 (asp 8).

<sup>(95)</sup> Regulation 2(1) was amended by S.I. 2000/1981 and other amending instruments which are not relevant to these Regulations.

<sup>(96)</sup> Regulation 1(3) was amended by S.I. 2000/1922 and other amending instruments which are not relevant to these Regulations.

<sup>(97)</sup> There have been amendments to regulation 2 which are not relevant to these Regulations.

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### **Full-time study**

4.—(1) Subject to sub-paragraph (2), where a claimant is a full-time student or on a training course and is liable to make owner-occupier payments in respect of either (but not both)—

- (a) the accommodation which the claimant occupies for the purpose of attending the course of study or training course; or
- (b) the accommodation which the claimant occupies when not attending the course of study or training course,

the claimant shall be treated as occupying as the claimant's home the accommodation in respect of which the claimant is liable to make the owner-occupier payments.

(2) A claimant who is a full-time student shall not be treated as occupying accommodation as the claimant's home for any week of absence from it outside the period of study, other than an absence occasioned by the need to enter hospital for treatment.

### **Living in other accommodation during essential repairs**

5. Where the claimant—

- (a) has been required to move into temporary accommodation by reason of essential repairs being carried out to the accommodation which the claimant occupies as the claimant's home ("the home accommodation"); and
- (b) is liable to make owner-occupier payments in respect of either (but not both) the home accommodation or the temporary accommodation,

the claimant shall be treated as occupying as the claimant's home the accommodation in respect of which the claimant is liable to make those payments.

### **Living in other accommodation due to fear of violence, where a claimant's partner is a full-time student or where moving into new accommodation**

6. Where a claimant is liable to make owner-occupier payments in respect of two dwellings, the claimant shall be treated as occupying both dwellings as the claimant's home—

- (a) where—
  - (i) the claimant has left and remains absent from the accommodation which the claimant occupies as the claimant's home ("the home accommodation") through fear of violence in the home or of violence by a close relative or former partner; and
  - (ii) it is reasonable that owner-occupier payments should be met in respect of both the claimant's home accommodation and the claimant's present accommodation which the claimant occupies as the home;
- (b) in the case of a couple or a member of a polygamous marriage, where—
  - (i) one partner is a full-time student or is on a training course and it is unavoidable that the members of the couple or polygamous marriage should occupy two separate dwellings; and
  - (ii) it is reasonable that owner-occupier payments should be met in respect of both dwellings; or
- (c) where—
  - (i) the claimant has moved into new accommodation occupied as the claimant's home, except where paragraph 5 applies, for a period not exceeding four benefit weeks from the first day of the benefit week in which the move occurs; and

- (ii) the claimant's liability to make owner-occupier payments in respect of both the new accommodation and the accommodation from which the move was made is unavoidable.

### **Moving in delayed for certain reasons**

#### **7.—(1) Where—**

- (a) a claimant was delayed in moving into accommodation (“the new accommodation”) and was liable to make owner-occupier payments in respect of that accommodation before moving in; and
- (b) the delay was reasonable and one of the conditions in sub-paragraphs (2) to (4) applies, the claimant shall be treated as occupying the new accommodation as the claimant's home for the period of delay, not exceeding four weeks immediately prior to the date on which the claimant moved into the new accommodation.

(2) The first condition is that the delay occurred in order to adapt the accommodation to meet the needs of the claimant or a member of the claimant's family who is a disabled person.

#### **(3) The second condition is that—**

- (a) the move was delayed pending local welfare provision to meet a need arising out of the move or in connection with setting up the claimant's home in the new accommodation; and
- (b) in the case of a legacy benefit claimant only—
  - (i) a member of the claimant's family is aged 5 or under;
  - (ii) the claimant's applicable amount includes a pensioner premium or disability premium under Schedule 2 to the IS Regulations<sup>(98)</sup>, Schedule 1 to the JSA Regulations<sup>(99)</sup> or Schedule 4 to the ESA Regulations<sup>(100)</sup>; or
  - (iii) a child tax credit is paid for a member of the claimant's family who is disabled or severely disabled for the purposes of section 9(6) of the Tax Credits Act 2002<sup>(101)</sup>;

(4) The third condition is that the claimant became liable to make owner-occupier payments in respect of the accommodation while the claimant was a patient or was in a residential home.

### **Temporary absence to try new accommodation of up to 13 weeks**

#### **8.—(1) This sub-paragraph applies to a claimant who enters residential accommodation—**

- (a) for the purpose of ascertaining whether the accommodation suits the claimant's needs; and
  - (b) with the intention of returning to the accommodation which the claimant occupies as the claimant's home (“the home accommodation”) in the event that the residential accommodation proves not to suit the claimant's needs,
- and while in the residential accommodation, the home accommodation is not let or sub-let to another person.

(2) A claimant to whom sub-paragraph (1) applies shall be treated as occupying the home accommodation during the period of absence, not exceeding 13 weeks in which the claimant

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<sup>(98)</sup> Relevant amending instruments are: S.I. 1988/663, 1991/2742, 1993/1150 and 2119, 1994/2139 and 3061, 1995/482, 1998/2231, 2000/681 and 724, 2002/490, 2497 and 3019, 2003/455, 2379 and 2629, 2004/1141, 2006/2378, 2007/719, 2009/1488, 2010/1160 and 1907, 2011/674 and 2425, 2013/388 and 591, 2014/2888 and 2015/173 and 1754 and other amending instruments which are not relevant to these Regulations.

<sup>(99)</sup> Relevant amending instruments are: S.I. 1996/1516 and 2538, 1998/2231, 2000/681 and 724, 2002/490, 2003/455 and 511, 2006/2378, 2007/719, 2009/1488, 2010/1160, 2013/388 and 591, 2014/2888 and 2015/1754 and other amending instruments which are not relevant to these Regulations.

<sup>(100)</sup> Relevant amending instruments are: 2012/913, 2013/630 and 2017/204.

<sup>(101)</sup> 2002 c. 21. Section 9 is amended by the Act.

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is resident in the residential accommodation, but only where the total absence from the home accommodation does not exceed 52 consecutive weeks.

### **Temporary absence of up to 13 weeks**

**9.** A claimant, except where paragraph 10 applies, shall be treated as occupying accommodation as the claimant's home throughout any period of absence not exceeding 13 weeks, where—

- (a) the claimant intends to return to occupy the accommodation as the claimant's home;
- (b) the part of the accommodation occupied by the claimant has not been let or sub-let to another person; and
- (c) the period of absence is unlikely to exceed 13 weeks.

### **Absences for certain reasons up to 52 weeks**

**10.—(1)** Where sub-paragraph (2) applies, a claimant is to be treated as occupying accommodation as the claimant's home ("the home accommodation") during any period of absence from it not exceeding 52 weeks beginning with the first day of that absence.

(2) This paragraph applies where a claimant's absence from the home accommodation is temporary and—

- (a) the claimant intends to return to occupy the home accommodation;
- (b) the home accommodation has not been let or sub-let;
- (c) the claimant is—
  - (i) detained in custody on remand pending trial or, as a condition of bail, required to reside—
    - (aa) in a dwelling, other than the home accommodation; or
    - (bb) in premises approved under section 13 of the Offender Management Act 2007(**102**);
  - (ii) detained pending sentence upon conviction;
  - (iii) resident in a hospital or similar institution as a patient;
  - (iv) undergoing or, the claimant's partner or child, or in the case of an SPC claimant, a person who has not attained the age of 20, is undergoing medical treatment, or medically approved convalescence, in accommodation other than residential accommodation;
  - (v) undertaking a training course;
  - (vi) undertaking medically approved care of another person;
  - (vii) undertaking the care of a child or, in the case of an SPC claimant, a person under the age of 20 whose parent or guardian is temporarily absent from the dwelling occupied by that parent or guardian for the purpose of receiving medically approved care or medical treatment;
  - (viii) a person who is receiving medically approved care provided in accommodation other than a residential home;
  - (ix) a full-time student to whom paragraph 4(1) or 6(b) does not apply;
  - (x) a person, other than a person to whom paragraph 8(1) applies, who is receiving care provided in residential accommodation; or

- (xi) a person to whom paragraph 6(a) does not apply and who has left the home accommodation through fear of violence in that accommodation, or by a person who was formerly his or her partner or is a close relative; and
- (d) the period of the claimant's absence is unlikely to exceed 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed that period.

## PART 3

### UC claimants

#### **Application of Part 3**

11. This Part applies to UC claimants.

#### **Occupying accommodation: general rule**

12.—(1) Subject to the following paragraphs of this Part, the accommodation which the claimant occupies as the claimant's home is the accommodation which the claimant normally occupies the home.

(2) Where the claimant occupies more than one dwelling, in determining whether accommodation is the accommodation normally occupied as the home for the purposes of sub-paragraph (1), regard is to be had to all the circumstances including (among other things) any persons with whom the claimant occupies each dwelling.

(3) Where accommodation which a claimant occupies as the claimant's home is situated on or pertains to a croft, croft land used for the purposes of the accommodation is to be treated as included in the accommodation.

#### **Living in other accommodation due to essential repairs**

13.—(1) Where a claimant—

- (a) is required to move into accommodation ("the other accommodation") on account of essential repairs being carried out to the accommodation the claimant occupies as the claimant's home ("the home accommodation");
- (b) intends to return to the home accommodation; and
- (c) is liable to make owner-occupier payments in respect of either the other accommodation or the home accommodation (but not both),

the claimant is to be treated as occupying as the claimant's home the accommodation in respect of which the owner-occupier payments are made.

#### **Moving homes: adaptations to new home for disabled person**

14.—(1) Sub-paragraph (2) applies where—

- (a) a claimant has moved into accommodation ("the new accommodation") and, immediately before the move, was liable to make owner-occupier payments in respect of the new accommodation; and
- (b) there was a delay in moving in to adapt the new accommodation in order to meet the needs of a disabled person.

(2) The claimant is to be treated as occupying both the new accommodation and the accommodation from which the move was made ("the old accommodation") if—

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- (a) immediately before the move, the claimant was receiving loan payments or, in the case of an existing claimant, a qualifying benefit which includes an amount for owner-occupier payments, in respect of the old accommodation; and
  - (b) the delay in moving into the new accommodation was reasonable.
- (3) A person is disabled under this Part if the person is—
- (a) a claimant or any child or qualifying young person for whom the claimant is responsible; and
  - (b) in receipt of—
    - (i) the care component of disability living allowance at the middle or highest rate;
    - (ii) attendance allowance; or
    - (iii) the daily living component of personal independence payment.
- (4) No claimant may be treated as occupying both the old accommodation and the new accommodation under this paragraph for more than one month.

#### **Living in other accommodation due to fear of violence**

- 15.**—(1) Sub-paragraph (2) applies where—
- (a) a claimant is occupying accommodation (“the other accommodation”) other than the accommodation which the claimant occupies as the claimant’s home (“the home accommodation”);
  - (b) it is unreasonable to expect the claimant to return to the home accommodation on account of the claimant’s reasonable fear of violence in the home, or by a former partner, against the claimant or any child or qualifying young person for whom the claimant is responsible; and
  - (c) the claimant intends to return to the home accommodation.
- (2) The claimant is to be treated as occupying both the home accommodation and the other accommodation as the claimant’s home if—
- (a) the claimant is liable to make payments in respect of both the other accommodation and the home accommodation; and
  - (b) it is reasonable to make loan payments in respect of both the home accommodation and the other accommodation.
- (3) Where the claimant is liable to make payments in respect of one accommodation only, the claimant is to be treated as occupying that accommodation as the claimant’s home but only if it is reasonable to make loan payments in respect of that accommodation.
- (4) No claimant may be treated as occupying both the home accommodation and the other accommodation under this paragraph for more than 12 months.

#### **Moving in delayed by adaptations to accommodation to meet needs of disabled person**

- 16.**—(1) The claimant is to be treated as having occupied accommodation before the claimant moved into it where—
- (a) the claimant has since moved in and, immediately before the move, the claimant is liable to make payments in respect of that accommodation;
  - (b) there was a delay in moving in that was necessary to enable the accommodation to be adapted to meet the needs of a disabled person; and
  - (c) it was reasonable to delay moving in.

(2) No claimant may be treated as occupying accommodation under this paragraph for more than one month.

#### **Moving into accommodation following a stay in hospital or care home**

**17.**—(1) The claimant is to be treated as having occupied accommodation before he or she moved into it where—

- (a) the claimant has since moved in and, immediately before the move, the claimant was liable to make payments in respect of that accommodation; and
- (b) the liability to make the payments arose while the claimant was a patient or accommodated in a care home (or, in the case of joint claimants, where both individuals were patients or were accommodated in a care home).

(2) No claimant may be treated as occupying the accommodation under this paragraph for more than one month.

#### **Temporary absence exceeding 6 months**

**18.**—(1) Subject to sub-paragraph (2), a claimant is to be treated as no longer occupying accommodation from which the claimant is temporarily absent where the absence exceeds, or is expected to exceed, 6 months.

(2) Where a claimant who falls within paragraph 14 is temporarily absent from the relevant accommodation, the claimant is to be treated as no longer occupying that accommodation where the absence exceeds, or is expected to exceed, 12 months.

### SCHEDULE 4

Regulation 17

#### Direct payments to qualifying lenders

##### **Direct payments**

**1.** Each loan payment made to a qualifying lender directly under regulation 17(1) shall be the amount calculated under paragraph 2 or 3 of this Schedule.

##### **Determining the amount to be paid to a qualifying lender: one qualifying loan**

**2.**—(1) Where one qualifying loan or alternative finance arrangement has been made to a claimant by a qualifying lender, the amount that is to be paid direct to that lender is to be calculated as follows.

###### *Step 1*

Find the amount of each loan payment calculated under regulation 10.

###### *Step 2*

Deduct from the amount resulting from step 1 the amount referred to in sub-paragraph (2).

(2) The amount referred to is the amount payable under a policy of insurance taken out by the claimant to insure against the risk of not being able to maintain repayments of loan interest or alternative finance payments to a qualifying lender.

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### **Determining the amount to be paid to a qualifying lender: more than one qualifying loan**

3. Where more than one qualifying loan or alternative finance arrangement has been made to a claimant by a qualifying lender, the amount that is to be paid direct to the qualifying lender is to be calculated as follows.

#### *Step 1*

Calculate an amount in accordance with Steps 1 and 2 of paragraph 2(1) in respect of each of these loans or alternative finance arrangements.

#### *Step 2*

Add those amounts together.

### **Qualifying lenders to apply direct payments to discharge of claimant's liability**

4. Where a direct payment is made under regulation 17(1) to a qualifying lender, the lender must apply the amount of the payment determined under either paragraph 2 or 3 of this Schedule towards discharging the claimant's liability to make owner-occupier payments in respect of which the direct payment was made.

### **Application by qualifying lenders of any amount which exceeds liability**

5.—(1) Where—

- (a) a direct payment is made to a qualifying lender under regulation 17(1); and
- (b) the amount paid exceeds the claimant's liability to make owner-occupier payments to the qualifying lender,

the qualifying lender must apply the amount of excess in accordance with sub-paragraph (2).

(2) Subject to sub-paragraph (3), the qualifying lender must apply the amount of excess as follows—

- (a) first, towards discharging the amount of any liability of the claimant for arrears of owner-occupier payments in respect of the qualifying loan or alternative finance arrangement in question;
- (b) if any amount of the excess is then remaining, towards discharging any liability of the claimant to repay—
  - (i) the principal sum in respect of the qualifying loan or alternative finance arrangement;  
or
  - (ii) any other sum payable by the claimant to that lender in respect of that qualifying loan or alternative finance arrangement.

(3) Where owner-occupier payments on two or more qualifying loans or alternative finance arrangements are payable to the same qualifying lender, the lender must apply the amount of the excess as follows—

- (a) first, towards discharging the amount of any liability of the claimant for arrears of owner-occupier payments in respect of the qualifying loans or alternative finance arrangements in question;
- (b) if any amount of the excess is then remaining, towards discharging any liability of the claimant to repay—
  - (i) the principal sum in respect of the qualifying loans or alternative finance arrangements; or

- (ii) any other sum payable by the claimant to that lender in respect of the qualifying loans or alternative finance arrangements.

### **Fees payable by qualifying lenders**

6.—(1) A fee is payable by a qualifying lender to the Secretary of State for the purpose of meeting the expenses of the Secretary of State in administering the making of direct payments to lenders.

(2) The fee is £0.39 in respect of each occasion on which a direct payment is made to the qualifying lender.

### **Election not to be regarded as a qualifying lender**

7.—(1) A body or person who would otherwise be within the definition of “qualifying lender” in the Act—

- (a) may elect not to be regarded as such for the purposes of these Regulations by giving notice to the Secretary of State in writing; and
- (b) may revoke any such notice by giving a further notice in writing.

(2) In respect of any financial year, a notice under sub-paragraph (1) which is given not later than 1st February before the start of the financial year, takes effect on 1st April following the giving of the notice.

(3) Where a body or person becomes a qualifying lender in the course of a financial year—

- (a) any notice of an election by the body or person under sub-paragraph (1)(a) must be given within 6 weeks (“the initial period”) beginning with the date on which the body or person becomes a qualifying lender; and
- (b) no direct payments may be made under regulation 17(1) to the body or person before the expiry of the initial period.

(4) Sub-paragraph (3)(b) does not apply in any case where—

- (a) the person or body gives the Secretary of State notice in writing that that provision should not apply; and
- (b) the notice is given before the start of the initial period or before that period expires.

(5) In relation to a notice under sub-paragraph (1)—

- (a) where the notice is given by an electronic communication, it must be given in accordance with Schedule 2 of the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013<sup>(103)</sup>;
- (b) where the notice is sent by post, it is to be treated as having been given on the day the notice was received.

### **Provision of information**

8.—(1) A qualifying lender must, in respect of the claimant, provide the Secretary of State with information as to—

- (a) the owner-occupier payments payable by the claimant to the lender;
- (b) the amount of the qualifying loan or alternative finance arrangement in respect of which owner-occupier payments are payable;
- (c) the purpose for which the qualifying loan or alternative finance arrangement was made;

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<sup>(103)</sup>S.I. 2013/380.

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- (d) the amount outstanding on the qualifying loan or alternative finance arrangement;
- (e) the amount of arrears of owner-occupier payments due in respect of the qualifying loan or alternative finance payment;
- (f) any change in the owner-occupier payments payable by the claimant to the lender; and
- (g) the redemption of the qualifying loan or alternative finance arrangement,

in the circumstances specified in sub-paragraphs (2), (3) and (6).

(2) The information referred to in sub-paragraph (1)(a) to (e) must be provided at the request of the Secretary of State where the claimant has made a claim for a qualifying benefit, provided that the Secretary of State may only make one request under this sub-paragraph.

(3) The information referred to in sub-paragraph (1)(d) and (f) must be provided where the Secretary of State makes a request for that information on or after the first day in respect of which loan payments are paid, or to be paid, to the qualifying lender on behalf of the claimant (“the first day”), provided that the Secretary of State may only make a request under this sub-paragraph once in each period of 12 months referred to in sub-paragraph (4).

(4) The period of 12 months is the period of 12 months beginning with the first day and each subsequent period of 12 months commencing on the anniversary of that day.

(5) A request may be made under paragraph (3) for the information referred to in sub-paragraph (1)(d) even though that information has been requested in the same 12 month period (as referred to in sub-paragraph (4)) under sub-paragraph (2).

(6) The information referred to in sub-paragraph (1)(g) must be provided to the Secretary of State as soon as reasonably practicable once the qualifying lender has received notice that the qualifying loan or alternative finance arrangement is to be redeemed.

### **Recovery of sum wrongly paid**

**9.—(1)** In the following circumstances, a qualifying lender must at the request of the Secretary of State repay any amount paid to the lender under regulation 17(1) which ought not to have been paid.

(2) The circumstances are that, in respect of a claimant—

- (a) the loan payments are terminated under regulation 9(2);
- (b) the qualifying loan or alternative finance arrangement in respect of which owner-occupier payments are made has been redeemed; or
- (c) both of the conditions in sub-paragraphs (3) and (4) are met.

(3) The first condition is that the amount of each loan payment determined under regulation 10 is reduced as a result of—

- (a) the standard rate determined under regulation 13 having been reduced; or
- (b) the amount outstanding on the qualifying loan or alternative finance arrangement having been reduced.

(4) The second condition is that no corresponding reduction was made to the amount calculated in respect of the qualifying lender under paragraph 2 or 3 of this Schedule.

(5) A qualifying lender is not required to make a repayment in the circumstances described in sub-paragraph (2)(a) unless the Secretary of State’s request is made before the end of the period of two months starting with the date on which the loan payments are terminated.

## SCHEDULE 5

Regulation 18

### Consequential amendments

1. The ESA Regulations are amended as follows—
  - (a) in regulation 67(1), in sub-paragraph (c) for “mortgage interest payments or such other housing costs as are prescribed” substitute “housing costs as prescribed”;
  - (b) in regulation 68(1), in sub-paragraph (d) for “mortgage interest payments or such other housing costs as are prescribed” substitute “housing costs as prescribed”;
  - (c) in Schedule 6—
    - (i) in paragraph 1(1)(b), for “under paragraph 16 to 18” substitute “under paragraph 18”;
    - (ii) in paragraph 1(2), omit the definition of “standard rate”;
    - (iii) in paragraph 3—
      - (aa) in sub-paragraph (1)(a), for “under paragraphs 14 to 16 of Schedule 2” substitute “under paragraph 16 of Schedule 2” and for “paragraphs 15 to 17 of Schedule 3” substitute “paragraph 17 of Schedule 3”;
      - (bb) in paragraph (2)(a), for “under paragraphs 11 to 13 of Schedule 2” substitute “under paragraph 13 of Schedule 2”;
    - (iv) in paragraph 6, omit sub-paragraphs (2) to (14);
    - (v) in paragraph 9, omit sub-paragraphs (1)(a)(i) and (2);
    - (vi) in paragraph 10, omit sub-paragraph (2)(a)(i);
    - (vii) omit paragraphs 11 to 14;
    - (viii) in paragraph 15—
      - (aa) omit sub-paragraph (6);
      - (bb) in sub-paragraph (12)(b), for “any loan or payment which qualifies under paragraphs 16 to 18” substitute “any payment which qualifies under paragraph 18”;
    - (ix) omit paragraphs 16 and 17;
    - (x) in paragraph 18—
      - (aa) for the heading substitute “Housing costs”;
      - (bb) in sub-paragraph (2)(c), for “the same meaning it has in paragraph 17(2)” substitute “the meaning in sub-paragraph (6)”;
      - (cc) after sub-paragraph (5) insert—

“(6) For the purposes of sub-paragraph (2)(c), “repairs and improvements” means any of the following measures undertaken with a view to maintaining the fitness of the dwelling for human habitation or, where the dwelling forms part of a building, any part of a building containing that dwelling—

        - (a) provision of a fixed bath, shower, wash basin, sink or lavatory, and necessary associated plumbing, including the provision of hot water not connected to a central heating system;
        - (b) repairs to existing heating system;
        - (c) damp proof measures;
        - (d) provision of ventilation and natural lighting;
        - (e) provision of drainage facilities;

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- (f) provision of facilities for preparing and cooking food;
  - (g) provision of insulation of the dwelling occupied as the home;
  - (h) provision of electric lighting and sockets;
  - (i) provision of storage facilities for fuel or refuse;
  - (j) repairs of unsafe structural defects;
  - (k) adapting a dwelling for the special needs of a disabled person; or
  - (l) provision of separate sleeping accommodation for persons of different sexes aged 10 or over but under the age of 20 who live with the claimant and for whom the claimant or the claimant's partner is responsible.”;
- (xi) in paragraph 19, after sub-paragraph (2) insert—
- “(2A) Where a non-dependant deduction is being made under the Loans for Mortgage Interest Regulations 2017, the amount of the deduction under sub-paragraph (1) or (2) is to be reduced by an amount equal to that non-dependant deduction.”; and
- (xii) in paragraph 20, omit sub-paragraph (2).
2. The IS Regulations are amended as follows—
- (a) in regulation 6(5)(c)—
    - (i) in paragraph (i), for “under paragraphs 15 to 17” substitute “under paragraph 17”;
    - (ii) in paragraph (ii), for “under paragraphs 14 to 16” substitute “under paragraph 16”;
    - (iii) in paragraph (iii), for “under paragraphs 16 to 18” substitute “under paragraph 18”;
  - (b) in regulation 17(1), in sub-paragraph (e) for “mortgage interest payments or such other housing costs as are prescribed” substitute “housing costs as prescribed”;
  - (c) in regulation 18(1), in sub-paragraph (f) for “mortgage interest payments or such other housing costs as are prescribed” substitute “housing costs as prescribed”;
  - (d) in Schedule 3—
    - (i) in paragraph 1(1)(b), for “under paragraphs 15 to 17” substitute “under paragraph 17”;
    - (ii) in paragraph 1(2), the definition of “standard rate” is omitted;
    - (iii) in paragraph 1A(1)(a)—
      - (aa) for “under paragraph 14 to 16 of Schedule 2” substitute “under paragraph 16 of Schedule 2”; and
      - (bb) for “paragraphs 16 to 18 of Schedule 6” substitute “paragraph 18 of Schedule 6”;
    - (iv) in paragraph 1A(1A)(a), for “under paragraphs 11 to 13 of Schedule II” substitute “paragraph 13 of Schedule II”;
    - (v) in paragraph 4, omit sub-paragraphs (2) to (12);
    - (vi) in paragraph 8, omit sub-paragraphs (1)(a)(i), (1A) and (1B);
    - (vii) in paragraph 9, omit sub-paragraph (2)(a)(i);
    - (viii) omit paragraphs 10 to 13;
    - (ix) in paragraph 14—
      - (aa) omit sub-paragraph (3AA);

- (bb) in sub-paragraph (6)(b), for “any loan or payment which qualifies under paragraphs 15 to 17” substitute “any payment which qualifies under paragraph 17”;
- (x) omit paragraphs 15 and 16;
- (xi) in paragraph 17—
  - (aa) for the heading substitute “Housing costs”;
  - (bb) in sub-paragraph (2)(c), for “the same meaning it has in paragraph 16(2)” substitute “the meaning in sub-paragraph (6);
  - (cc) after sub-paragraph (5) insert—
    - “(6) For the purposes of sub-paragraph (2)(c), “repairs and improvements” means any of the following measures undertaken with a view to maintaining the fitness of the dwelling for human habitation or, where the dwelling forms part of a building, any part of a building containing that dwelling—
      - (a) provision of a fixed bath, shower, wash basin, sink or lavatory, and necessary associated plumbing, including the provision of hot water not connected to a central heating system;
      - (b) repairs to existing heating system;
      - (c) damp proof measures;
      - (d) provision of ventilation and natural lighting;
      - (e) provision of drainage facilities;
      - (f) provision of facilities for preparing and cooking food;
      - (g) provision of insulation of the dwelling occupied as the home;
      - (h) provision of electric lighting and sockets;
      - (i) provision of storage facilities for fuel or refuse;
      - (j) repairs of unsafe structural defects;
      - (k) adapting a dwelling for the special needs of a disabled person; or
      - (l) provision of separate sleeping accommodation for persons of different sexes aged 10 or over but under the age of 20 who live with the claimant and for whom the claimant or the claimant’s partner is responsible.”; and
- (xii) in paragraph 18, after sub-paragraph (2) insert—
  - “(2A) Where a non-dependant deduction is being made under the Loans for Mortgage Interest Regulations 2017, the amount of the deduction under sub-paragraph (1) or (2) is to be reduced by an amount equal to that non-dependant deduction.”.

**3. The JSA Regulations are amended as follows—**

- (a) in regulation 83, in paragraph (f) for “mortgage interest payments or such other housing costs as are prescribed” substitute “housing costs as prescribed”;
- (b) in regulation 84(1), in paragraph (g) for “mortgage interest payments or such other housing costs as are prescribed” substitute “housing costs as prescribed”;
- (c) in regulation 86A, in paragraph (d) for “mortgage interest payments or such other housing costs as are prescribed” substitute “housing costs as prescribed”;

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- (d) in regulation 86B, in paragraph (e) for “mortgage interest payments or such other housing costs as are prescribed” substitute “housing costs as prescribed”;
- (e) omit regulation 87(4) and (5);
- (f) in Schedule 2—
  - (i) in paragraph 1(1)(b), for “under paragraph 14 to 16” substitute “under paragraph 16”;
  - (ii) in paragraph 1(2), omit the definition of “standard rate” ;
  - (iii) in paragraph 1A(1)(a)—
    - (aa) for “under paragraph 15 to 17 of Schedule 3” substitute “under paragraph 17 of Schedule 3”; and
    - (bb) for “paragraphs 16 to 18 of Schedule 6” substitute “under paragraph 18 of Schedule 6”;
  - (iv) in paragraph 1A(1ZA)(a), for “under paragraphs 11 to 13 of Schedule II” substitute “under paragraph 13 of Schedule II”;
  - (v) in paragraph 1A(1A)(a)—
    - (aa) for “under paragraph 15 or 16 of Schedule 3” substitute “under paragraph 17 of Schedule 3”; and
    - (bb) for “paragraphs 16 or 17 of schedule 6” substitute “under paragraph 18 of Schedule 6”;
  - (vi) in paragraph 1A(1B)(a), for “under paragraphs 11 to 13 of Schedule II” substitute “under paragraph 13 of Schedule II”;
  - (vii) in paragraph 4, omit sub-paragraphs (2) to (12);
  - (viii) in paragraph 7, omit sub-paragraphs (1)(a)(i), (2), (2A) and (2B);
  - (ix) in paragraph 8, omit sub-paragraph (2)(a)(i);
  - (x) omit paragraphs 9 to 12;
  - (xi) in paragraph 13—
    - (aa) omit sub-paragraph (4A);
    - (bb) in sub-paragraph (9)(b), for “any loan or payment which qualifies under paragraphs 14 to 16” substitute “any payment which qualifies under paragraph 16”;
  - (xii) omit paragraphs 14 and 15;
  - (xiii) in paragraph 16—
    - (aa) for the heading substitute “Housing costs”;
    - (bb) in sub-paragraph (2)(c), for “the same meaning it has in paragraph 15(2)” substitute “the meaning in sub-paragraph (6)”;
    - (cc) after sub-paragraph (5) insert—
      - “(6) For the purposes of sub-paragraph (2)(c), “repairs and improvements” means any of the following measures undertaken with a view to maintaining the fitness of the dwelling for human habitation or, where the dwelling forms part of a building, any part of a building containing that dwelling—
        - (a) provision of a fixed bath, shower, wash basin, sink or lavatory, and necessary associated plumbing, including the provision of hot water not connected to a central heating system;
        - (b) repairs to existing heating system;

- (c) damp proof measures;
  - (d) provision of ventilation and natural lighting;
  - (e) provision of drainage facilities;
  - (f) provision of facilities for preparing and cooking food;
  - (g) provision of insulation of the dwelling occupied as the home;
  - (h) provision of electric lighting and sockets;
  - (i) provision of storage facilities for fuel or refuse;
  - (j) repairs of unsafe structural defects;
  - (k) adapting a dwelling for the special needs of a disabled person; or
  - (l) provision of separate sleeping accommodation for persons of different sexes aged 10 or over but under the age of 20 who live with the claimant and for whom the claimant or the claimant's partner is responsible.”;
- (xiv) in paragraph 17, after sub-paragraph (2) insert—
- “(2A) Where a non-dependant deduction is being made under the Loans for Mortgage Interest Regulations 2017, the amount of the deduction under sub-paragraph (1) or (2) is to be reduced by an amount equal to that non-dependant deduction.”; and
- (xv) in paragraph 18, omit sub-paragraph (2).
4. Schedule 2 of the SPC Regulations is amended as follows—
- (a) in paragraph 1—
    - (i) in sub-paragraph (1)(b), for “under paragraphs 11 to 13” substitute “under paragraph 13”;
    - (ii) omit sub-paragraph (2);
  - (b) in paragraph 5, omit sub-paragraphs (2) to (13);
  - (c) omit paragraphs 7 to 12;
  - (d) in paragraph 13—
    - (i) for the heading substitute “Housing costs”;
    - (ii) in sub-paragraph (2)(c), for “the same meaning it has in paragraph 12(2)” substitute “the meaning in sub-paragraph (7)”;
    - (iii) after sub-paragraph (6) insert—

“(7) For the purposes of sub-paragraph (2)(c), “repairs and improvements” means any of the following measures undertaken with a view to maintaining the fitness of the dwelling for human habitation or, where the dwelling forms part of a building, any part of a building containing that dwelling—

      - (a) provision of a fixed bath, shower, wash basin, sink or lavatory, and necessary associated plumbing, including the provision of hot water not connected to a central heating system;
      - (b) repairs to existing heating system;
      - (c) damp proof measures;
      - (d) provision of ventilation and natural lighting;
      - (e) provision of drainage facilities;
      - (f) provision of facilities for preparing and cooking food;

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- (g) provision of insulation of the dwelling occupied as the home;
  - (h) provision of electric lighting and sockets;
  - (i) provision of storage facilities for fuel or refuse;
  - (j) repairs of unsafe structural defects;
  - (k) adapting a dwelling for the special needs of a disabled person; or
  - (l) provision of separate sleeping accommodation for persons of different sexes aged 10 or over but under the age of 20 who live with the claimant and for whom the claimant or the claimant's partner is responsible.”; and
- (e) in paragraph 14, after sub-paragraph (2) insert—
- “(2A) Where a non-dependant deduction is being made under the Loans for Mortgage Interest Regulations 2017, the amount of the deduction under sub-paragraph (1) or (2) is to be reduced by an amount equal to that non-dependant deduction.”.
- 5.** The UC Regulations are amended as follows—
- (a) omit regulation 25(2)(b);
  - (b) omit regulation 26(3)(b)(i);
  - (c) in regulation 26(3)(b)(ii), omit “only”;
  - (d) omit regulation 66(1)(h)(ii);
  - (e) in Schedule 1—
    - (i) in paragraph 3(f), for “within the meaning of paragraph 4” substitute “within the meaning of Schedule 1 of the Loans for Mortgage Regulations 2017”;
    - (ii) omit paragraphs 4 to 6;
    - (iii) in paragraph 7(3)(a), for “a loan that falls within paragraph 5” substitute “a qualifying loan within the meaning of regulation 2 of the Loans for Mortgage Interest Regulations 2017”;
  - (f) in Schedule 5—
    - (i) in paragraph 2, omit the definitions of “alternative finance arrangements”, “alternative finance payments”, “loan interest payments” and “standard rate”;
    - (ii) for paragraph 3(1), substitute—

“(1) “Relevant payments” means one or more payments which are service charge payments.”;
    - (iii) omit paragraph 3(2);
    - (iv) in paragraph 9, for “the aggregate of the amounts resulting from paragraphs 10, 11 and 13” substitute “the amount resulting from paragraph 13”; and
    - (v) omit paragraphs 10, 11 and 12.
- 6.** Regulation 29 of the Transitional Provisions Regulations is amended as follows—
- (a) in paragraph (1)(b)(i), for “paragraphs 14 to 16 of Schedule 2” substitute “paragraph 16 of Schedule 2”;
  - (b) in paragraph (1)(b)(ii), for “paragraphs 16 to 18 of Schedule 6” substitute “paragraph 18 of Schedule 6”; and
  - (c) in paragraph (1)(b)(iii), for “paragraphs 15 to 17 of Schedule 3” substitute “paragraph 17 of Schedule 3”.

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## EXPLANATORY NOTE

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

These Regulations make provision for the Secretary of State to make loan payments to claimants of income-related employment and support allowance, income support, income-based jobseeker's allowance, state pension credit or universal credit (referred to as "qualifying benefits") or, if applicable, direct to the claimant's mortgage lender, in respect of the claimant's liability to make owner-occupier payments (principally mortgage interest) on the claimant's home.

The powers to make such provision are contained in sections 18 to 21 of the Welfare Reform and Work Act 2016 (c. 7) (the "2016 Act"). The Regulations also make consequential changes to the regulations providing for the qualifying benefits so that support with owner-occupier payments is no longer payable as part of the benefit award.

Regulation 1 provides for the citation and commencement of these Regulations. The Regulations come into force on 27th July 2017, with the exception of regulations 18 to 21 which come into force on 6th April 2018.

Regulation 2 sets out the definitions which are used in these Regulations.

Regulation 3 provides that the Secretary of State may offer loan payments to a claimant in respect of any liability the claimant has, or is treated as having, to make owner-occupier payments in respect of the accommodation the claimant is, or is treated as, occupying as the claimant's home. The meaning of "owner-occupier payments", the circumstances in which a claimant is, or is to be treated as, liable to make owner-occupier payments and the circumstances in which a claimant is, or is to be treated as, occupying accommodation as the claimant's home (referred to as the "relevant accommodation") are set out in Schedules 1 to 3 to the Regulations.

Regulation 3(4) provides that a claimant of universal credit will not be eligible for the offer of loan payments if any member of the benefit unit (comprised of the claimant and his or her partner, if any) has any earned income.

Regulation 4 provides that the offer of loan payments is accepted where the Secretary of State has received the loan agreement signed by, in the case of a single claimant, the claimant and the claimant's partner (if any), or joint claimants, and the relevant documents referred to in regulation 5(2).

Under regulation 5, the Secretary of State shall only make the loan payments if the offer is accepted and certain conditions are met. The conditions are that—

- (a) in England and Wales, where the legal owners of the relevant accommodation are all in the benefit unit, each legal owner has executed a charge by way of legal mortgage. However, where any legal owners are not in the benefit unit, any legal owners who are in the benefit unit must execute an equitable charge in respect of his or her beneficial interest in the accommodation;
- (b) in Scotland, each legal owner within the benefit unit has executed a standard security in respect of his or her interest in the relevant accommodation;
- (c) the Secretary of State has obtained written consent from any person in the benefit unit who is not a legal owner to the creation of a charge;
- (d) the Secretary of State has provided certain information about the loan payments, which is set out in regulation 6, to the claimant and the claimant's partner (if any).

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Regulation 7 sets out the intervals at which the loan payments will be made to the claimant or, if relevant, direct to the claimant's mortgage lender.

Regulation 8 provides for the day from which loan payments will be made, which will not be before 6th April 2018.

Under regulation 9(1), loan payments will continue to be made at intervals indefinitely. However, if one of the circumstances in regulation 9(3) occurs (which includes where the claimant ceases to be entitled to a qualifying benefit), the loan payments will stop.

Regulation 9(4) provides that where a claimant ceases to be entitled to income support, an income-based jobseeker's allowance or an income-related employment and support allowance because, in the case of a single claimant, the claimant or the claimant's partner, or either joint claimant, starts remunerative work, the loan payments will be paid to the claimant for a period of 4 weeks if the conditions in paragraph (5) are met.

Regulation 10 provides that the amount of each loan payment will be the sum of the amounts calculated under regulations 11 and 12. Regulation 11 provides for the calculation of an amount to be included in each loan payment in respect of qualifying loans. Regulation 12 provides for the calculation of an amount to be included in respect of alternative finance arrangements (this is applicable to universal credit and state pension credit claimants only).

Regulation 13 sets out how the standard rate, which is used to determine the amount of each loan payment, is determined. Regulation 14 applies a non-dependant deduction to the loan payment calculated under regulation 10, save in the case of a universal credit claimant.

Regulation 15 makes provision as to the payment of interest on the sum of the loan payments made.

Regulation 16 provides the circumstances and manner in which a claimant must repay the sum of the loan payments and accrued interest. Under regulation 16(8) and (9) a claimant may repay the outstanding amount voluntarily.

Under regulation 17, each loan payment must be made direct to a claimant's lender where the conditions in paragraph (2) are met (including that the lender satisfies the definition of "qualifying lender" in the 2016 Act); otherwise the loan payments must be made to the claimant.

Regulation 18 provides that the amendments in Schedule 5 have effect.

Regulation 19 contains transitional provisions for the situation where an existing claimant is entitled to a qualifying benefit, including an amount for owner-occupier payments, on 5th April 2018. In this case, the amendments made by Schedule 5 are treated as if they were not in force for a temporary period, enabling support with owner-occupier payments to continue to be paid as part of a claimant's qualifying benefit during this time.

Regulation 20 provides that where the Secretary of State determines that an existing claimant lacks capacity to make decisions about entering into a loan agreement, the amendments made by Schedule 5 are treated as if they were not in force until a relevant person has made a decision (for example, a decision to appoint a deputy with power to act on the claimant's behalf in respect of entering into a loan agreement), enabling support with owner-occupier payments to continue to be paid as part of a claimant's qualifying benefit during this time.

Regulation 21 provides that where a claimant or the claimant's former partner was entitled to a legacy benefit within one month before a claim for universal credit is made, and the claimant or the former partner was entitled to an amount in respect of housing costs as part of that benefit award or to loan payments, the claimant will be entitled to loan payments in conjunction with the award of universal credit without having to serve the qualifying period. Where the previous award did not include an amount for housing costs because the qualifying period was in the course of being served, the regulation provides for a modified qualifying period in relation to the universal credit award.

Regulation 22 enables any function of the Secretary of State under these Regulations to be delegated to a person authorised by the Secretary of State for that purpose.

Schedule 1 to the Regulations sets out the meaning of owner-occupier payments.

Schedule 2 sets out the circumstances in which a claimant is, or is to be treated as, liable to make owner-occupier payments.

Schedule 3 sets out the circumstances in which a claimant is, or is to be treated as, occupying accommodation as the claimant's home.

Schedule 4 makes provision for direct payments to qualifying lenders where the circumstances in regulation 17(2) apply.

Schedule 5 sets out amendments to the provisions of the regulations which currently provide for support with owner-occupier payments to be included in a claimant's qualifying benefit, so that such support is no longer included.

An impact assessment has not been produced for this instrument as it has no impact on business and civil society organisations. This instrument has no impact on the public sector.