
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).

Status: This is the original version (as it was originally made).

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.