

**2018 No. 307**

**SOCIAL SECURITY**

**The Loans for Mortgage Interest and Social Fund Maternity  
Grant (Amendment) Regulations 2018**

*Made* - - - - - *5th March 2018*

*Laid before Parliament* *6th March 2018*

*Coming into force in accordance with regulation 1(2) and (3)*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 123(1)(a), 136(3) and (5)(b), 137(1), 138(1)(a), (2) and (4) and 175(1) and (3) of the Social Security Contributions and Benefits Act 1992(a), sections 5(1)(p), 15A(2), 189(1), (4) and (6) and 191 of the Social Security Administration Act 1992(b), sections 12(1) and (4)(b), 35(1) and 36(2) of the Jobseekers Act 1995(c), sections 10(3) and (6), 11(1), 79(1) and (4) and 84 of the Social Security Act 1998(d), sections 17(1) and (3)(b), 24(1) and 25(2) and (3) of the Welfare Reform Act 2007(e) and sections 18, 19, 21 and 34 of the Welfare Reform and Work Act 2016(f).

In accordance with section 173(1)(b) of the Social Security Administration Act 1992, the Social Security Advisory Committee has agreed that the proposals in respect of these Regulations should not be referred to it.

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- (a) 1992 c. 4. Section 123 was repealed by Part 1 of Schedule 14 to the Welfare Reform Act 2012 (c. 5) which had effect on 1st April 2013, subject to savings and transitional provisions specified in S.I. 2013/358, to provide for the supersession of benefits by universal credit only in so far as they relate to the abolition of council tax benefit. Sections 137(1) and 138(4) are cited for the meaning of “prescribed”. Amendments have been made to section 137(1) which are not relevant to these Regulations. Section 138(1) was substituted by section 70(1) of the Social Security Act 1998 (c. 14), subject to transitional provisions specified in S.I. 1999/1055. The word “and” at the end of section 138(1)(a) was repealed by Part 8 of Schedule 14 to the Welfare Reform Act 2012 which had effect on 1st April 2012, as specified in S.I. 2012/3090, subject to savings only in so far as they relate to budgeting loans, community care grants and crisis loans. Section 138 was amended by section 23(5) of the Scotland Act 2016 (c. 11) with the effect of devolving the relevant powers to the Scottish Parliament for the purposes of making regulations only, with effect from 17th May 2017. For all other purposes, the powers devolved to the Scottish Parliament by section 23(5) do not come into force until 1st April 2020 as specified in S.I. 2017/455. Section 175(1) was amended by paragraphs 29(1) and (2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).
- (b) 1992 c. 5. Section 15A(2) was amended by paragraphs 9(3) and (4) of Schedule 2 to the State Pension Credit Act 2002 (c. 16). Section 189(1) was amended by paragraph 57(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 and by paragraph 1 of Schedule 6 to the Tax Credits Act 2002 (c. 21). Section 191 is cited for the meaning of “prescribe”. The definition of “prescribe” was amended by paragraph 10 of Schedule 5 to the Welfare Reform Act 2007 (c. 5).
- (c) 1995 c. 18. Section 35(1) is cited for the meaning of “prescribed” and “regulations”. The definitions of “prescribed” and “regulations” were amended by paragraph 62 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999.
- (d) 1998 c. 14. Section 79(1) was amended by S.I. 2008/2833 (except in relation to Scotland for the purposes specified in article 3(3)(a) and (b)) and paragraphs 12 and 13 of Schedule 4 to the Tax Credits Act 2002. Section 84 is cited for the meaning of “prescribe”.
- (e) 2007 c. 5. Section 24(1) is cited for the meaning of “prescribed” and “regulations”.
- (f) 2016 c. 7.

## PART 1

### Citation, commencement and extent

#### **Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Loans for Mortgage Interest and Social Fund Maternity Grant (Amendment) Regulations 2018.

(2) Except for this regulation and regulation 2(18), these Regulations come into force on 6th April 2018.

(3) This regulation and regulation 2(18) come into force on 5th April 2018.

(4) These Regulations extend to England and Wales and Scotland only.

## PART 2

### Loans for Mortgage Interest Amendments

#### **Amendments to the Loans for Mortgage Interest Regulations 2017**

2.—(1) The Loans for Mortgage Interest Regulations 2017(a) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) in the appropriate place insert—

““alternative finance arrangements” has the meaning given in paragraph 5(4) of Schedule 1 to these Regulations;”;

(b) for the definition of “joint claimants” substitute—

““joint claimants”—

(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) 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—

(aa) equal to or exceeding the applicable amount, but

(bb) less than the sum of that applicable amount and the amount of a loan payment applicable to the joint-claim couple;

(b) in the case of universal credit means members of a couple who have jointly made a claim for, and are entitled to, universal credit;”;

(c) in the definition of “legacy benefit claimant” after “entitled to” insert “, or is treated as entitled to,”;

(d) for the definition of “single claimant” substitute—

““single claimant” means—

(a) an individual who has made a claim for, and is entitled to, a qualifying benefit;

(b) an individual who has made a claim for, but is not entitled to, a legacy benefit or state pension credit by reason only that the individual has, or, if the individual is a member of a couple, they have, income—

(i) equal to or exceeding the applicable amount, but

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(a) S.I. 2017/725. These Regulations came into force on 27th July 2017 other than regulations 18 to 21 which come into force on 6th April 2018.

- (ii) less than the sum of that applicable amount and the amount of a loan payment applicable to the individual;”;
- (e) in the definition of “SPC claimant” after “entitled to” insert “, or is treated as entitled to,”;
- (f) in the definition of “transitional end day” after “regulations 19(1)” insert “, 19A(1) and (5)”;
- (g) in paragraph (2), after sub-paragraph (a) insert—
  - “(aa) a person being treated as entitled to a qualifying benefit is to be read as a reference to a person who satisfies sub-paragraph (a)(ii) of the definition of “joint claimants” or sub-paragraph (b) of the definition of “single claimant”, except in the definition of “qualifying period”, regulation 21(5)(b) and paragraph 3 of Schedule 1;”.
- (3) In regulation 7 (time of each loan payment), for paragraph (b) substitute—
  - “(b) in the case of a legacy benefit claimant or SPC claimant, at 4 weekly intervals in arrears.”.
- (4) In regulation 8 (period covered by loan payments)—
  - (a) for paragraph (1)(c) substitute—
    - “(c) in the case of an SPC claimant, the first day of entitlement to state pension credit;”;
  - (b) after paragraph (1)(d) insert—
    - “;
    - (e) a date requested by the claimant.”;
  - (c) for paragraph (2) substitute—
    - “(2) If the day referred to in paragraph (1)(a) to (c) and (e) is not the first day of the claimant’s benefit week, in the case of a legacy benefit claimant or SPC claimant, or assessment period, in the case of a UC claimant, the day referred to shall be the first day of the first benefit week or first assessment period that begins after that date.”.
- (5) In regulation 9 (duration of loan payments)—
  - (a) in paragraph (3)(a) after the words “ceases to be entitled to” insert “, or treated as entitled to,”;
  - (b) for paragraph (7) substitute—
    - “(7) If a legacy benefit claimant ceases to be entitled to, or treated as entitled to, a legacy benefit (“the old entitlement”) but becomes entitled, or treated as entitled, again to the benefit (“the new entitlement”) within the period of 52 weeks beginning with the day on which the claimant ceased to be entitled, or treated as entitled, to the old entitlement, the loan payments may begin without a new qualifying period starting if the claimant wishes to receive loan payments on the basis of the new entitlement.”.
- (6) In regulation 10 (calculation of each loan payment), after “regulation 14” insert “or 14A”.
- (7) In regulation 12 (calculation in respect of alternative finance payments), in paragraph (5), for “in connection with a qualifying loan” substitute “in connection with alternative finance arrangements”.
- (8) After regulation 14 (non-dependant deductions), insert—

**“Insurance payment deduction**

**14A.**—(1) In the case of a legacy benefit claimant or UC claimant, where the claimant or the claimant’s partner is in receipt of a payment under a policy of insurance taken out to insure against the risk of being unable to maintain owner-occupier payments within the meaning of Schedule 1, a deduction from the loan payment calculated under regulation 10 shall be made equal to the amount received in respect of owner-occupier payments.

(2) Where the amount referred to in paragraph (1) is equal to or more than the loan payment, the amount of the loan payment shall be zero.”.

(9) In regulation 15 (interest)—

(a) in paragraph (1) after sub-paragraph (b) insert—

“;

(c) where the conditions in paragraph (1A) are met, the day on which the Secretary of State sends a completion statement to the claimant.”;

(b) after paragraph (1) insert—

“(1A) The conditions are—

(a) the claimant requests a completion statement from the Secretary of State in order to repay all of the outstanding amount in accordance with regulation 16(8) and (9); and

(b) the outstanding amount is paid within 30 days beginning with the day on which the completion statement is sent by the Secretary of State to the claimant.

(1B) Where regulation 16(3) applies, the Secretary of State shall continue to charge interest on the outstanding amount until the day referred to in regulation 15(1).”;

(c) after paragraph (4) insert—

“(4A) For the purposes of this regulation, a “completion statement” means a written statement setting out the outstanding amount owed by the claimant to the Secretary of State.”.

(10) In regulation 16 (repayment)—

(a) in paragraph (1), for sub-paragraph (c) substitute—

“(c) in the case of—

(i) a claimant who is the sole legal owner of the relevant accommodation or the legal owner of the accommodation with someone other than a partner, the claimant’s death;

(ii) a claimant with a partner who is the sole legal owner of the relevant accommodation or the legal owner of the accommodation with someone other than the claimant, the partner’s death; or

(iii) a claimant and partner who are both legal owners (whether or not with anyone else) of the relevant accommodation, the death of the last member of the couple.”;

(b) in paragraph (3), after sub-paragraph (a) insert—

“(aa) the claimant, following the death of the claimant’s partner, where the claimant is in occupation of the relevant accommodation; or”.

(11) For regulation 18 (consequential amendments), substitute—

**“Consequential amendments**

**18.**—(1) Subject to paragraph (2) and regulations 19, 19A and 20, the amendments in Schedule 5 have effect.

(2) The amendments made by Part 2 of Schedule 5 to the Social Security and Child Support (Decisions and Appeals) Regulations 1999(a) do not apply in relation to any decision or determination about an amount for owner-occupier payments under the substantive regulations as those regulations applied without the amendments made by Part 1 of Schedule 5.

(3) In this regulation, the “substantive regulations” means the ESA Regulations, IS Regulations, JSA Regulations, SPC Regulations and UC Regulations.”.

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(a) S.I. 1999/991.

(12) For regulation 19 (transitional provision: existing claimants) and regulation 20 (transitional provision: lack of capacity), substitute—

**“Transitional provision: loan offer made before 6th April 2018**

**19.**—(1) Subject to regulation 20, in relation to an existing claimant in a case where the loan payments offer date occurs before 6th April 2018, the amendments made by Schedule 5 shall be treated as though they did not have effect until the earlier of the following days (where that day occurs after 6th April 2018) (“the transitional end day”)—

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

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

- (a) in the case of—
  - (i) a legacy benefit claimant or SPC claimant, where 6th April 2018 is not the first day of the claimant’s benefit week, the first day of the first benefit week that begins after 6th April 2018; or
  - (ii) a UC claimant, where 6th April 2018 is not the first day of the claimant’s assessment period, the first day of the first assessment period that begins after 6th April 2018;
- (b) the relevant day in paragraph (3).

(3) The relevant day is the day after the day that is the earlier 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) the last day of the period of 4 weeks, beginning with the day after the day on which the Secretary of State has received both the loan agreement and the documents referred to in regulation 5(2), duly executed, where both the loan agreement and the documents are received within the period of 6 weeks beginning with the loan payments offer date; or
- (c) the last day of the period of 6 weeks, beginning with the loan payments offer date, where the Secretary of State has not received both the loan agreement and the documents referred to in regulation 5(2), duly executed, within that period.

(4) Where in the case of—

- (a) a legacy benefit claimant or SPC claimant, the relevant day referred to in paragraph (3) is not the first day of the claimant’s benefit week, then the relevant day shall be the first day of the first benefit week that begins after the relevant day; or
- (b) a UC claimant, the relevant day referred to in paragraph (3) is not the first day of the claimant’s assessment period, then the relevant day shall be the first day of the first assessment period that begins after the relevant day.

**Transitional provision: loan offer made on or after 6th April 2018**

**19A.**—(1) Subject to regulation 20 and paragraph (4), in relation to an existing claimant in a case where the loan payments offer date does not occur before 6th April 2018, the amendments made by Schedule 5 shall be treated as though they did not have effect until the earlier of the following days (where that day occurs after 6th April 2018) (“the transitional end day”)—

- (a) the relevant day in paragraph (2);
- (b) the day after the day on which entitlement to a qualifying benefit ends;
- (c) the day after the day on which the Secretary of State receives notification from the claimant that the claimant does not wish to receive loan payments.

- (2) The relevant day is—
- (a) 7th May 2018; or
  - (b) where the loan payments offer date occurs before 7th May 2018, the relevant day in regulation 19(3)(b) and (c) and (4).
- (3) Where in the case of—
- (a) a legacy benefit claimant or SPC claimant, the day referred to in paragraph (1)(c), or the relevant day as referred to in paragraph (2)(a), is not the first day of the claimant’s benefit week, then that day or that relevant day is the first day of the first benefit week that begins after that day or that relevant day; or
  - (b) a UC claimant, the day referred to in paragraph (1)(c), or the relevant day as referred to in paragraph (2)(a), is not the first day of the claimant’s assessment period, then that day or that relevant day is not the first day of the first assessment period that begins after that day or that relevant day.
- (4) Paragraphs (1) to (3) do not apply in relation to an existing claimant where, as at the end of 5th April 2018—
- (a) the Secretary of State, or a person authorised to exercise functions of the Secretary of State, has, before 19th March 2018 made a request to the claimant, whether orally or in writing, to provide information that is needed in order for the Secretary of State or that person to—
    - (i) take steps to ascertain whether the claimant wishes to receive an offer of loan payments or not; or
    - (ii) be able to send to the claimant the loan agreement and documents referred to in regulation 5(2); and
  - (b) the claimant has not provided that information to the Secretary of State or that person.
- (5) Subject to regulation 20, in the case of an existing claimant referred to in paragraph (4), where 6th April 2018 is not the first day of the claimant’s benefit week, in the case of a legacy benefit or SPC claimant, or assessment period, in the case of a UC claimant, the amendments made by Schedule 5 shall be treated as though they did not have effect until the first day of the first benefit week or first assessment period that begins after that date (“the transitional end day”).

**Transitional provision: persons who lack capacity or may lack capacity identified before 6th April 2018**

**20.**—(1) Paragraph (2) applies in relation to an existing claimant where, before 6th April 2018—

- (a) the Secretary of State believes that the claimant is a person who lacks capacity to make some or all decisions about accepting an offer of loan payments; or
  - (b) on the basis of information received by the Secretary of State, the Secretary of State suspects that the claimant is a person who may lack such capacity,
- (a “relevant claimant”).

(2) In relation to a relevant 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 relevant day in paragraph (3) or (8);
- (b) the day after the day on which entitlement to a qualifying benefit ends.

(3) Subject to paragraph (8), the relevant day is the later of—

- (a) 5th November 2018;
- (b) where, in a case where paragraph (1)(b) applies, the Secretary of State believes before 5th November 2018 that the claimant is a person who lacks capacity as

referred to in paragraph (1)(a), the day after the last day of the period of 6 weeks beginning with the day on which the Secretary of State forms that belief;

- (c) where an application for a decision referred to in paragraph (7) is made before the later of 5th November 2018 and the relevant day under sub-paragraph (b), the day after the day specified in paragraph (4).

(4) The specified day is—

- (a) the last day of the period of 6 weeks beginning with the day on which a person referred to in paragraph (7) (“relevant person”) makes a decision referred to in paragraph (7); or
- (b) the last day of the period of 6 weeks beginning with the day on which a relevant person receives notification that the application for such a decision is withdrawn.

(5) Where more than one application for a decision as referred to in paragraph (7) is made to a relevant person within the period referred to in paragraph (3)(c), then the periods in paragraph (4) do not start to run until the relevant person has made a decision with respect to the last of the applications to be dealt with, or the relevant person receives notification that all of the applications are withdrawn.

(6) Where an application for a decision as referred to in paragraph (7) is made to more than one relevant person within the period referred to in paragraph (3)(c), then, where the specified day under paragraph (4) would be different as between the applications made to the different relevant persons, the specified day is the later of the two days.

(7) The decisions referred to are—

- (a) in England and Wales—
  - (i) a decision by the Court of Protection whether or not to appoint a deputy under section 16(2) of the Mental Capacity Act 2005<sup>(a)</sup> with power to act on the claimant’s behalf in respect of accepting an offer of loan payments;
  - (ii) a decision by the Court of Protection whether or not, by making an order under section 16(2) of the Mental Capacity Act 2005, to decide on behalf of the claimant to accept an offer of loan payments; or
  - (iii) a decision by the Public Guardian whether or not 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 with respect to accepting an offer of loan payments; or
- (b) in Scotland—
  - (i) a decision by the sheriff whether or not to make an order under section 58 of the Adults with Incapacity (Scotland) Act 2000<sup>(b)</sup> to appoint a guardian with power to act on the claimant’s behalf with respect to accepting an offer of loan payments;
  - (ii) a decision by the sheriff whether or not, by making an intervention order under section 53 of the Adults with Incapacity (Scotland) Act 2000<sup>(c)</sup>, to decide on behalf of the claimant to accept an offer of loan payments; or
  - (ii) a decision by the sheriff or the Court of Session whether or not to make an order under the Judicial Factors Act 1849<sup>(d)</sup> to appoint a judicial factor with power to act on the claimant’s behalf with respect to accepting an offer of loan payments.

(8) Where, in a case where paragraph (1)(b) applies, the Secretary of State believes before 5th November 2018 that the claimant is not a person who lacks capacity as referred to in paragraph (1)(a), the relevant day is the day after the earlier of—

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(a) 2005 c.9.

(b) 2000 asp 4. Section 58 was amended by the Adult Support and Protection (Scotland) Act 2007 (asp 10).

(c) Section 53 was amended by the Adult Support and Protection (Scotland) Act 2007.

(d) 1849 c. 51.

- (a) the day specified in paragraph (9);
  - (b) the day on which the Secretary of State receives notification from the claimant that the claimant does not wish to receive loan payments.
- (9) The specified day is—
- (a) the last day of the period of 6 weeks beginning with the day on which the Secretary of State forms the belief in paragraph (8); or
  - (b) where the loan payments offer date occurs during the period in sub-paragraph (a), the day referred to in regulation 19(3)(b) and (c) and (4).
- (10) Where in the case of—
- (a) a legacy benefit claimant or SPC claimant, the relevant day referred to in paragraph (3) or (8) is not the first day of the claimant’s benefit week, then the relevant day shall be the first day of the first benefit week that begins after the relevant day; or
  - (b) a UC claimant, the relevant day in paragraph (3) or (8) is not the first day of the claimant’s assessment period, then the relevant day shall be the first day of the first assessment period that begins after the relevant day.”.
- (13) In regulation 21 (transition from legacy benefit to universal credit)—
- (a) in paragraph (1)(a)—
    - (i) in sub-paragraph (i), after “was entitled to” insert “, or was treated as entitled to,”;
    - (ii) in sub-paragraph (ii), after “at that time entitled to” insert “, or treated as entitled to,”;
  - (b) in paragraph (2)—
    - (i) in sub-paragraph (a), after “was not entitled to” insert “, or treated as entitled to,”;
    - (ii) in sub-paragraph (b) after “was entitled to” insert “, or treated as entitled to,”;
    - (iii) in sub-paragraph (c) after “was entitled to” insert “, or treated as entitled to,”.
- (14) In Schedule 1 (meaning of owner-occupier payments)—
- (a) in paragraph 3(5)(a), for “those loans” substitute “the amount of each loan payment calculated under regulation 10”;
  - (b) in paragraph 3(7)(b), after “the claimant’s family” insert “relating to housing costs”.
- (15) In Schedule 2 (circumstances in which a claimant is, or is to be treated as, liable to make owner-occupier payments), in paragraph 5(3) for “Sub-paragraph (1)(b)(ii)” substitute “Sub-paragraph (1)”.
- (16) In Schedule 3 (circumstances in which a claimant is, or is to be, treated as occupying accommodation), in paragraph 18(2) for “paragraph 14” substitute “paragraph 15”.
- (17) In Schedule 4 (direct payments to qualifying lenders)—
- (a) in paragraph 1, omit “or 3”;
  - (b) for paragraph 2, substitute—

**“Determining the amount to be paid to a qualifying lender: one or more qualifying loans**

2.—(1) Where one qualifying loan or alternative finance arrangement has been provided to a claimant by a qualifying lender, the amount that is to be paid direct to that lender is the amount of each loan payment.

(2) Where more than one qualifying loan or alternative finance arrangement has been provided to a claimant by a qualifying lender, the amount that is to be paid direct to that lender is the amount of each loan payment in respect of each of those loans or alternative finance arrangements added together.”;

- (c) omit paragraph 3;

- (d) in paragraph 5(3), for sub-paragraphs (a) and (b) substitute—
  - “(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 respect of which the excess amount was paid;
  - (b) if any amount of the excess is then remaining, towards discharging any liability of the claimant to repay—
    - (i) in respect of the loan or alternative finance arrangement referred to in paragraph (a), the principal sum or any other sum payable by the claimant to that lender; or
    - (ii) in respect of any other loan or alternative finance arrangement, any sum payable by the claimant to that lender where the liability to pay that sum is not already discharged.”.

(18) In Schedule 5 (consequential amendments)—

- (a) after the Schedule heading insert—

## “PART 1

### General”;

- (b) in paragraph 1, after sub-paragraph (c) insert—

“;

- (d) in Schedule 8 (sums to be disregarded in the calculation of income other than earnings)—

- (i) for paragraph 31 substitute—

“**31.** Any payment received under an insurance policy taken out to insure against the risk of being unable to maintain repayments on a loan which qualifies under Part 1 of Schedule 1 to the Loans for Mortgage Interest Regulations 2017 (legacy benefit claimants and SPC claimants) and used to meet such repayments.”; and

- (ii) in paragraph 32—

- (aa) in sub-paragraph (1)(a) for “under Schedule 6” substitute “under Part 1 of Schedule 1 to the Loans for Mortgage Interest Regulations”;

- (bb) for sub-paragraph (1)(b) substitute—

“(b) any charge which qualifies in accordance with paragraph 18 of Schedule 6 (housing costs) to these Regulations or any interest payment on a loan which qualifies under Part 1 of Schedule 1 to the Loans for Mortgage Interest Regulations, to the extent that the charge or payment is not met under these Regulations or by loan payments (as the case may be);”;

- (cc) in sub-paragraph (1)(c) for “under paragraph 16 or 17 of Schedule 6” substitute “under Part 1 of Schedule 1 to the Loans for Mortgage Interest Regulations”;

- (dd) after sub-paragraph (2) insert—

“(3) In this paragraph—

- (a) “Loans for Mortgage Interest Regulations” means the Loans for Mortgage Interest Regulations 2017;

- (b) “loan payments” has the meaning given in the Loans for Mortgage Interest Regulations.””;

- (c) in paragraph 2, after sub-paragraph (d) insert—

“;

- (e) in Schedule 9 (sums to be disregarded in the calculation of income other than earnings)—
  - (i) for paragraph 29 substitute—
 

“**29.** Any payment received under an insurance policy taken out to insure against the risk of being unable to maintain repayments on a loan which qualifies under Part 1 of Schedule 1 to the Loans for Mortgage Interest Regulations 2017 (legacy benefit claimants and SPC claimants) and used to meet such repayments.”; and
  - (ii) in paragraph 30—
    - (aa) in sub-paragraph (1)(a) for “under Schedule 3 (housing costs)” substitute “under Part 1 of Schedule 1 to the Loans for Mortgage Interest Regulations”;
    - (bb) for sub-paragraph (1)(b) substitute—
 

“(b) any charge which qualifies in accordance with paragraph 17 of Schedule 3 (housing costs) to these Regulations or any interest payment on a loan which qualifies under Part 1 of Schedule 1 to the Loans for Mortgage Interest Regulations, to the extent that the charge or payment is not met under these Regulations or by loan payments (as the case may be);”;
    - (cc) in sub-paragraph (1)(c) for “under paragraph 15 or 16 of Schedule 3” substitute “under Part 1 of Schedule 1 to the Loans for Mortgage Interest Regulations”; and
    - (dd) after sub-paragraph (2) insert—
 

“(3) In this paragraph—

      - (a) “Loans for Mortgage Interest Regulations” means the Loans for Mortgage Interest Regulations 2017;
      - (b) “loan payments” has the meaning given in the Loans for Mortgage Interest Regulations.””;
- (d) in paragraph 3, after sub-paragraph (f) insert—
 

“;
- (g) in Schedule 7 (sums to be disregarded in the calculation of income other than earnings)—
  - (i) for paragraph 30 substitute—
 

“**30.** Any payment received under an insurance policy taken out to insure against the risk of being unable to maintain repayments on a loan which qualifies under Part 1 of Schedule 1 to the Loans for Mortgage Interest Regulations 2017 (legacy benefit claimants and SPC claimants) and used to meet such repayments.”; and
  - (ii) in paragraph 31—
    - (aa) in sub-paragraph (1)(a) for “under Schedule 2 (housing costs)” substitute “under Part 1 of Schedule 1 to the Loans for Mortgage Interest Regulations”;
    - (bb) for sub-paragraph (1)(b) substitute—
 

“(b) any charge which qualifies in accordance with paragraph 16 of Schedule 2 (housing costs) to these Regulations or any interest payment on a loan which qualifies under Part 1 of Schedule 1 to the Loans for Mortgage Interest Regulations, to the extent that the charge or payment is not met under these Regulations or by loan payments (as the case may be);”;
    - (cc) in sub-paragraph (1)(c) for “under paragraph 14 or 15 of Schedule 2” substitute “under Part 1 of Schedule 1 to the Loans for Mortgage Interest Regulations”;
    - (dd) after sub-paragraph (2) insert—

“(3) In this paragraph—

- (a) “Loans for Mortgage Interest Regulations” means the Loans for Mortgage Interest Regulations 2017;
- (b) “loan payments” has the meaning given in the Loans for Mortgage Interest Regulations.””;

(e) after paragraph 6 insert—

“7.—(1) The Claims and Payment Regulations are amended as follows.

(2) Omit regulations 34A (deductions of mortgage interest which shall be made from benefit and paid to qualifying lenders) and 34B (deductions of mortgage interest which may be made from benefits and paid to qualifying lenders in other cases).

(3) In regulation 35 (deductions which may be made from benefit and paid to third parties), omit “Except as provided for in regulation 34A and Schedule 9A,”.

(4) In Schedule 9 (deductions from benefit and direct payment to third parties)—

- (a) in paragraph 1(1), omit the definition of “mortgage payment”;
- (b) in paragraph 3—
  - (i) omit sub-paragraph (2)(b)(i);
  - (ii) in sub-paragraph (2)(b)(ii), for “for any other housing item” substitute “for any housing item”;
  - (iii) in sub-paragraph (2A)(b)—
    - (aa) in both places where the words occur omit “paragraph 4(8) or (11) or”;
    - (bb) omit “paragraph 5(9) or (12) or”;
    - (cc) omit “paragraph 6(10) or (13) or”;
  - (iv) for sub-paragraph (4) substitute—

“(4) Sub-paragraph (1) shall not apply to any debt which is for any item of housing costs and is less than half the annual amount due to be paid by the beneficiary or his partner in respect of that item, unless, in the opinion of the Secretary of State it is in the overriding interests of the family that paragraph (1) should apply.”;
- (c) in paragraph 9, omit sub-paragraph (2).

(5) Omit Schedule 9A (deductions of mortgage interest from benefit and payment to qualifying lenders).

**8.** The Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013(a) are amended as follows—

- (a) omit regulation 59 (direct payment to lender of deductions in respect of interest on secured loans);
- (b) in regulation 60 (deductions which may be made from benefit and paid to third parties), omit “Except as provided for in regulation 59 and Schedule 5,”;
- (c) omit Schedule 5 (direct payment to lender of deductions in respect of interest on secured loans);
- (d) in Schedule 6 (deductions from benefit and direct payment to third parties), omit paragraph 6(5) and (6).

**9.—**(1) The Social Fund Maternity and Funeral Expenses (General) Regulations 2005(b) are amended as follows.

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(a) S.I. 2013/380, to which there are amendments not relevant to these Regulations.

(b) S.I. 2005/3061, amended by S.I. 2013/247; there are other amending instruments but none is relevant.

- (2) In regulation 3 (interpretation), in paragraph (1)—
- (a) in the appropriate place insert—
    - ““owner-occupier loan payments” means loan payments made under the Loans for Mortgage Interest Regulations 2017;”;
  - (b) after paragraph (4) insert—
    - “(5) For the purposes of these Regulations, a person being treated as entitled to a benefit has the meaning given to it in regulation 2(2)(aa) of the Loans for Mortgage Interest Regulations 2017.”.
- (3) In regulation 5 (entitlement), in paragraph (2)—
- (a) omit “or” between sub-paragraphs (f) and (g);
  - (b) after sub-paragraph (g) insert—
    - “; or
    - (h) owner-occupier loan payments and is treated as entitled to a benefit specified in sub-paragraphs (a) to (c) and (f).”.
- (4) In regulation 7 (funeral payments: entitlement), in paragraph (4)(a)—
- (a) omit “or” between sub-paragraphs (viii) and (ix);
  - (b) after sub-paragraph (ix) insert—
    - “; or
    - (x) owner-occupier loan payments and is treated as entitled to a benefit specified in sub-paragraphs (i) to (iii) and (viii).”.

**10.—(1)** The Social Fund Cold Weather Payments (General) Regulations 1988(a) are amended as follows.

- (2) In regulation 1 (citation, commencement and interpretation), in paragraph (2)—
- (a) in the definition of “claimant” after “universal credit” insert “or who is in receipt of owner-occupier loan payments”;
  - (b) in the appropriate place insert—
    - ““owner-occupier loan payments” means loan payments made under the Loans for Mortgage Interest Regulations 2017;”.
- (3) In regulation 1A (prescribed description of persons)—
- (a) in paragraph (2)—
    - (i) omit “or” between sub-paragraphs (d) and (e);
    - (ii) after sub-paragraph (e) insert—
      - “; or
      - (f) owner-occupier loan payments and is treated as entitled to a benefit specified in sub-paragraphs (a) to (d).”;
  - (b) in paragraph (3)—
    - (i) in the opening words for “(d) or (e)” substitute “(d), (e) or (f)”;
    - (ii) omit “or” between sub-paragraphs (e) and (f);
    - (iii) after sub-paragraph (f) insert—
      - “; or
      - (g) where P has been awarded owner-occupier loan payments, P’s applicable amount, if P were entitled to a benefit specified in paragraph (2)(b) to (d), would include one or more of the premiums specified in—

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(a) S.I. 1988/1724. amended by S.I. 2013/248; there are other amending instruments but none is relevant.

- (aa) where P is treated as entitled to income support, paragraphs 9 to 14 of Part 3 of Schedule 2 to the General Regulations;
  - (bb) where P is treated as entitled to jobseeker's allowance, paragraphs 10 to 16 of Part 3 of Schedule 1 to the Jobseeker's Allowance Regulations 1996;
  - (cc) where P is treated as entitled to employment and support allowance, paragraphs 5 to 7 of Schedule 4 to the Employment and Support Allowance Regulations 2008.”;
- (c) after paragraph (3) insert—
- “(3A) In paragraph (3), a person being treated as entitled to a benefit has the meaning given to it in regulation 2(2)(aa) of the Loans for Mortgage Interest Regulations 2017.”.

## PART 2

### Decisions and Appeals

**11.**—(1) The Social Security and Child Support (Decisions and Appeals) Regulations 1999(a) are amended as follows.

(2) In regulation 1 (citation, commencement, application and interpretation), in paragraph (3) in the appropriate places insert—

““the Loans for Mortgage Interest Regulations” means the Loans for Mortgage Interest Regulations 2017;”

““owner-occupier loan payments” means loan payments made under the Loans for Mortgage Interest Regulations;”

““owner-occupier payments” has the same meaning as in Part 1 of Schedule 1 to the Loans for Mortgage Interest Regulations.”.

(3) In regulation 7 (date from which a decision superseded under section 10 takes effect)—

(a) after paragraph (12) insert—

“(12A) Paragraph (12) applies where—

- (a) the effect of a decision under section 10 is that owner-occupier loan payments are to be made to a claimant in respect of the claimant's liability to make owner-occupier payments; and
- (b) that decision could not have been made earlier because information necessary to make that decision, requested otherwise than in accordance with paragraph 8 of Schedule 4 to the Loans for Mortgage Interest Regulations (provision of information), had not been supplied to the Secretary of State by the lender.

(12B) Where a claimant is receiving owner-occupier loan payments and there is a reduction in the amount owing in connection with a qualifying loan or alternative finance arrangement (within the meaning in Schedule 1 to the Loans for Mortgage Interest Regulations (meaning of owner-occupier payments)), a decision made under section 10 takes effect—

- (a) on the first anniversary of the date on which the claimant's liability to make owner-occupier payments was first met by an owner-occupier loan payment; or

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(a) S.I. 1999/991, regulation 7 was revoked by S.I. 2003/916 (subject to transitional provisions) only in so far as it relates to child benefit and guardian's allowance; there are other amending instruments but none is relevant.

- (b) where the reduction in the amount owing in connection with a qualifying loan or alternative finance arrangement occurred after the first anniversary of the date referred to in sub-paragraph (a), on the next anniversary of that date following the date of the reduction.

(12C) Where a claimant is receiving owner-occupier loan payments, an insurance payment deduction is made under regulation 14A(1) of the Loans for Mortgage Interest Regulations (insurance payment deduction) in relation to any decision under section 8 or 10 and there is a change in the amount of the owner-occupier payments payable—

- (a) on a qualifying loan or alternative finance arrangement (within the meaning in Schedule 1 to the Loans for Mortgage Interest Regulations (meaning of owner-occupier payments)) to which those payments relate; or
- (b) on a loan or alternative finance arrangement not so qualifying which is secured on the dwelling occupied as the home to which those payments relate,

a decision under section 10 which is made as a result of that change in the amount of the owner-occupier payments payable shall take effect on whichever of the dates referred to in paragraph (12D) is appropriate in the claimant's case.

(12D) The date on which a decision under section 10 takes effect for the purposes of paragraph (12C) is—

- (a) the date on which the claimant's liability to make owner-occupier payments is first met by an owner-occupier loan payment; or
- (b) where the change in the amount of the owner-occupier payments payable occurred after the date referred to in sub-paragraph (a), on the date of the next alteration in the standard rate following the date of that change.

(12E) In paragraph (12D), "standard rate" has the same meaning as it has in regulation 13 of the Loans for Mortgage Interest Regulations (standard rate to be applied under regulations 11 and 12).

(12F) Paragraph (12G) applies where—

- (a) a claimant is awarded state pension credit;
- (b) the claimant or the claimant's partner has reached pensionable age (within the meaning in section 122(1) of the Contributions and Benefits Act);
- (c) the claimant is in receipt of owner-occupier loan payments; and
- (d) after the date from which sub-paragraph (c) applies—
  - (i) a non-dependant (within the meaning in regulation 2(1) of the Loans for Mortgage Interest Regulations) begins to reside with the claimant; or
  - (ii) there has been a change of circumstances in respect of a non-dependant and this reduces the amount of the owner-occupier loan payments.

(12G) Where this paragraph applies, a decision made under section 10 shall take effect—

- (a) where there is more than one change of the kind specified in paragraph (12F)(d) in respect of the same non-dependant within the same 26 week period, 26 weeks after the date on which the first such change occurred; and
- (b) in any other circumstances, 26 weeks after the date on which a change specified in paragraph (12F)(d) occurred.”;

- (b) omit paragraphs (13) to (17G) and (18) to (23).

(4) In regulation 13 (income support and social fund determinations on incomplete evidence), for paragraph (1) substitute—

“(1) Where, for the purpose of a decision under section 8 (decisions by Secretary of State) or 10 (decisions superseding earlier decisions)—

- (a) a determination falls to be made by the Secretary of State in respect of a claimant of income support, state pension credit or employment and support allowance as to—
  - (i) the amount to be included in an owner-occupier loan payment under regulation 10 of the Loans for Mortgage Interest Regulations (calculation of each loan payment); or
  - (ii) what housing costs are to be included in the claimant’s applicable amount (in the case of income support or employment and support allowance) or the claimant’s appropriate minimum guarantee (in the case of state pension credit); and
- (b) it appears to the Secretary of State that the Secretary of State is not in possession of all of the evidence or information which is relevant for the purposes of such a determination,

the Secretary of State shall make the determination on the assumption that the amounts to be included in an owner-occupier loan payment, the claimant’s applicable amount, or the claimant’s appropriate minimum guarantee, as the case may be, are those that can be immediately determined.”.

(5) In Schedule 2 (decisions against which no appeal lies), in paragraph 5 for sub-paragraph (u) substitute—

“(u) regulation 17(1) (direct payments to qualifying lenders by Secretary of State where specified circumstances met) of the Loans for Mortgage Interest Regulations;”.

**12.**—(1) The Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations 2013(a) are amended as follows.

(2) In Schedule 3 (decisions against which no appeal lies), in paragraph 1 omit sub-paragraph (o).”.

## PART 3

### Social Fund Maternity Grant Amendments

**3.**—(1) The Social Fund Maternity and Funeral Expenses (General) Regulations 2005(b) are amended as follows.

(2) In regulation 5A (entitlement where another member of the claimant’s family is under the age of 16), in paragraph (3) after sub-paragraph (c) insert—

“;

- (d) any child—
  - (i) who was not, at the time of the child’s birth, a child of the claimant (or, where the claimant has a partner at the date of claim, the claimant’s partner); and
  - (ii) whose age, at the time that the claimant (or, where the claimant has a partner at the date of claim, the claimant’s partner) first became responsible for that child, exceeded 12 months.”.

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

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(a) S.I. 2013/381.

(b) S.I. 2005/3061, amended by S.I. 2012/1814; there are other amending instruments but none is relevant.

5th March 2018

### **EXPLANATORY NOTE**

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

These Regulations amend the Loans for Mortgage Interest Regulations 2017 (S.I. 2017/725) (“the LMI Regulations”) and the Social Fund Maternity and Funeral Expenses (General) Regulations 2005 (S.I. 2005/3061) (“the SFMFE Regulations”).

Part 1 provides for the citation, commencement and extent of these Regulations. The Regulations come into force on 6th April 2018, except for regulations 1 and 2(18) which come into force on 5th April 2018. The Regulations extend to England and Wales and Scotland.

Part 2 contains amendments to the LMI Regulations which make provision for the Secretary of State to make loan payments to benefit claimants in respect of a claimant’s liability to make owner-occupier payments on the claimant’s home.

Regulation 2(2) makes a number of amendments to regulation 2 (interpretation) of the LMI Regulations. The definition of “joint claimant” is amended in the case of universal credit as an individual must have actual entitlement to universal credit to be offered and receive loan payments. The definition of “single claimant” is amended so that it includes: an individual who is claiming a qualifying benefit (for themselves or as a member of a couple); or an individual who has made a claim for a qualifying benefit (for themselves or as a member of a couple), but is not entitled to the benefit due to the amount of their income (so they are “treated as entitled” to benefit).

A definition of being “treated as entitled” to benefit is inserted into regulation 2 of the LMI Regulations by regulation 2(2). Amendments are also made to the definitions of legacy benefit claimant and pension credit claimant, and other provisions in the LMI Regulations to provide for these cases.

Regulation 2(3) amends regulation 7 (time of each loan payment) of the LMI Regulations to provide that the loan payments will be made 4 weekly in arrears for legacy benefit claimants and SPC claimants in all cases.

Regulation 2(4) amends regulation 8 (period covered by loan payments) of the LMI Regulations to provide that the period in respect of which loan payments are made shall begin on a date requested by the claimant or, in respect of an SPC claimant, on the first day the claimant becomes entitled to state pension credit, where these dates are later than the other dates referred to in regulation 8.

Regulation 2(6) amends regulation 10 (calculation of each loan payment) of the LMI Regulations to refer to a deduction under regulation 14A (insurance payment deduction) which is inserted by regulation 2(8). Regulation 14A provides for a deduction from each loan payment where a claimant is receiving insurance payments relating to the repayment of owner-occupier payments.

Regulation 2(9) makes changes to regulation 15 (interest) of the LMI Regulations. It inserts new paragraph (1A) to enable the Secretary of State to stop charging interest if a claimant requests a completion statement in order to repay all of the outstanding loan amount, but only if the outstanding amount is paid within the period of 30 days from the day the completion statement is sent to the claimant. It also inserts new paragraph (1B) to provide that interest will continue to be charged in certain circumstances following the transfer of title in the relevant accommodation.

Regulation 2(10) amends regulation 16 (repayment) of the LMI Regulations to clarify the circumstances where repayment is required following the death of the claimant or their partner.

Regulation 2(11) substitutes a new regulation 18 (consequential amendments) of the LMI Regulations which provides that the amendments made by Part 2 of Schedule 5 to the Social Security and Child Support (Decisions and Appeals) Regulations 1999 (S.I. 1999/991) and the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and

Support Allowance (Decisions and Appeals) Regulations 2013 (S.I. 2013/381) (the “Decisions and Appeals Regulations”) do not apply in relation to any decision concerning help with owner-occupier payments as a benefit.

Regulation 2(12) substitutes regulations 19 (transitional provision: existing claimants) and 20 (transitional provision: lack of capacity) of the LMI Regulations with new regulations 19, 19A and 20.

New regulations 19 and 19A provide that help with owner-occupier payments as a benefit can continue for a temporary period after 5th April 2018 in respect of existing claimants (those entitled to an amount for owner-occupier payments as a benefit on 5th April 2018). New regulation 19 concerns cases where the Secretary of State has offered loan payments to claimants before 6th April 2018 whereas new regulation 19A concerns cases where the Secretary of State has not offered loan payments before 6th April 2018.

New regulation 20 provides that help with owner-occupier payments as a benefit can continue for a temporary period if, before 6th April 2018, the Secretary of State believes that existing claimants lack capacity, or suspects they may lack capacity, to make decisions about the loan payments.

Regulation 2(17) amends Schedule 4 of the LMI Regulations to provide for what happens where loan payments are made directly to a qualifying lender in excess of the claimant’s liability to make owner-occupier payments.

Regulation 2(18) inserts additional consequential amendments into Schedule 5 to the LMI Regulations to various regulations which currently make provision for help with owner-occupier payments as a benefit. This includes:

- amendments to the Social Security (Claims and Payment) Regulations 1988 (S.I. 1988/987) to omit references to mortgage interest, including in respect of deductions from benefit, which are no longer relevant;
- amendments to the SFMFE Regulations and the Social Fund Cold Weather Payments (General) Regulations 1988 (S.I. 1988/1724) to enable claimants receiving loan payments to access the passported benefits to which those regulations relate where they are treated as entitled to benefit, but do not have actual entitlement; and
- amendments to the Decisions and Appeals Regulations so that the rules apply to loan payments.

The remaining paragraphs of regulation 2 make minor and consequential amendments.

Part 3 concerns the SFMFE Regulations. Regulation 3 amends regulation 5A of the SFMFE Regulations to exclude from the definition of “existing member of the family” a child for whom the claimant is responsible under a formal or informal non-parental caring arrangement, provided that the child was over 12 months of age when the claimant became responsible for them. This ensures that such a caring arrangement will not prevent the carer from claiming a Sure Start Maternity Grant for their own child.

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

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