

SCHEDULE 5

Regulation 26(3)

Housing costs element for owner-occupiers

PART 1

General

Introduction

1.—(1) This Schedule contains provisions about claimants to whom regulation 26(3) applies.

(2) Claimants who fall within sub-paragraph (1) are referred to in this Schedule as “owner-occupiers” (and references to “joint owner-occupiers” are to joint claimants to whom regulation 26(3) applies).

(3) Part 2 of this Schedule sets out an exception to section 11(1) of the Act for certain owner-occupiers in whose case an award of universal credit is not to include an amount of housing costs element calculated under this Schedule.

(4) Part 3 of this Schedule provides for a qualifying period that is to elapse before an amount of housing costs element calculated under this Schedule may be included in an owner-occupier’s award of universal credit.

(5) Part 4 provides for the calculation of the amount of housing costs element to be included under this Schedule in an owner-occupier’s award of universal credit.

Interpretation

2. In this Schedule—

“alternative finance payments” has the meaning given in paragraph 6 of Schedule 1;

“joint owner-occupier” has the meaning given in paragraph 1(2);

“loan interest payments” has the meaning given in paragraph 5 of Schedule 1;

“owner-occupier” means a single owner-occupier within the meaning of paragraph 1(2) or each of joint owner-occupiers;

“qualifying period” has the meaning given in paragraph 5(2);

“relevant payments” has the meaning given in paragraph 3;

“standard rate” has the meaning given in paragraph 12.

“Relevant payments” for purposes of this Schedule

3.—(1) “Relevant payments” means one or more payments of any of the following descriptions—

(a) owner-occupier payments;

(b) service charge payments.

(2) “Owner-occupier payments” has the meaning given in paragraph 4 of Schedule 1.

(3) “Service charge payments” is to be understood in accordance with paragraphs 7 and 8 of that Schedule.

PART 2

Exception to inclusion of housing costs element

No housing costs element where owner-occupier has any earned income

4.—(1) Section 11(1) of the Act (housing costs) does not apply to any owner-occupier in relation to an assessment period where—

- (a) the owner-occupier has any earned income; or
- (b) if the owner-occupier is a member of a couple, either member of the couple has any earned income.

(2) Sub-paragraph (1) applies irrespective of the nature of the work engaged in, its duration or the amount of the earned income.

(3) Nothing in this paragraph prevents an amount calculated under Schedule 4 from being included in the award of any claimant who falls within regulation 26(4) to (6) (shared ownership).

PART 3

No housing costs element for qualifying period

No housing costs element under this Schedule for qualifying period

5.—(1) An owner-occupier's award of universal credit is not to include any amount of housing costs element calculated under this Schedule until the beginning of the assessment period that follows the assessment period in which the qualifying period ends.

(2) "Qualifying period" means a period of—

- (a) in the case of a new award, 3 consecutive assessment periods in relation to which—
 - (i) the owner-occupier has been receiving universal credit, and
 - (ii) would otherwise qualify for the inclusion of an amount calculated under this Schedule in their award;
- (b) in any case where an amount calculated under this Schedule has for any reason ceased to be included in the award, 3 consecutive assessment periods in relation to which the owner-occupier would otherwise qualify for the inclusion of an amount calculated under this Schedule in their award.

(3) Where, before the end of a qualifying period, an owner-occupier for any reason ceases to qualify for the inclusion of an amount calculated under this Schedule—

- (a) that qualifying period stops running; and
- (b) a new qualifying period starts only when the owner-occupier again meets the requirements of sub-paragraph (2)(a) or (b).

Application of paragraph 5: receipt of JSA and ESA

6.—(1) This paragraph applies to any owner-occupier who immediately before the commencement of an award of universal credit is entitled to—

- (a) a jobseeker's allowance; or
- (b) an employment and support allowance.

(2) In determining when the qualifying period in paragraph 5 ends in relation to the owner-occupier, any period that comprises only days on which the owner-occupier was receiving a benefit referred to in sub-paragraph (1) may be treated as if it were the whole or part of one or more assessment periods, as determined by the number of days on which any such benefit was received.

Application of paragraph 5: joint owner-occupiers ceasing to be a couple

7.—(1) This paragraph applies where—

- (a) an award of universal credit to joint owner-occupiers is terminated because they cease to be a couple; and
- (b) a further award is made to one of them (or to each of them); and
- (c) in relation to the further award (or in relation to each further award), the occupation condition is met in respect of the same accommodation as that occupied by the joint owner-occupiers as their home.

(2) In determining when the qualifying period in paragraph 5 ends in relation to the further award (or each further award), the whole or part of any assessment period which would have counted in relation to the award that is terminated is to be carried forward and taken into account in relation to the further award (or each further award).

(3) But where, immediately before the joint owner-occupiers' award was terminated, an amount of housing costs element calculated under this Schedule was already included in the award, no qualifying period under paragraph 5 applies to the owner-occupier in relation to the commencement of the further award (or each further award).

(4) For the purposes of sub-paragraph (1)(b), it is irrelevant whether the further award—

- (a) is made on a claim; or
- (b) by virtue of regulation 9(6) of the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013⁽¹⁾ is made without a claim.

PART 4

Calculation of amount of housing costs element for owner-occupiers

Payments to be taken into account

8.—(1) Where an owner-occupier meets the payment condition, liability condition and occupation condition in respect of one or more relevant payments and the qualifying period has ended, each of the relevant payments is to be taken into account for the purposes of the calculation under this Part.

(2) No account is to be taken of any amount of a relevant payment to the extent that the conditions referred to in sub-paragraph (1) are not met in respect of that amount.

(3) Any particular payment for which an owner-occupier is liable is not to be brought into account more than once, whether in relation to the same or a different owner-occupier (but this does not prevent different payments of the same description being brought into account in respect of an assessment period).

(1) S.I. 2013/

The amount of housing costs element

9. The amount of the owner-occupier’s housing costs element under this Schedule is the aggregate of the amounts resulting from paragraphs 10, 11 and 13 in respect of all relevant payments which are to be taken into account under paragraph 8.

Amount in respect of interest on loans

10.—(1) This paragraph provides for the calculation of the amount to be included in the owner-occupier’s housing costs element under this Schedule in respect of relevant payments which are loan interest payments.

(2) Subject to sub-paragraphs (3) to (5), the amount in respect of the loan or loans to which the payments relate is to be calculated as follows.

Step 1

Determine the amount of the capital for the time being owing in connection with each loan.

Step 2

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

Step 3

Identify which is the lower of these two amounts—

- (a) (a) the amount resulting from step 1 or 2 (as the case may be); and
- (b) (b) £200,000,

and, if both amounts are the same, that is the identified amount.

Step 4

Apply the formula—

$$\frac{(AxSR)}{12}$$

where—

“A” is the amount identified in step 3, and

“SR” is the standard rate that applies at the date of the calculation (see paragraph 12).

The result is the amount to be included under this Schedule in respect of loan interest payments.

(3) In the application of sub-paragraph (2) to a loan (or any part of a loan) which was taken out for the purpose of making necessary adaptations to the accommodation to meet the disablement needs of a person specified in paragraph 5(3) of Schedule 3—

- (a) the loan (or the part of the 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 loan (or the sum of those amounts if there is more than one loan taken out for the purpose of making such adaptations) plus the amount (if any) resulting from step 3 in relation to any other loan or loans.

(4) Any variation in the amount of capital for the time being owing in connection with a loan is not to be taken into account after the relevant date until such time as the Secretary of State recalculates the amount under this Schedule by reference to the amount of capital owing in connection with the loan—

- (a) on the first anniversary of the relevant date; or

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

(5) “Relevant date”, in relation to an owner-occupier, means the date on which an amount of housing costs element calculated under this Schedule is first included in the owner-occupier’s award.

Amount in respect of alternative finance arrangements

11.—(1) This paragraph provides for the calculation of the amount to be included in the owner-occupier’s housing costs element under this Schedule in respect of relevant payments which are alternative finance payments.

(2) The amount in respect of the alternative finance arrangements to which the payments relate is to be calculated as follows.

Step 1

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

Step 2

Identify which is the lower of these two amounts—

- (a) (a) the amount resulting from Step 1; and
- (b) (b) £200,000,

and, if both amounts are the same, that is the identified amount.

Step 3

Apply the formula—

$$\frac{(AxSR)}{12}$$

where—

“A” is the amount identified in step 2, and

“SR” is the standard rate that applies at the date of the calculation (see paragraph 12).

The result is the amount to be included under this Schedule in respect of alternative finance payments.

(3) “Purchase price” means the price paid by a party to the alternative financial arrangements other than the owner-occupier in order to acquire the interest in the accommodation to which those arrangements relate less the amount of any initial payment made by the owner-occupier in connection with the acquisition of that interest.

Standard rate to be applied under paragraphs 10 and 11

12.—(1) The standard rate is the average mortgage rate published by the Bank of England which, immediately before this Schedule comes into force, has effect for the purposes of paragraph 12 of Schedule 3 to the Income Support (General) Regulations 1987⁽²⁾ (which makes provision as to the standard rate to be used in determining amounts applicable to a claimant in respect of income support).

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

(3) This sub-paragraph applies when, on any reference day, the Bank of England publishes an average mortgage rate which differs by 0.5% or more from the standard rate that applies on that

(2) S.I. 1987/1967. Paragraph 12 was substituted by S.I. 2004/2825 and amended by S.I. 2007/3183, 2008/3195 and 2010/1811.

reference day (whether it applies by virtue of sub-paragraph (1) or by virtue of a previous application of this sub-paragraph).

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

(5) Any variation in the standard rate by virtue of sub-paragraphs (2) to (4) comes into effect—

(a) for the purposes of sub-paragraph (3), on the day after the reference day referred to in sub-paragraph (4);

(b) for the purpose of calculating the amount of housing costs element to be included under this Schedule in an owner-occupier's award, on the day specified by the Secretary of State for that purpose.

(6) At least 7 days before a variation of the standard rate comes into effect under sub-paragraph (5) (b), 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 specified in relation to that rate under sub-paragraph (5)(b).

(7) In this paragraph—

“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⁽³⁾;

“reference day” means any day falling on or after the date on which this Schedule comes into force.

Amount in respect of service charge payments

13.—(1) This paragraph provides for the calculation of the amount to be included in the owner-occupier's housing costs element under this Schedule in respect of relevant payments which are service charge payments.

(2) The amount in respect of the service charge payments is to be calculated as follows.

Step 1

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

Step 1

Determine the amount of each service charge payment.

Step 2

Determine the period in respect of which each service charge payment is payable and determine the amount of the payment in respect of a month (see sub-paragraphs (3) and (4)).

Step 3

If there is more than one service charge payment, add together the amounts determined in step 2.

The result is the amount to be included under this Schedule in respect of service charge payments.

(3) Where the period in respect of which an owner-occupier is liable to make a service charge payment is not a month, an amount is to be calculated as the monthly equivalent, so for example—

(a) weekly payments are multiplied by 52 and divided by 12;

(3) This is available on the Bank of England website: <http://www.bankofengland.co.uk/statistics/bankstats/current/index.htm>. The effective rate appears in Table G1.4 in the column headed “HSDE”.

- (b) four-weekly payments are multiplied by 13 and divided by 12;
- (c) three-monthly payments are multiplied by 4 and divided by 12; and
- (d) annual payments are divided by 12.

(4) Where an owner-occupier is liable for service charge payments under arrangements that provide for one or more service charge free periods, the monthly equivalent is to be calculated over 12 months by reference to the total number of service charge payments which the owner-occupier is liable to make in that 12 month period.

(5) “Service charge free period” means any period in respect of which the owner-occupier has no liability to make one or more of the service charge payments which are to be taken into account under paragraph 8.