

SCHEDULE 5

Regulation 59

DIRECT PAYMENT TO LENDER OF DEDUCTIONS IN RESPECT OF INTEREST ON SECURED LOANS

Interpretation

1.—(1) In this Schedule—

“housing costs element” means an amount in respect of housing costs which is included in a claimant’s award of universal credit under section 11(1) of the 2012 Act⁽¹⁾;

“qualifying lender” means (subject to paragraph 10)—

- (a) the bodies or persons listed in paragraphs (a) to (g) of section 15A(3)⁽²⁾ of the Administration Act;
- (b) the Regulator of Social Housing;
- (c) the Greater London Authority; and
- (d) any body incorporated under the Companies Act 1985⁽³⁾, the main objects of which include the making of loans secured by—
 - (i) a mortgage of or charge over land, or
 - (ii) in Scotland a heritable security;

“loan interest payments” has the meaning given by paragraph 5 of Schedule 1 to the Universal Credit Regulations⁽⁴⁾;

“relevant claimant” has the meaning given in paragraph 2(1);

“specified benefits”, in relation to a relevant claimant, means the benefits specified in paragraph 2(2)—

- (a) to which the relevant claimant is entitled; or
- (b) where the relevant claimant is a member of a couple, to which the other member of the couple is entitled;

“standard rate” means the standard rate of interest determined under paragraph 12 of Schedule 5 to the Universal Credit Regulations.

(2) References in this Schedule to a relevant claimant who meets the payment condition or the liability condition are to a claimant who meets those conditions in accordance with regulation 25 of the Universal Credit Regulations (the housing costs element).

Relevant claimants and benefits from which payments are to be made

2.—(1) For the purposes of this Schedule, “relevant claimant” means a claimant—

- (a) who is entitled to universal credit;
- (b) whose maximum amount for the purposes of universal credit includes the housing costs element; and

(1) 2012 c.5.

(2) Section 15A(3)(a) was substituted by Article 330(1) and (2)(a) of S.I. 2001/3649. Section 15A(3)(c) was substituted by Article 330(1) and (2)(c) of S.I. 2001/3649. Section 15A(3)(d) was amended by paragraph 11 of Schedule 8 to the Local Government (Wales) Act 1994 (c.19). Section 15A(3)(ee) was inserted by paragraph 175(2) of Schedule 13 to the Local Government etc. (Scotland) Act 1994 (c.39).

(3) 1985 c.6.

(4) S.I. 2013/376.

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- (c) whose amount of housing costs element is calculated by reference to loan interest payments (whether or not that amount is calculated by reference to any other description of payment).
- (2) Direct payments of loan interest may be made under paragraph 3 from any of the following benefits—
 - (a) universal credit; and
 - (b) if the maximum amount to which the relevant claimant is entitled for the purposes of universal credit is insufficient for the purposes of this Schedule—
 - (i) a jobseeker’s allowance, or
 - (ii) an employment and support allowance.

Circumstances in which direct payments of loan interest to be made

3.—(1) If the circumstances set out in sub-paragraph (2) apply to a relevant claimant in respect of a loan, the Secretary of State is to pay part of the specified benefits directly to the qualifying lender to whom the loan interest payments in respect of the loan are payable.

- (2) The circumstances are that—
 - (a) a loan was made in respect of which loan interest payments are payable to a qualifying lender;
 - (b) the relevant claimant (or either joint claimant) meets the payment condition and liability condition in respect of loan interest payments on the loan;
 - (c) those payments are taken into account in calculating the amount of housing costs element to be included in the relevant claimant’s award of universal credit; and
 - (d) the amount included in respect of those payments is calculated by reference to the standard rate.

(3) The part of the specified benefits which is to be paid under sub-paragraph (1) is the amount calculated under paragraphs 4 and 5 in respect of the relevant claimant.

Determining the amount to be paid to a qualifying lender

4.—(1) Where the circumstances set out in paragraph 3(2) apply to a relevant claimant in respect of one loan only, the amount that is to be paid under paragraph 3 directly to the qualifying lender is to be calculated as follows.

Step 1

Find the amount in respect of the loan interest payments which is calculated under paragraph 10 of Schedule 5 to the Universal Credit Regulations (amount in respect of interest on loans).

Step 2

Deduct from the amount resulting from step 1 a sum equivalent to so much of any amount payable in the circumstances described in sub-paragraph (2) as represents payments in respect of loan interest.

(2) This sub-paragraph applies where a payment is being made under a policy of insurance taken out by a relevant claimant to insure against the risk of not being able to maintain repayments of loan interest to a qualifying lender.

- (3) The amount to be paid directly to the qualifying lender in respect of the relevant claimant is—
 - (a) the amount resulting from sub-paragraph (1); or
 - (b) where the aggregate amount of all of the specified benefits is less than the amount resulting from sub-paragraph (1), the aggregate amount of all those benefits less one penny.

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

5.—(1) Where the circumstances set out in paragraph 3(2) apply to a relevant claimant in respect of more than one loan, the amount that is to be paid under paragraph 3 directly to each of the qualifying lenders to whom loan interest payments are payable is to be calculated as follows.

(2) Where loan interest payments on two or more loans are payable to the same qualifying lender, the amount to be paid directly to that lender is found by—

- (a) in respect of each of those loans, calculating an amount in accordance with Steps 1 and 2 of paragraph 4(1); and
- (b) adding those amounts together.

(3) Where loan interest payments are payable to more than one qualifying lender, the amount to be paid directly to each lender is found by—

- (a) where loan interest payments are payable to a qualifying lender in respect of one loan only, calculating an amount in accordance with Steps 1 and 2 of paragraph 4(1) in respect of the loan;
- (b) where loan interest payments are payable to a qualifying lender in respect of more than one loan, calculating an amount in accordance with sub-paragraph (2).

(4) The amount to be paid directly to the qualifying lender in respect of the relevant claimant is—

- (a) the amount resulting from sub-paragraph (2) or (3) in respect of that lender; or
- (b) where the aggregate amount of all of the specified benefits is less than the sum of the amounts resulting from sub-paragraph (2) or (3), the amount determined under sub-paragraph (5).

(5) For the purposes of sub-paragraph (4)(b)—

- (a) the overall total of the amounts to be paid directly to the qualifying lenders is the aggregate amount of all of the specified benefits less one penny; and
- (b) that amount is to be paid directly to qualifying lenders as follows—
 - (i) the qualifying lender in whose case the amount resulting from sub-paragraph (2) or (3) is the largest is to be paid first,
 - (ii) if anything remains, the qualifying lender in whose case the amount resulting from sub-paragraph (2) or (3) is next largest is to be paid next, and so on until nothing remains.

(6) In the application of sub-paragraph (5)(b) in any case where the amount resulting from sub-paragraph (2) or (3) is the same in respect of two or more qualifying lenders, the available amount is to be divided equally between them.

Qualifying lenders to apply direct payments in discharge of borrower's liability

6. Where a direct payment is made under paragraph 3 to a qualifying lender in respect of a relevant claimant, the lender must apply the amount of the payment towards discharging the liability to make loan interest payments in respect of which the direct payment was made.

Application by qualifying lenders of any amount which exceeds liability

7.—(1) This paragraph applies where, in respect of a relevant claimant—

- (a) any direct payment is made under paragraph 3 to a qualifying lender; and
- (b) the amount paid exceeds the amount of the loan interest payments payable.

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

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- (a) first, towards discharging the amount of any liability of the relevant claimant for arrears of loan interest payments in respect of the loan in question; and
 - (b) if any amount of the excess is then remaining, towards discharging any liability of the relevant claimant to repay—
 - (i) the principal sum in respect of the loan, or
 - (ii) any other sum payable by the relevant claimant to that lender in respect of the loan.
- (3) Where loan interest payments on two or more loans 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 relevant claimant for arrears of loan interest payments in respect of the loan in respect of which the excess amount was paid; and
 - (b) if any amount of the excess is then remaining, towards discharging any liability of the relevant claimant to repay—
 - (i) in respect of the loan referred to in paragraph (a), the principal sum or any other sum payable by the relevant claimant to that lender, or
 - (ii) in respect of any other loan, any sum payable by the relevant claimant to that lender where the liability to pay that sum has not already discharged under this Schedule.

Time and manner of payments

8. Direct payments under paragraph 3 are to be made in monthly instalments in arrears.

Fees payable by qualifying lenders

9.—(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 qualifying lenders under paragraph 3.

(2) The fee is £0.35 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

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

- (a) may elect not to be regarded as such 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 the 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”) of the date of their becoming a qualifying lender; and
 - (b) no direct payments may be made under paragraph 3 to the body or person before the expiry of the initial period.
- (4) But sub-paragraph (3)(b) does not apply in any case where—
- (a) the body or person gives the Secretary of State notice in writing that that provision should not apply; and

- (b) that 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 the provisions set out in Schedule 2 (electronic communications);
 - (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

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

- (a) the loan interest payments in respect of which the relevant claimant meets the payment condition and the liability condition;
- (b) the amount of the loan;
- (c) the purpose for which the loan was made;
- (d) the amount outstanding on the loan;
- (e) the amount of arrears of loan interest payments due in respect of the loan;
- (f) any change in the amount of the loan interest payable; and
- (g) the redemption of the loan.

(2) The information referred to in sub-paragraph (1)(a) to (e) must be provided at the request of the Secretary of State where—

- (a) a claim is made for universal credit; or
- (b) the housing costs element is to be included in an award of universal credit otherwise than on the making of a claim,

and loan interest payments payable to the qualifying lender are taken into account in determining the amount of the relevant claimant's housing costs element.

(3) The information referred to in sub-paragraph (1)(f) must be provided at such times, or in the case of the information referred to in sub-paragraph (1)(d) at such other times, as the Secretary of State may determine.

(4) The information referred to in sub-paragraph (1)(g) must be provided to the Secretary of State immediately once the qualifying lender has received notice that the loan is to be redeemed.

Recovery of sums wrongly paid

12.—(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 paragraph 3 which ought not to have been paid.

- (2) Those circumstances are that, in respect of a relevant claimant—
 - (a) an amount calculated by reference to loan interest payments payable to the qualifying lender ceases to be included in the relevant claimant's housing costs element;
 - (b) a specified benefit ceases to be paid to a relevant claimant;
 - (c) the loan in respect of which loan interest payments are payable has been redeemed; or
 - (d) both of the conditions set out in sub-paragraphs (3) and (4) are met.

(3) The first condition is that the amount of the relevant claimant's housing costs element is reduced as a result of—

- (a) the standard rate having been reduced; or

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(b) the amount outstanding on the loan 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 4 or 5.

(5) A qualifying lender is not required to make a repayment in the circumstances described in sub-paragraph (2)(a) or (b) 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 thing described in that provision ceased.