

**2021 No. 131**

**SOCIAL SECURITY**

**The Loans for Mortgage Interest (Amendment) Regulations  
2021**

<i>Made</i>	- - - -	<i>5th February 2021</i>
<i>Laid before Parliament</i>		<i>8th February 2021</i>
<i>Coming into force</i>	- -	<i>15th March 2021</i>

The Secretary of State for Work and Pensions, in exercise of the powers conferred by sections 138(2) and (4) and 175(1) and (3) of the Social Security Contributions and Benefits Act 1992(a) and sections 18, 19 and 34(1) and (2) of the Welfare Reform and Work Act 2016(b), makes the following Regulations.

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

**Citation, commencement and extent**

**1. These Regulations—**

- (a) may be cited as the Loans for Mortgage Interest (Amendment) Regulations 2021;
- (b) come into force on 15th March 2021;
- (c) extend to England and Wales and Scotland.

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

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

**(2) In regulation 2 (interpretation) after the definition of “close relative” insert—**

““conveyancer” means—

- (a) in England and Wales, a conveyancer within the meaning of rule 217A of the Land Registration Rules 2003(e);

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(a) 1992 c. 4. Section 138(4) is cited for the meaning of “prescribed”. Section 175(1) was amended by paragraph 29 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2). The Social Fund is reserved; see the exclusions from exceptions 1 to 10 in Section F1 in Part 2 of Schedule 5 to the Scotland Act 1998 (c. 46).

(b) 2016 c. 7.

(c) 1992 c. 5.

(d) S.I. 2017/725. The relevant amending instrument is S.I. 2018/307.

(e) S.I. 2003/1417. Rule 217A was inserted by S.I. 2011/1410.

- (b) in Scotland, a solicitor or advocate within the meaning of section 65 of the Solicitors (Scotland) Act 1980<sup>(a)</sup>, or a conveyancing practitioner as defined in section 23 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990<sup>(b)</sup>;

(3) In regulation 15 (interest), in paragraph (4) replace “regulation 16” with “regulations 16 and 16A”.

(4) In regulation 16 (repayment) in paragraph (1) for “The outstanding amount” substitute “Subject to regulation 16A, the outstanding amount”.

(5) After regulation 16 (repayment) insert—

**“16A .— Transferring the loan between properties**

(1) Subject to paragraph (6), where the conditions in paragraphs (2) and (3) are met, regulation 16 (repayment) applies in relation to the new property referred to in paragraph (2) instead of in relation to the relevant accommodation (“Property 1”).

(2) The first condition is that the claimant or the claimant’s partner informs the Secretary of State that it is proposed to sell Property 1, and requests that the outstanding amount be transferred from Property 1 to a new property (“Property 2”).

(3) The second condition is that prior to the completion of the sale of Property 1—

- (a) the conveyancer dealing with the sale of the property has provided a written undertaking to the Secretary of State to do the following—
  - (i) to discharge the charge (in England and Wales), if any, or standard security (in Scotland), if any, in favour of the Secretary of State; and
  - (ii) to transfer the outstanding amount to the conveyancer for the claimant or the claimant’s partner, if not also acting on their behalf; and
- (b) the conveyancer for the claimant or the claimant’s partner has provided a written undertaking to the Secretary of State to do the following—
  - (i) to register a new charge (in England and Wales) or standard security (in Scotland) in favour of the Secretary of State for the outstanding amount in respect of Property 2; and
  - (ii) if completion of the sale and completion of the purchase do not happen simultaneously to hold the outstanding amount to the order of the Secretary of State until completion of the purchase of Property 2.

(4) Where the Secretary of State meets the reasonable costs incurred by the conveyancer for the claimant or the claimant’s partner for the purpose of transferring the loan from Property 1 to Property 2—

- (a) these costs may be added to the outstanding amount of the loan; and
- (b) any costs added to the outstanding amount are to be considered as a loan payment for the purpose of accruing interest under regulation 15.

(5) For the purposes of sub-paragraphs (a)(ii) and (b)(ii) of paragraph (3)—

- (a) in England and Wales, where the available equity in Property 1 as referred to in regulation 16(4), or, as the case may be, the amount of the equitable interest or interests, as referred to in regulation 16(5), is or are less than the outstanding amount, the reference in those sub-paragraphs to the outstanding amount is a reference to the available equity or to the amount of the equitable interest or interests, as the case may be; and
- (b) in Scotland, where the available equity in the whole or part of Property 1 over which the standard security is held, as referred to in regulation 16(6), is less than

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(a) 1980 c. 46; the definition was inserted by Schedule 4 to the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp. 4).

(b) 1990 c. 40.

the outstanding amount, the reference in those sub-paragraphs to the outstanding amount is a reference to the available equity.

(6) If completion in respect of Property 2 does not take place within twelve weeks beginning with the date that completion of the sale of Property 1 occurs or by such later date as the Secretary of State may agree then paragraph (1) does not apply and the outstanding amount under regulation 16, together with any future interest which accrues on that amount under regulation 15, shall be immediately due and payable.

(7) For the purposes of this regulation references to a claimant includes a former claimant.

(8) Where, under paragraph (1), the provisions of regulation 16 apply in relation to Property 2, this regulation applies as if any reference to the relevant accommodation were a reference to Property 2 (with no limit to the number of times this regulation may be treated as applying in relation to a new property).”.

(6) In paragraph 15 of Schedule 3 (living in other accommodation due to fear of violence)—

(a) in sub-paragraph (1) for “Sub-paragraph (2) applies” substitute “Sub paragraphs (2) and (3) apply”;

(b) in sub-paragraph (3) after “liable to make” insert “owner-occupier”.

### **Amendments to the Social Fund Cold Weather Payments (General) Regulations 1988**

**3.**—(1) In the Social Fund Cold Weather Payments (General) Regulations 1988(a) regulation 1A (prescribed description of persons) is amended as follows.

(2) In paragraph (2)—

(a) in sub-paragraph (f) for “(a)” substitute “(b)”;

(b) after sub-paragraph (f) insert—

“(g) owner-occupier loan payments and is treated as entitled to state pension credit.”.

(3) In paragraph (3A), for “paragraph (3)” substitute “paragraphs (2) and (3)”.

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

*Stedman-Scott*  
Parliamentary Under Secretary of State  
Department of Work and Pensions

5th February 2021

### **EXPLANATORY NOTE**

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

Regulation 2(2) to (5) amends the Loans for Mortgage Interest Regulations 2017 (S.I. 2017/725) to provide that a claimant will not be required to repay their support for mortgage interest loan on sale of the relevant accommodation, if they meet specified conditions.

Regulation 2(6) amends the Loans for Mortgage Interest Regulations 2017 to clarify that claimants who have fled the accommodation for which they receive support for mortgage interest loan payments due to fear of violence in the home will be able to continue receiving loan payments for that accommodation for a specified period of time.

Regulation 3 amends the Social Fund Cold Weather Payments (General) Regulations 1988 (S.I. 1988/1724) to clarify which conditions a claimant who receives support for mortgage interest loan

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(a) S.I. 1988/1724. Regulation 1A was inserted by S.I. 2010/2442. The relevant amending instrument is S.I. 2017/725.

payments and is treated as entitled to state pension credit needs to meet in order to be entitled to a cold weather payment.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, public, or voluntary sectors is foreseen.

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