
STATUTORY INSTRUMENTS

1992 No. 1026

**COMMUNITY CHARGES, ENGLAND
AND WALES
COMMUNITY CHARGES,
SCOTLAND
SOCIAL SECURITY**

**The Social Security (Claims and
Payments) Amendment Regulations 1992**

Made - - - - - *24th April 1992*

Laid before Parliament *27th April 1992*

*Coming into force in accordance with regulation 1(2),
(3) and (4)*

The Secretary of State for Social Security, in exercise of the powers conferred by section 166(2) of the Social Security Act 1957⁽¹⁾, sections 51(1)(r), 51C(1) and 84(1) of the Social Security Act 1986⁽²⁾, section 22(3) of, and paragraph 6 of Schedule 4 to, the Local Government Finance Act 1988⁽³⁾, section 31(3) of, and paragraph 7A of Schedule 2 to the Abolition of Domestic Rates Etc. (Scotland) Act 1987⁽⁴⁾ and those provisions as read with paragraph 11 of Schedule 5 to that Act⁽⁵⁾ and with the Community Water Charges (Scotland) Regulations 1988⁽⁶⁾ made thereunder, and section 2(4) of the Social Security (Mortgage Interest Payments) Act 1992⁽⁷⁾ and of all other powers enabling him in that behalf, after consultation with organisations representing qualifying lenders likely to be affected by the Regulations⁽⁸⁾, by this instrument, which contains only regulations made consequential upon section 1 of the Social Security (Mortgage Interest Payments) Act 1992, hereby makes the following Regulations:

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- (1) 1975 c. 14. Section 166(2) is applied to the powers to make regulations in the Social Security Act 1986 (“the 1986 Act”) by section 83 of that Act and to the powers to make regulations in the Social Security (Mortgage Interest Payments) Act 1992 (“the 1992 Act”) by section 2(5) of that Act.
- (2) 1986 c. 50. Section 51C was inserted by section 1(1) of the 1992 Act and section 84(1) is cited because of the meaning it ascribes to the words “prescribed” and “regulations”.
- (3) 1988 c. 41.
- (4) 1987 c. 47. Paragraph 7A was inserted by the Local Government Finance Act 1988 (c. 41), Schedule 12, paragraph 36(10).
- (5) Paragraph 11 was amended by the Local Government Finance Act 1988, Schedule 12, paragraph 38.
- (6) S.I. 1988/1538; to which the relevant amendment is S.I. 1990/113.
- (7) 1992 c. 33.
- (8) See section 51C(2) of the 1986 Act.

Citation and commencement

1.—(1) These Regulations may be cited as the Social Security (Claims and Payments) Amendment Regulation 1992.

(2) This regulation and the Schedule to these Regulations in so far as it relates to paragraphs 1 and 9 of Schedule 9A to the Claims and Payments Regulations shall come into force on 29th April 1992.

(3) The provisions of these Regulations other than those referred to in paragraph (2) above shall, to the extent that they relate to claims for any relevant benefits—

(a) made on or after 25th May 1992; or

(b) made before 25th May 1992 but determined after that date,

come into force on 25th May 1992.

(4) The provisions of these Regulations other than those referred to in paragraph (2) above shall, in relation to a particular beneficiary, come into force on the date the first determination is made by an adjudication officer in respect of that beneficiary's award of any relevant benefit on or after 25th May 1992.

Interpretation

2. In these Regulations—

“the Claims and Payments Regulations” means the Social Security (Claims and Payments) Regulations 1987(9);

“the Community Charges Regulations” means the Community Charges (Deductions from Income Support) (No.2) Regulations 1990(10);

“the Community Charges (Scotland) Regulations” means the Community Charges (Deductions from Income Support) (Scotland) Regulations 1989(11);

“the Community Charges (Scotland) Regulations” means the Community Charges (Deductions from Income Support) (Scotland) Regulations 1989(11);

“the Community Charges (Scotland) Regulations” means the Community Charges (Deductions from Income Support) (Scotland) Regulations 1989(11);

Insertion of regulations 34A into the Claims and Payments Regulations

3. After regulation 34 of the Claims and Payments Regulations there shall be inserted the following regulation—

“Deductions of mortgage interest which shall be made from benefit and paid to qualifying lenders

34A.—(1) In relation to cases to which section 51C(1) of the Social Security Act 1986 (payment out of benefit of sums in respect of mortgage interest etc.) applies and in the circumstances specified in Schedule 9A, such part of any relevant benefits to which a relevant beneficiary is entitled as may be specified in that Schedule shall be paid by the Secretary of State directly to the qualifying lender and shall be applied by that lender towards the discharge of the liability in respect of that mortgage interest(12).

(9) S.I. 1987/1968; relevant amending instruments are S.I. 1988/522, 1990/2208 and 1991/2284.

(10) S.I. 1990/545.

(11) S.I. 1989/507.

(11) S.I. 1989/507.

(11) S.I. 1989/507.

(12) See section 51C of the Social Security Act 1986 for definitions of “relevant benefits”, “relevant beneficiary”, “qualifying lender” and “mortgage interest”.

(2) The provisions of Schedule 9A shall have effect in relation to mortgage interest payments.”.

Amendment of regulation 35 of the Claims and Payments Regulations

4. In regulation 35(1) of the Claims and Payments Regulations for the words preceding the words “may be made from benefit and”, there shall be substituted the words—

“Deductions which may be made from benefit and paid to third parties

35.—(1) Except as provided for in regulation 34A and Schedule 9A, deductions”.

Amendment of Schedule 9 to the Claims and Payments Regulations

5.—(1) Schedule 9 to the Claims and Payments Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph 3—

- (a) in sub-paragraph (1), for the words “sub-paragraph (4)” there shall be substituted the words “sub-paragraphs (4) to (6)”;
- (b) in sub-paragraph (2), for the words “Subject to sub-paragraph (3)”, there shall be substituted the words “Subject to sub-paragraphs (2A) and (3)”;
- (c) after sub-paragraph (2), there shall be inserted the following sub-paragraph—

“(2A) Where a payment falls to be made to a third party in accordance with this Schedule, and—

- (a) more than one item of housing costs falls to be taken into account in determining the beneficiary’s applicable amount; and
- (b) in accordance with paragraph 10 or paragraph 11 of Schedule 3 to the Income Support Regulations an amount is not allowed or a deduction falls to be made from the amount to be met by way of housing costs,

then in calculating the amount deductible, the weekly aggregate ascertained in accordance with sub-paragraph (2) shall be reduced by an amount determined by applying the formula—

$$C \times \frac{B}{A}$$

where—

- A = housing costs;
- B = the item of housing costs which falls to be paid to a third party under this Schedule;
- C = the sum which is not allowed or falls to be deducted in accordance with paragraph 10 or, as the case may be, paragraph 11 of Schedule 3 to the Income Support Regulations.”; and

(d) after sub-paragraph (4) there shall be added the following sub-paragraphs—

“(5) No amount shall be paid pursuant to this paragraph in respect of mortgage interest in any case where a specified part of relevant benefits—

- (a) is required to be paid directly to a qualifying lender under regulation 34A and Schedule 9A; or

(b) would have been required to be paid to a body which, or a person who, would otherwise have been a qualifying lender but for an election given under paragraph 9 of Schedule 9A not to be regarded as such.

(6) In sub-paragraph (5), “specified part” and “relevant benefits” have the meanings given to them in paragraph 1 of Schedule 9A.”.

(3) In paragraph 8—

(a) in sub-paragraph (1), after the words “and 7(5)(a)” there shall be inserted the words “and sub-paragraph 3(5) of Schedule 9A”; and

(b) after sub-paragraph (2) there shall be added the following sub-paragraph—

“(3) Where the aggregate of the amounts payable under the provisions mentioned in sub-paragraph (2) does not exceed the sum there mentioned “the specified sum”) but does exceed that sum where the aggregate includes in addition any amount required to be paid in accordance with paragraph 3(5) of Schedule 9A, then in relation to the amounts payable under the provisions mentioned in sub-paragraph (2) the consent of the beneficiary is required to the payment of so much of the specified sum as represents the amount by which that sum is so exceeded.”.

(4) In paragraph 9—

(a) after the words “applicable to the beneficiary” there shall be inserted the words “or one or more of those paragraphs are applicable to the beneficiary and Schedule 9A also applies”; and

(b) after the words “priorities shall apply—” there shall be inserted the following head—

“(za) any liability mentioned in Schedule 9A;”.

Insertion of Schedule 9A into the Claims and Payments Regulations

6. After Schedule 9 to the Claims and Payments Regulations there shall be inserted the Schedule set out in the Schedule to these Regulations.

Amendment of the Community Charges Regulations and the Community Charges (Scotland) Regulations

7. In regulation 2(4)(b) of both the Community Charges Regulations and the Community Charges (Scotland) Regulations, after the words “priorities shall apply—” there shall be inserted the following head—

“(zi) any liability mentioned in regulation 34A of the Social Security (Claims and Payments) Regulations 1987 (mortgage interest);”.

Signed by authority of the Secretary of State for Social Security.

24th April 1992

Nicholas Scott
Minister of State,
Department of Social Security

SCHEDULE

Regulation 6

“SCHEDULE 9A

DEDUCTIONS OF MORTGAGE INTEREST FROM
BENEFIT AND PAYMENT TO QUALIFYING LENDERS

Interpretation

1. In this Schedule—

“5 per cent. of the personal allowance for the single claimant aged not less than 25” means, where the percentage is not a multiple of 5 pence, the sum obtained by rounding that 5 per cent. to the next higher such multiple;

“personal allowance for a single claimant aged not less than 25 years” means the amount specified in paragraph 1(1)(e) of column 2 of Schedule 2 to the Income Support Regulations;

“Income Support Regulations” means the Income Support (General) Regulations 1987(13);

“relevant benefits” means the benefits prescribed in paragraph 5;

“specified part” shall be construed in accordance with paragraph 3.

Specified circumstances

2.—(1) The circumstances referred to in regulation 34A are that—

(a) the amount to be met under paragraph 7 or as the case may be paragraph 8 of Schedule 3 to the Income Support Regulations in determining the relevant beneficiary’s applicable amount is 100 per cent. of the eligible interest in his case; and

(b) the relevant benefits to which a relevant beneficiary is entitled are payable in respect of a period of 7 days or a multiple of such period.

(2) For the purposes of determining whether 100 per cent. of the eligible interest referred to in sub-paragraph (1)(a) is met in determining a relevant beneficiary’s applicable amount, no account shall be taken of any amounts not allowed under paragraph 10 (restrictions on payment of housing costs) or deducted under paragraph 11 (non-dependant deductions) of Schedule 3 to the Income Support Regulations.

(3) In this paragraph, the expression “eligible interest” has the meaning it bears in paragraph 7 of Schedule 3 to the Income Support Regulations by virtue of sub-paragraph (3) of that paragraph.

Specified part of relevant benefit

3.—(1) Subject to the following provisions of this paragraph, the part of any relevant benefits which, in accordance with regulation 34A, shall be paid by the Secretary of State directly to a qualifying lender (“the specified part”) is a sum equal to the amount of the mortgage interest to be met under paragraphs 7 and 8 of Schedule 3 to the Income Support Regulations.

(2) Where, in determining a relevant beneficiary’s applicable amount for the purposes of income support, an amount is not allowed or a deduction falls to be made in accordance with paragraph 10 or paragraph 11 of Schedule 3 to the Income Support Regulations (excessive housing costs and non-dependant deductions) then the specified part referred to in sub-paragraph (1) of this paragraph is the mortgage interest to be met under paragraphs 7 and 8 of Schedule 3 to the Income Support Regulations minus the amount not allowed or, as the case may be, the deduction made.

(13) S.I. 1987/1967.

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(3) Where, in determining a relevant beneficiary's applicable amount for the purposes of income support—

- (a) a sum in respect of housing costs is brought into account in addition to a sum in respect of mortgage interest; and
- (b) in accordance with paragraph 10 or paragraph 11 of Schedule 3 to the Income Support Regulations an amount is not allowed or a deduction falls to be made from the amount to be met under that Schedule,

then the specified part referred to in sub-paragraph (1) of this paragraph is the mortgage interest minus a sum calculated by applying the formula—

$$C \times \frac{B}{A}$$

where—

- A = the eligible housing costs within the meaning of paragraph 1 of Schedule 3 to the Income Support Regulations;
- B = the mortgage interest to be met under paragraphs 7 and 8 of Schedule 3 to the Income Support Regulations which is payable to a qualifying lender by the borrower;
- C = the sum which is not allowed or falls to be deducted in accordance with paragraph 10 or paragraph 11 of Schedule 3 to the Income Support Regulations.

(4) Where a payment is being made under a policy of insurance taken out by a beneficiary to insure against the risk of his being unable to maintain repayments of mortgage interest to a qualifying lender, then the amount of any relevant benefits payable to that lender shall be reduced by a sum equivalent to so much of the amount payable under the policy of insurance as represents payments in respect of mortgage interest.

(5) Subject to sub-paragraphs (6), (7) and (8), where the borrower is in arrears with the payment of mortgage interest on a loan which he is liable to make to a qualifying lender, then the specified part shall include a sum equal to 5 per cent. of the personal allowance for a single claimant aged not less than 25 years (“an additional sum”).

(6) Where the borrower is in arrears with the payment of mortgage interest in respect of more than one loan, the sum included in the specified part under sub-paragraph (5) shall not exceed 3 times a sum equal to 5 per cent. of the personal allowance for a single claimant aged not less than 25 years.

(7) Except in relation to an award of income support made before 25th May 1992, where as a result of the operation of paragraph 7(1)(b)(ii) of Schedule 3 to the Income Support Regulations (only 50 per cent. of eligible interest payable during the first 16 weeks of payment of income support) a borrower is in arrears with the payment of mortgage interest in respect of a loan which he is liable to make to a qualifying lender no additional sum shall be included in the specified part by reference to those arrears.

(8) Where the amount of any relevant benefits to which a relevant beneficiary is entitled is less than the sum which would, but for this sub-paragraph, have been the specified part, then the specified part shall be the amount of any relevant benefits to which the relevant beneficiary is entitled less 10p.

Direct payment: more than one loan

4.—(1) This paragraph applies where the borrower is liable to pay mortgage interest in respect of two or more different loans.

(2) Subject to the following provisions of this paragraph, the Secretary of State shall pay to the qualifying lender or, if there is more than one qualifying lender, to each qualifying lender—

- (a) a sum equal to the mortgage interest to be met under paragraphs 7 and 8 of Schedule 3 to the Income Support Regulations in respect of each loan made by that lender, plus

(b) any additional amount attributable to a particular loan which may, under paragraph 3(5), have been taken into account in calculating the specified part.

(3) If, by virtue of deductions made under either paragraph 3(2) or 3(3), the specified part is less than the amount payable by the borrower in respect of mortgage interest, then the sum payable under sub-paragraph (2)(a) shall be minus such proportion of the sum subtracted under those sub-paragraphs as is attributable to the particular loan.

(4) Paragraph 3(4) shall apply to reduce the amount payable to a qualifying lender mentioned in sub-paragraph (2) above as it applies to reduce the amount of any relevant benefits payable to a qualifying lender under paragraph 3.

(5) Where the specified part is the part referred to in paragraph 3(8), the Secretary of State shall pay the specified part directly to the qualifying lenders to whom mortgage interest is payable by the borrower in order of the priority of mortgages or (in Scotland) in accordance with the preference in ranking of heritable securities.

Relevant benefits

5.—(1) Subject to sub-paragraph (2), the following benefits shall be relevant benefits in addition to income support, namely, unemployment benefit, sickness benefit, invalidity benefit, retirement pension and severe disablement allowance.

(2) The benefits referred to in sub-paragraph (1) are only relevant benefits when paid together with income support by means of the same instrument of payment.

Time and manner of payments

6. Payments to qualifying lenders under regulation 34A and this Schedule shall be made in arrears at intervals of 4 weeks.

Fees payable by qualifying lenders

7. For the purposes of defraying the expenses of the Secretary of State in administering the making of payments under regulation 34A and this Schedule a qualifying lender shall pay to the Secretary of State a fee of £2.50 in respect of each payment made under regulation 34A and this Schedule.

Qualifying lenders

8. The following bodies and persons shall be qualifying lenders—

- (a) the Housing Corporation;
- (b) Housing for Wales;
- (c) Scottish Homes;
- (d) the Development Board for Rural Wales; and
- (e) any body incorporated under the Companies Act 1985⁽¹⁴⁾ whose main objects include the making of loans secured by a mortgage of or a charge over land or (in Scotland) by a heritable security.

(14) 1985 c. 6.

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Election not to be regarded as a qualifying lender

9.—(1) A body which, or a person who, would otherwise be a qualifying lender may elect not to be regarded as such for the purposes of these Regulations by giving notice of election under this paragraph to the Secretary of State in accordance with sub-paragraphs (2) and (3).

(2) Subject to sub-paragraph (3), notice of election shall be given in writing—

(a) in the case of the financial year 1992 to 1993, before 23rd May 1992 and shall take effect on that date; and

(b) in the case of any other financial year, before 1st February in the preceding year and shall take effect on 1st April following the giving of the notice.

(3) A body which, or a person who, becomes a qualifying lender during a financial year and who wishes to elect not to be regarded as such for the purposes of these Regulations shall give notice of election in writing within a period of six weeks from the date on which the person or body became a qualifying lender.

(4) Regulation 34A shall not apply to a body which, or a person who, becomes a qualifying lender during a financial year for a period of six weeks from the date on which the person or body became a qualifying lender unless, either before the start of that period or at any time during that period, the person or body notifies the Secretary of State in writing that this sub-paragraph should not apply.

(5) A body which, or a person who, has made an election under this paragraph may revoke that election by giving notice in writing to the Secretary of State before 1st February in any financial year and the revocation shall take effect on the 1st April following the giving of the notice.

(6) Where a notice under this paragraph is sent by post it shall be treated as having been given on the day it was posted.

Provision of information

10.—(1) A qualifying lender shall provide the Secretary of State with information relating to—

(a) the mortgage interest payable by a borrower;

(b) the amount of the loan;

(c) the purpose for which the loan is made;

(d) the amount outstanding on the loan on which the mortgage interest is payable;

(e) any change in the amount of interest payable by the borrower;

at the times specified in sub-paragraphs (2) and (3).

(2) The information referred to in heads (a), (b), (c) and (d) of sub-paragraph (1) shall be provided at the request of the Secretary of State when a claim for income support is made and a sum in respect of mortgage interest is to be brought into account in determining the applicable amount.

(3) The information referred to in heads (d) and (e) of sub-paragraph (1) shall be provided at the request of the Secretary of State—

(a) when a claim for income support ceases to be paid to a relevant beneficiary; and

(b) once every 12 months notwithstanding that, in relation to head (d), the information may already have been provided during the period of 12 months preceding the date of the Secretary of State's request.

Recovery of sums wrongly paid

11.—(1) Where sums have been paid to a qualifying lender under regulation 34A which ought not to have been paid for one or both of the reasons mentioned in sub-paragraph (2) of this paragraph, the qualifying lender shall, at the request of the Secretary of State, repay the sum overpaid.

- (2) The reasons referred to in sub-paragraph (1) of this paragraph are—
- (a) that—
- (i) the rate at which the borrower pays mortgage interest has been reduced or the amount outstanding on the loan has reduced, and
 - (ii) as a result of this reduction the applicable amount of the relevant beneficiary has also been reduced, but
 - (iii) no corresponding reduction was made to the specified part; or
- (b) subject to paragraph (3), that the relevant beneficiary has ceased to be entitled to any relevant benefits.
- (3) A qualifying lender shall only repay sums which ought not to have been paid for the reason mentioned in sub-paragraph (2)(b) of this paragraph if the Secretary of State has requested that lender to repay the sums within a period of 4 weeks starting with the last day on which the relevant beneficiary was entitled to any relevant benefits.”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Claims and Payments) Regulations 1987 (“the Claims and Payments Regulations”) and are consequential upon the coming into force of the Social Security (Mortgage Interest Payments) Act 1992 (c. 33) (“the 1992 Act”). The instrument is made before the end of the period of 6 months beginning with the coming into force of that Act and the regulations in it are therefore exempted by section 61(5) of the Social Security Act 1986 (c. 50) (as amended by the Social Security Act 1989 (c. 24), Schedule 8, paragraph 12(3)) from the requirement under section 10 of the Social Security Act 1980 (c. 30) to refer the proposals to the Social Security Advisory Committee and are made without reference to that Committee.

Regulations 1 and 2 contain provisions relating to citation, commencement and interpretation.

Regulation 3 inserts a regulation 34A in the Claims and Payments Regulations which requires the Secretary of State to pay part of a beneficiary’s benefit directly to a qualifying lender (defined in section 1 of the 1992 Act) and requires that lender to apply the benefit so paid towards the discharge of the beneficiary’s liability to pay mortgage interest.

Regulations 4 and 5 make amendments to the Claims and Payments Regulations which are consequential upon the insertion of regulation 34A and regulation 7 makes consequential amendments to the Community Charges (Deductions from Income Support) (Scotland) Regulations 1989 and the Community Charges (Deductions from Income Support) (No. 2) Regulations 1990.

Regulation 6 adds a Schedule 9A to the Claims and Payments Regulations. In this Schedule—

- (1) paragraph 1 contains provisions relating to interpretation;
- (2) paragraph 2 prescribes the circumstances in which regulation 34A of the Claims and Payments Regulations applies;
- (3) paragraph 3 prescribes the part of a beneficiary’s benefit which is to be paid directly to a qualifying lender;

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- (4) paragraph 4 set out how the part of a beneficiary's benefit shall be paid directly when he is liable to pay mortgage interest on more than 1 loan;
- (5) paragraph 5 prescribes the benefits from which a part may be paid directly to a qualifying lender;
- (6) paragraph 6 provides for the time and manner of direct payments;
- (7) paragraph 7 prescribes the fees to be paid by qualifying lenders;
- (8) paragraph 8 prescribes the bodies and persons who are qualifying lenders in addition to those specified in section 1 of the 1992 Act;
- (9) paragraph 9 enables a qualifying lender to elect not to be regarded as a qualifying lender;
- (10) paragraph 10 specifies the information which a qualifying lender must give to the Secretary of State;
- (11) paragraph 11 contains provisions relating to the recovery of sums wrongly paid.