

## DMG Memo Vols 4/143, 5/110, 6/93, 8/91 & 9/42

### HOUSING COSTS & SOCIAL FUND MATERNITY GRANT

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## INTRODUCTION

- 1 This memo provides guidance on amendments to legislation, in particular those regulations relating to owner occupier housing costs across all income related benefits
- 2 The amendments are made by The Loans for Mortgage Interest Regulations (Northern Ireland) 2017 (SR 2017 No. 176) which come into force on 20.10.17, except for regulations 18 to 21 which come into force on 6.4.18 and The Loans for Mortgage Interest and Social Fund Maternity Grant (Amendment) Regulations (Northern Ireland) 2018 (SR 2018 No.37) which come into force on 6.4.18, except for regulations 1 and 2(18) which come into force on 5.4.18.

## BACKGROUND

- 3 Help with owner occupier payments is currently included in a claimant's award of an income related benefit (also referred to as support for mortgage interest). In the summer budget 2015, the Chancellor announced that support for mortgage interest would be changed from a benefit to a loan secured by a second charge on a claimant's property. The Loans for Mortgage Interest Regulations introduce this policy and the provisions that change support for mortgage interest so that help with owner occupier payments is no longer payable as part of the benefit award. The changes are explained below.

## CHANGES

- 4 From 6.4.18 the regulations which provide for entitlement to payments in respect of loans and loans for repairs and improvements<sup>1</sup> within the Income Support, income-based Jobseeker's Allowance, income-related Employment and Support Allowance and State Pension Credit regulations are omitted<sup>2</sup>. As a result these support for mortgage interest payments will no longer be met through those benefits. Payment towards other housing costs, for example, service charges, will continue.

*1 IS Gen Regs (NI), reg 17(e) & 18(1)(f); JSA Regs (NI), reg 83(f) & 84(1)(g) & 86A; ESA Regs (NI), reg 67(1)(c) & 68(1)(d); SPC Regs (NI), Sch 2, Para 1(1)(b) & 1(2)(c) & 8, 9, 11, 12; 2 LMI Regs (NI), reg 18*

- 5 From 6.4.18 the guidance in DMG chapter 33 concerning third party deductions for mortgage interest and housing costs in respect of loans and loans for repairs and improvements should no longer be followed.<sup>1</sup>

*1 LMI Regs (NI), Sch 5, para 7; SS C&P Regs (NI), Sch 8A*

- 6 The guidance in DMG chapter 23, 44, 46, 78 and 79 concerning the award, calculation and payments in respect of loans and loans for repairs and improvements should no longer be followed. However certain transitional arrangements are in place for existing claimants whose housing costs can continue to be met (beyond 6.4.18) but only until the transitional end day<sup>1</sup> (see paragraph 7).

*1. LMI Regs (NI), reg 19*

## TRANSITIONAL END DAY

### Loan offer made before 6.4.18

- 7 Where the loan offer is made before 6.4.18 the transitional end day will be the earlier of
1. the day described at paragraph 8 below **or**
  2. the day immediately following the day on which entitlement to a qualifying benefit ends<sup>1</sup>
- 1 LMI Regs (NI), reg 19(1)*
- 8 For the purposes of paragraph 7.1 the day referred to is the later of
1. for claimants of Income support, income-based Jobseeker's Allowance), income-related Employment and Support Allowance or State Pension Credit, where 6 April is not the first day of the claimants benefit week, the first day of the first benefit week that begins after 6 April 2018 **or**
  2. the day immediately following the day which is the earliest <sup>1</sup> to occur of the following
    - 2.1 the day the decision maker receives notification that the claimant does not wish to accept the offer of loan payments **or**
    - 2.2 where the decision maker
      - 2.2.a receives the fully completed loan agreement and appropriate documents within the period of 6 weeks beginning with the loan payments offer date, the day described in paragraph 9 below **or**
      - 2.2.b has not received the fully completed loan agreement and appropriate documents within the period of 6 weeks beginning with the loan payments offer date, the day on which that 6 week period ends<sup>2</sup>.

**Note:** The loan payments offer date is the day on which the loan agreement is sent to the claimant<sup>3</sup>.

*1 LMI Regs (NI), reg 19(2); 2 reg 19(3); 3 reg 2(1)*

### Example:

William is in receipt of Income Support that includes owner-occupier payments, his benefit week ends each Wednesday. The transitional end day is Thursday 12 April (the day after the first benefit week that ends after 6.4.18). From this date William is no longer entitled to mortgage payments but he will get loan payments from this date (because he had returned all the appropriate signed documents).

- 9 For the purposes of paragraph 8.2.2.a the day referred to is the last day of a 4 week period where that period begins on the day the fully completed loan agreement and associated documents are received<sup>1</sup>.

*1 LMI Regs (NI), reg 19(3)(b)*

**Loan offer made on or after 6.4.18**

- 10 Where the loan offer does not occur before 6.4.18 the transitional end day will be the earlier of
1. the day described at paragraph 11 below **or**
  2. the day immediately following the day on which entitlement to a qualifying benefit ends<sup>1</sup>
  3. the day immediately following the day the decision maker receives notification that the claimant does not wish to receive loan payments<sup>1</sup>.

*1 LMI Regs (NI), reg 19A(1)*

- 11 For the purposes of paragraph 10.1 the day referred to is

1. 7.5.18<sup>1</sup> **or**
2. where the loan payments offer date is before 7.5.18 **and**
  - 2.1 the decision maker receives the fully completed loan agreement and appropriate documents within the period of 6 weeks beginning with the loan payments offer date, then the day referred to is the last day of a 4 week period where that period begins on the day after the day the fully completed loan agreement and associated documents are received **or**
  - 2.2 the decision maker has not received a fully completed loan agreement and appropriate documents within the period of 6 weeks beginning with the loan payments offer date, the day on which that 6 week period ends<sup>2</sup>.

**Note:** Where the day described in paragraph 2.1 or 2.2 above is not the first day of the claimant's benefit week or, in the case of Universal Credit, the first day of their assessment period, the day referred to here is the first day of the first benefit week or first assessment period that begins after that date<sup>2</sup>

*1 LMI Regs (NI), reg 19A(2)(a); 2 reg 19A (2)(b)*

- 12 For claimants of Income Support, income-based Jobseeker's Allowance, income-related Employment and Support Allowance or State Pension Credit, where 7 May 2018 or the day described at paragraph 10.3 is not the first day of the claimants benefit week, the first day of the first benefit week that begins after that day<sup>1</sup>

**Note:** The loan payments offer date is the day on which the loan agreement is sent to the claimant.

*1 LMI Regs (NI), reg 19A(3)*

13 Where

1. before 19.3.18 the decision maker has asked the claimant to provide information needed to
  - 1.1 establish whether the claimant wishes to receive an offer of a loan payment **or**
  - 1.2 be able to send the loan agreement and associated documents **and**
2. the claimant has not provided that information

then the preceding paragraphs 10 to 12 do not apply and the support for mortgage interest regulations are removed, subject to paragraph 14, from 6.4.18<sup>1</sup>.

*1 LMI Regs (NI), reg 19A(4)*

14 Where paragraph 13 applies (and this is not because the claimant lacks capacity) and the 6.4.18 is not the first day of the claimants benefit week or assessment period then the removal of the support for mortgage interest regulations is effective from the first day of the first benefit week or first assessment period that begins after that date<sup>1</sup>.

*1 LMI Regs (NI), reg 19A(5)*

### **Persons who lack capacity – identified before 6.4.18**

15 Where, before 6.4.18 the decision maker

1. is satisfied that the claimant lacks capacity to make some or all the decisions about entering into the loan agreement. **Or**
2. suspects that the claimant may lack such capacity

then claimants who are already getting owner-occupier payments will continue to benefit from owner-occupier payments until the date specified below<sup>1</sup>.

*1 LMI Regs (NI), reg 20(1)*

16 The date referred to in paragraph 15 falls on the day that is the earlier of

1. the day described in paragraph 17 or paragraph 19 **or**
2. the day immediately following the day on which entitlement to a qualifying benefit ends<sup>1</sup>.

*1 LMI Regs (NI), reg 20(2)*

17 For the purposes of paragraph 16.1 that day is the later of

1. 5.11.18 **or**
2. where, before 6.4.18, the decision maker suspects the claimant lacks capacity but prior to 5.11.18 the decision maker's suspicion becomes belief, the day immediately following the last day of a period of 6 weeks beginning with the day the decision maker formed that belief<sup>1</sup> **or**
3. where an application for a decision of a type described in the Note below is made before the later of

**3.1** 5.11.18 **or**

**3.2** the day prescribed in paragraph 17.2

the relevant day is the day immediately following<sup>2</sup>

**3.2.a** the last day of a 6 week period beginning with the day on which a relevant person (see Note below) makes a decision **or**

**3.2.b** the last day of a 6 week period beginning with the day on which the relevant person receives notification that the application for such a decision is withdrawn<sup>3</sup>.

*1 LMI Regs (NI), reg 20(3)(b); 2 reg 20(3)(c); 3 reg 20(4)*

**Note:** The relevant person is an attorney acting on the claimant's behalf with respect to entering a loan agreement, in accordance with specified legislation or an order made by the court under mental health provisions to appoint a controller with power to make a decision on behalf of a claimant with respect to entering a loan agreement<sup>1</sup>.

*1 LMI Regs (NI), reg 20(7); Enduring Powers of Attorney (NI) 1987; Powers of Attorney Act (NI) 1971; Mental Health (NI) Order 1986, art 101*

### **Example 1**

Bert receives State Pension Credit which includes an amount towards his mortgage interest. On 2 April his daughter Rosie advises that Bert has dementia and she has an enduring power of attorney, dated December 2017. Bert therefore lacks capacity to make any decisions about the loan payment offer notification he received in January. The transitional end date for Bert is the 5.11.18, the later of the dates outlined in paragraph 27.3, which is the earlier of the dates in paragraph 26. Owner occupier payments will continue until that date.

## Example 2

Ernest receives State Pension Credit which includes an amount towards his mortgage interest. In March his son Jim advises that Ernest has dementia and is unlikely to have capacity to make any decisions about applying for a loan payment and advises that he has recently applied to be appointed as a Financial Deputy. Owner occupier payments continue. On 30.10.18 Jim advises the decision maker that he has been appointed. The transitional end date for Ernest is 6 weeks after that determination which in this particular case is 11.12.18, at which point the owner occupier payments end. As all the appropriate loan payment application forms had been returned Ernest now has entitlement to a loan payment.

- 18 Where more than one application for a decision (as described in the Note to paragraph 17) is made within the intervening period cited at 17.3 then the periods described in paragraph 17.3 do not start to run until the relevant person has decided the last application or that all the applications are withdrawn<sup>1</sup>. Similarly where there is one application for a decision referred to in the Note but it is made within the intervening period to more than one relevant person then the day will be the later of the days<sup>2</sup>.

*1 LMI Regs (NI), reg 20(5); 2 reg 20(6)*

- 19 Where, before 6.4.18, the decision maker suspects the claimant lacks capacity but prior to 5 November the decision maker's suspicion becomes a belief that the claimant does not in fact lack capacity then the relevant day is the day immediately following the earlier of

1. the day described in paragraph 20 **or**
2. the day on which the decision maker is notified that the claimant does not wish to receive loan payments<sup>1</sup>

*1 LMI Regs (NI), reg 20(8)*

- 20 For the purposes of paragraph 19.1 the relevant day is the earlier of

1. where the decision maker receives the fully completed loan agreement and appropriate documents within the period of 6 weeks beginning with the loan payments offer date, then the day referred to is the last day of a 4 week period where that period begins on the day the fully completed loan agreement and associated documents are received **or**
2. where the decision maker has not received a fully completed loan agreement and appropriate documents within the period of 6 weeks beginning with the loan payments offer date, the day on which that 6 week period ends<sup>2</sup>.

**Note:** Where the day described in paragraph 1. **or** 2. above is not the first day of the claimant's benefit week or, in the case of Universal Credit, the first day of

their assessment period, the day referred to here is the first day of the first benefit week or first assessment period that begins after that date<sup>2</sup>

*1 LMI Regs (NI), reg 20(9)*

- 21 For claimants of Income Support, income-based Jobseeker's Allowance, income-related Employment and Support Allowance or State Pension Credit, or State Pension Credit, where 5.11.18 or the day described at paragraph 19.2 or paragraph 20 is not the first day of the claimants benefit week, the first day of the first benefit week that begins after that day<sup>1</sup>

*1 LMI Regs (NI), reg 20(10)*

## **PAYMENTS FOR HOUSING COSTS AND MORTGAGE PROTECTION PAYMENTS**

- 22 From 6.4.18 any payments that the claimant receives from a mortgage protection policy are disregarded where that payment (when converted to a weekly amount) is **used** to pay the amount of any loan which qualifies under the new loans for mortgage interest regulations in Income Support, income-related Employment and Support Allowance and income-based Jobseeker's Allowance)<sup>1</sup>.

*1 IS Gen Regs (NI), Sch 9, para 29; ESA Regs (NI), Sch 8, para 31; JSA Regs (NI), Sch 7, para 30*

- 23 From 6.4.18 any payments of income intended by the claimant, or person making the payment as a contribution towards and **used** for any of the following costs should be disregarded:
1. any payment on a loan secured on a person's home which is not a qualifying loans for mortgage interest loan <sup>1</sup> **or**
  2. interest payments for a loan that is a qualifying loans for mortgage interest loan <sup>2</sup> **or**
  3. capital repayments for a loan that is a qualifying loans for mortgage interest loan <sup>3</sup>
  4. other housing costs<sup>4</sup>
    - 4.1. any payment towards
      - 4.1.a service charges **and**
      - 4.1.b ground rent or rent charge **and**
    - 4.2 any payment for
      - 4.2.a shared co-ownership scheme **and**
      - 4.2.b a tent



*1 IS (Gen) Regs (NI), Sch 9, para 30(1)(a); ESA Regs (NI), Sch 8, para 32(1)(a); JSA Regs (NI), Sch 7, para 31(1)(a); 2 IS (Gen) Regs (NI), Sch 9, para 30(1)(b); ESA Regs (NI), Sch 8, para 32(1)(b); JSA Regs (NI), Sch 7, para 31(1)(b); IS (Gen) Regs (NI), Sch 9, para 30(1)(c); ESA Regs (NI), Sch 8, para 32(1)(c); JSA Regs (NI), Sch 7, para 31(1)(c); 4 IS (Gen) Regs (NI), Sch 9, para 30(1)(b); ESA Regs (NI), Sch 8, para 32(1)(b); JSA Regs (NI), Sch 7, para 31(1)(b)*

## **SURE START MATERNITY GRANT**

- 24 Owner-occupier loan payments<sup>1</sup> means loan payments made under specified legislation<sup>2</sup>.

*1 SF (M&FE) (Gen) Regs (NI), (NI, reg 2(1); 2 LMI Regs (NI)*

- 25 With the removal of owner-occupier payments as part of their benefit entitlement, a person may no longer be entitled to Income Support, State Pension Credit, income-based Jobseeker's Allowance or income-related Employment and Support Allowance because they have too much income. Provision<sup>1</sup> is made to ensure that this group will be treated as entitled to one of those benefits to ensure that they remain eligible.

*1 SF (M&FE) (Gen) Regs (NI) (NI, reg 2(4)(c)); LMI Regs (NI), reg 2(2)(aa)*

- 26 From 6.4.18 "owner-occupier loan payments" is added to the list of qualifying benefits in DMG 39026. Where owner-occupier loan payments has been awarded<sup>1</sup>, the first condition of entitlement is satisfied if the person has been awarded an owner-occupier loan payment and is treated as entitled to Income Support, income-based Jobseeker's Allowance, income-related Employment and Support Allowance or State Pension Credit.

*1 SF (M&FE) (Gen) Regs (NI), reg 5(2)(h)*

## **FUNERAL PAYMENTS**

- 27 Owner-occupier loan payments<sup>1</sup> means loan payments made under specified legislation<sup>2</sup>.

*1 SF (M&FE) (Gen) Regs (NI), reg 2(1); 2 LMI Regs (NI)*

- 28 With the removal of owner-occupier payments as part of their benefit entitlement, a person may no longer be entitled to Income Support, State Pension Credit, income-based Jobseeker's Allowance or income-related Employment and Support Allowance because they have too much income. Provision<sup>1</sup> is made to ensure that this group will be treated as entitled to one of those benefits to ensure that they remain eligible.

*1 SF (M&FE) (Gen) Regs (NI), reg 2(4)(c); LMI Regs (NI), reg 2(2)(aa)*

- 29 From 6.4.18 owner-occupier loan payments is added to the list of qualifying benefits in DMG 39108. Where owner-occupier loan payments has been awarded<sup>1</sup>, the first condition of entitlement is satisfied if the person has been awarded an owner-occupier loan payment and is treated as entitled to Income Support, income-based Jobseeker's Allowance, income-related Employment and Support Allowance or State Pension Credit.

*1 SF (M&FE) (Gen) Regs (NI), reg 7(4)(a)(ix)*

## **COLD WEATHER PAYMENTS**

- 30 From 6.4.18, an amendment is made to the definition of “Claimant<sup>1</sup>” to include a person who is in receipt of owner-occupier loan payments.

*1 SF (CWP) (Gen) Regs (NI), reg 1(2)*

- 31 Owner-occupier loan payments means<sup>1</sup> loan payments made under specified legislation<sup>2</sup>.

*1 SF (CWP) (Gen) Regs (NI), reg 1(2); 2 LMI Regs (NI)*

- 32 From 6.4.18, owner-occupier loan payments<sup>1</sup> is added to the list of qualifying benefits in DMG 39700 **3.2**<sup>2</sup>.

*1 SF (CWP) (Gen) Regs (NI), reg 1(2) & LMI Regs (NI); 2 SF (CWP) (Gen) Regs (NI), reg 1A(2)(f)*

- 33 With the removal of owner-occupier payments as part of their benefit entitlement, a person may no longer be entitled to Income Support, income-based Jobseeker’s Allowance or income-related Employment and Support Allowance because they have too much income. Provision<sup>1</sup> is made to ensure that this group will be treated as entitled to one of those benefits to ensure that they remain eligible.

*1 LMI Regs (NI), reg 2(2)(aa)*

- 34 Where owner-occupier loan payments has been awarded<sup>1</sup> (see DMG 39700 **3.2**), the second condition of entitlement is satisfied if the person is treated as entitled to Income Support, income-based Jobseeker’s Allowance or income-related Employment and Support Allowance and

1. the Income Support or income-based Jobseeker’s Allowance applicable amount would include one or more of the following premiums – pensioner premium, enhanced pensioner premium, higher pensioner premium, disability premium, severe disability premium, disabled child premium, enhanced disability premium **or**
2. the income-related Employment and Support Allowance applicable amount would include one or more of the following premiums – pensioner premium, severe disability premium or enhanced disability premium.

*1 SF (CWP) (Gen) Regs (NI), reg 1A(3)(g)*

## **SOCIAL FUND MATERNITY GRANT**

- 35 Amendments are made 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 first child.

## Meaning of Existing Member of the family

- 36 From 6.4.18, additional guidance is added to DMG 39018. The definition of “existing member of the family” now excludes a child under the age of 16 who was not at the time of that child’s birth, a child of the claimant or the claimant’s partner, provided that the child’s age exceeded 12 months at the time the claimant or claimant’s partner first became responsible for that child. The presence of such a child in the family will therefore not preclude the claimant from being eligible for a Sure Start Maternity Grant in respect of their own subsequently-born first child (or children in the case of a multiple birth).

**Note:** The term “partner” means the claimant’s partner at the date of the Sure Start Maternity Grant claim. The claimant’s partner at the date of the child’s birth or at the date the claimant became responsible for the child is not relevant.

*1 SF (M&FE) (Gen) Regs (NI), reg 5A(3)(d)*

## DECISION MAKING AND APPEALS

- 37 For the purpose of decision making and appeals, the guidance in DMG Chapters 1 – 5 on revision, supersession and appeals applies to decisions about loan payments, where the claimant is entitled to income-related Employment and Support Allowance, Income Support, income-related Jobseeker’s Allowance or State Pension Credit, in the same way as it applies to decisions about claims for and awards of benefits<sup>1</sup>.

*1 SS &CS (D&A) Regs (NI), reg 1(2)*

## SUPERSESSION

Decision includes a loan payment

- 38 From 6.4.18 reference to ‘a loan under specific legislation’ and ‘housing costs’ in the DMG under the following headings are replaced with references to ‘owner-occupier loan payments’ in respect of a loan made under the loans for Mortgage Interest Regulations<sup>1</sup>

1. Mortgages and loans (DMG 04517 – 04518 and 04655 – 04656)
2. A reduction in the amount owing (04521 - 04522 and 04658)
3. Changes in loan interest payable (04514 – 04516)
4. State Pension Credit – Non-dependents (04662 – 04663)

*1 SS &CS (D&A) Regs (NI), reg 7(12A),(12B),(12C),(12D)&(12F),(12G)*

## INCOMPLETE EVIDENCE – HOUSING COSTS

- 39 DMG 04570 and 04630 explains that where

1. a determination has to be made as to the amount of housing costs to be included in the claimant's applicable amount **and**
2. it appears to the decision maker that not all the evidence or information needed to make that determination is in the possession of the Department

the decision maker should make the supersession decision based on a determination that housing costs are those that can be determined immediately.

- 40 From 6.4.18 these paragraphs are amended to include reference to determinations in relation to the amount to be included in an owner-occupier loan payments under the Loans for Mortgage Interest Regulations.

*1 SS & CS (D&A) Regs (NI), reg 13(1)(a)(i)*

## **ANNOTATIONS**

Please annotate the number of this memo (DMG Vols 4/143, 5/110, 6/93, 8/91 & 9/42) against the following paragraphs: DMG 28235, 28240-42, 28250-53, 23400, 33301, 39018, Chap 4, Annex E, 44200, 51146, 51150-52, 51163, 78170

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## **DECISION MAKING SERVICES**

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