STATUTORY INSTRUMENTS

2010 No. 796

SOCIAL SECURITY

The Social Security (Claims and Payments) Amendment Regulations 2010

Made - - - -	*15th March 2010*
Laid before Parliament	*18th March 2010*
Coming into force - -	*8th April 2010*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 5(1)(p), 15A(2)(a), (aa) and (f), 189(1), (4) and (5) and 191 of the Social Security Administration Act 1992(**a**).

It appears to the Secretary of State that, by reason of the urgency of the matter, it is inexpedient to refer proposals in respect of these Regulations to the Social Security Advisory Committee(**b**).

Citation and commencement

1. These Regulations may be cited as the Social Security (Claims and Payments) Amendment Regulations 2010 and come into force on 8th April 2010.

Amendment of the Social Security (Claims and Payments) Regulations 1987

2.—(1) The Social Security (Claims and Payments) Regulations 1987(**c**) are amended as follows.

(2) In both regulation 34A and regulation 34B (each of which deals with deductions of mortgage interest from benefit and payment to qualifying lenders)—

(a) in paragraph (1), at the end insert "or, insofar as the payment exceeds that liability, in accordance with paragraph 4A of that Schedule."; and

(b) for paragraph (2) substitute—

(**a**) 1992 c.5. Section 15A was inserted by paragraph 1 of the Schedule to the Social Security (Mortgage Interest Payments) Act 1992 (c.33). Relevant amendments to section 5(2) (which lists the benefits to which section 5(1) applies) and section 15A were made by paragraphs 39 and 40 of Schedule 2 to the Jobseekers Act 1995 (c.18), paragraph 3 of Schedule 1 and paragraph 9 of Schedule 2 to the State Pension Credit Act 2002 (c.16), and paragraph 10(4) and (5) of Schedule 3 to the Welfare Reform Act 2007 (c.5). Section 189 was amended by paragraph 109 of Schedule 7 to the Social Security Act 1998 (c.14), paragraph 57 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2), and by Schedule 6 to the Tax Credits Act 2002 (c.21). Section 191 is an interpretation provision and is cited for the meaning given to the word "prescribe". The definition of "prescribe" in section 191 was amended by paragraph 10 of Schedule 5 to the Welfare Reform Act 2007.

(**b**) See section 173(1)(a) of the Social Security Administration Act 1992.

(**c**) S.I. 1987/1968. Regulation 34A was inserted by S.I. 1992/1026 and amended by S.I. 2002/3019 and 2002/3197. Regulation 34B was inserted by S.I. 2002/3197. Schedule 9A was inserted by S.I. 1992/1026 and amended by S.I. 1995/1613, 1996/672, 1996/1460, 1996/3195, 1997/827, 1997/2305, 1999/2860, 1999/3178, 2001/488, 2002/2441, 2002/3019, 2002/3197, 2004/2825, 2005/777, 2006/2378, 2007/3183, 2008/1554, 2008/2831 and 2009/583.

"(2) The provisions of Schedule 9A shall have effect in relation to payments made under this regulation.".

(3) In Schedule 9A (deductions of mortgage interest from benefit and payment to qualifying lenders), after paragraph 4 (direct payment: more than one loan) insert—

"Application of payment where it exceeds borrower's actual mortgage interest

4A.—(1) Subject to sub-paragraph (2), insofar as the sum paid to a qualifying lender under this Schedule in respect of a particular loan exceeds the borrower's liability in respect of the mortgage interest payable on that loan the excess shall be applied by that lender in the following order of priority—

(a) first, towards the discharge of any liability for arrears of mortgage interest in respect of that loan;

(b) second, towards the discharge of any liability to repay the principal sum, or any other sum payable by the borrower to that lender, in respect of that loan.

(2) Where the borrower is liable to pay mortgage interest to the same qualifying lender in respect of two or more different loans, insofar as the sum paid to that lender under this Schedule in respect of one of those loans ("loan A") exceeds the borrower's liability in respect of the mortgage interest payable on that loan the excess shall be applied by that lender in the following order of priority—

(a) first, towards the discharge of any liability for arrears of mortgage interest payable in respect of loan A;

(b) second, towards the discharge of any liability to repay the principal sum, or any other sum payable by the borrower to that lender, in respect of loan A or (insofar as that liability is not already discharged by the application of any other sum paid to the qualifying lender under this Schedule) any of the other loans.".

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

Helen Goodman
Parliamentary Under-Secretary of State,
Department for Work and Pensions

15th March 2010

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Claims and Payments) Regulations 1987 (S.I. 1987/1968) to provide that, where payments of mortgage interest are deducted from income support, an income-based jobseeker's allowance, an income-related employment and support allowance or the guarantee credit element or savings credit element of state pension credit, and paid to a qualifying lender, any amount paid in excess of the borrower's actual mortgage interest liability shall be applied first to pay off any arrears of mortgage interest, and then to repay the principal sum of that mortgage or any other liability to the qualifying lender in respect of that mortgage.

Provision is also made for the application of any such excess in cases where the borrower is liable to pay mortgage interest to the same qualifying lender in respect of more than one loan.

A full impact assessment has not been produced for this instrument as it has no impact on the private or voluntary sectors.

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