

**Explanatory Memorandum to**  
**The Social Security (Housing Costs Amendments) Regulations 2004.**  
**2004 No.2825**

1. This Explanatory Memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

**Description**

2. This instrument makes changes to:

- the method of calculating the standard interest rate that is used in the calculation of housing costs for certain claimants in respect of Income Support, income-based Jobseeker's Allowance and State Pension Credit;
- the rules for remortgaging

The regulations will come into force on 28 November 2004 (but one minor consequential amendment will come into force on 28 November 2005).

**Matters of Special Interest to the Joint Committee of Statutory Instruments**

3. None.

**Legislative Background**

4. The Statutory Instrument contains provisions setting the amount of benefit claimants can be entitled to in respect of their housing costs. New rules remove the need for regular Statutory Instruments to introduce necessary amendments in relation to interest rate changes. New rules alter the entitlement conditions. These will make the scheme more transparent, more responsive to changes in interest rates and more representative of the modern market.

**Extent**

5. These regulations extend to Great Britain.

**European Convention on Human Rights**

6. Not applicable.

## Policy Background

### Standard Rate

7. The Standard Rate was introduced in October 1995 and Building Societies interest rates were used as the basis for calculating the standard rate. Since October 1995 many Building Societies have de-mutualised and become banks. Their rates are not included in the calculation of the weighted average interest rate supplied by the Financial Services Authority (FSA) which is used as the basis for calculating the Standard rate.

8. **Regulation 2(4)** provides that the method of calculating the standard rate shall be the Bank of England Base Rate. The rate will be set at 5.88% when the regulations come into force. Soon after the Regulations come into force, the latest change in the Base Rate will result in the standard rate becoming 6.33%. 1.58% shall be added to the Bank of England Base Rate because the current standard rate may be higher than the Base Rate. This will also ensure there are no losers at the point of change. As now, it is anticipated that the standard rate will only change by 0.25% or more due to the fact that the Bank of England never moves its base rate by less than 0.25 per cent.

9. Following a change in the Bank of England Base Rate, the Secretary of State will determine the date from which the new standard rate will be applicable.

10. If a lender's own interest rate is below 5% when housing costs were first paid, the lender's own rate is the standard interest rate for that claimant's loan (instead of the Bank of England base Rate plus 1.58%). **Regulation 2(4)** provides that this rule is to be abolished over the period of a year.

11. All new benefit claims from the date the regulations come into force will be assessed using the Bank of England Base Rate plus 1.58%. For existing claims that currently have an interest rate below 5%, they will be moved onto the Bank of England Base Rate plus 1.58% whenever a change of circumstances occurs, the first annual mortgage review takes place or the lender increases the borrowers rate to 5% or more, whichever occurs first.

12. No arrears payments will be made, as to do so would so increase the administration costs and complexity for both Jobcentre Plus and The Pension Service that the reform could not be carried out.

### Remortgaging

13. **Regulation 2(5)** provides that a claimant with a pre-existing October 1995 mortgage known as "existing housing costs" may remortgage any property, with any lender, and include an additional party to the mortgage agreement. They will continue to have their housing costs treated as existing housing costs provided that the amount taken out for the new mortgage is the same amount or less as the previous mortgage and one of the parties to the agreement was named on a pre-existing October 1995 mortgage agreement.

### **Consequential Amendments**

14. Minor amendments are made to other regulations so that existing legislation properly refers to the new wording introduced by these Regulations.

### **Consulation**

15. The Social Security Advisory Committee was consulted on 5 May 2004 and again on 19 October 2004, and agreed that proposals in respect of these regulations should not be formally referred to it.

### **Impact**

16. A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on the costs of business, charities or voluntary bodies.

17. Impact on the public sector. The Treasury have agreed that the changes in the calculation of the standard rate can proceed. Programme costs from the changes to the standard rate are estimated to be £3.5m per annum, while the change to the re-mortgaging rules will incur negligible costs. These costs were agreed with Treasury.

### **Contact**

18. Phillipa Fallowfield of Housing Support Division, Department for Work and Pensions, can answer any queries regarding this instrument. 020 7962 8305.