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DRAFT STATUTORY RULES OF NORTHERN IRELAND

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**2016 No.**

**The Welfare Supplementary Payment (Loss of Disability Living Allowance) Regulations (Northern Ireland) 2016**

**PART 4**

**WELFARE SUPPLEMENTARY PAYMENT WHERE PERSONAL INDEPENDENCE PAYMENT REFUSED (CONFLICT RELATED CASES)**

**Eligibility**

**13.—**(1) A person is entitled to welfare supplementary payment under this Part if the following conditions are met—

- (a) the disability living allowance entitlement condition,
- (b) the personal independence payment refusal condition,
- (c) the 4 points on assessment condition, and
- (d) the conflict related injury condition (see regulation 15).

(2) The disability living allowance entitlement condition is that the person is in receipt of disability living allowance on the transition date.

(3) The personal independence payment refusal condition is that following a transitional assessment determination, the person's claim for personal independence payment is refused.

(4) The 4 points on assessment condition is that the person obtained a score of at least 4 points in relation to either the daily living activities' category or the mobility activities' category of the transitional assessment determination.

**Eligibility (following termination of welfare supplementary payment under Part 2)**

**14.—**(1) A person is entitled to welfare supplementary payment under this Part if the person meets—

- (a) the Part 2 welfare supplementary payment termination condition,
- (b) the disability living allowance entitlement condition,
- (c) the personal independence payment refusal on appeal, revision or supersession condition,
- (d) the 4 points on appeal, revision or supersession condition, and
- (e) the conflict related injury condition (see regulation 15).

(2) The Part 2 welfare supplementary payment termination condition is that a person's entitlement to welfare supplementary payment under Part 2 terminates—

- (a) following an appeal, in accordance with regulation 6(3)(a) or 6(6)(a), or
- (b) following a revision or supersession, in accordance with regulation 7.

(3) The personal independence payment refusal on appeal, revision or supersession condition is that following the appeal, revision or supersession, the person's claim for personal independence payment is refused.

(4) The 4 points on appeal, revision or supersession condition is that the person obtained a score of at least 4 points in relation to either the daily living activities' category or the mobility activities' category on the appeal, revision or supersession.

(5) The 4 points must have been obtained within one year of the day following the day on which the person's entitlement to disability living allowance terminates in accordance with regulation 17(1) of the Transitional Provisions Regulations.

### **Meaning of conflict related injury condition**

**15.**—(1) The conflict related injury condition is that the person is or has been physically or psychologically injured as a result of, or in consequence of a violent incident in connection with the affairs of Northern Ireland.

(2) The violent incident must have occurred—

- (a) in or after 1966, and
- (b) before the person's entitlement to disability living allowance terminated in accordance with regulation 17(1) of the Transitional Provisions Regulations.

(3) Without prejudice to the generality of paragraph (1), a person may be psychologically injured as a result of or in consequence of—

- (a) witnessing a violent incident or the consequences of such an incident; or
- (b) providing medical or other emergency assistance to an individual in connection with a violent incident.

### **Procedure for establishing eligibility**

**16.**—(1) The Department must, of its own initiative, within four weeks of—

- (a) the disability living allowance entitlement condition,
- (b) the personal independence payment refusal condition, and
- (c) the 4 points on assessment condition,

being met in relation to a person, make a request of that person.

(2) The Department must, of its own initiative, within four weeks of—

- (a) the Part 2 welfare supplementary payment termination condition,
- (b) the disability living allowance entitlement condition,
- (c) the personal independence payment refusal on appeal, revision or supersession condition,
- (d) the 4 points on appeal, revision or supersession condition,

being met in relation to a person, make a request of that person.

(3) The request under paragraph (1) or (2) must—

- (a) state that the Department will make an award of welfare supplementary payment if the conflict related injury condition is met,
- (b) request that the person submit evidence (or arrange for evidence to be submitted) that the condition is met.

(4) All evidence submitted must be in the form required by regulation 17.

(5) Unless it is unreasonable in the circumstances, evidence must be submitted within one calendar month of the day the request is made.

(6) In determining whether a person meets the conflict related injury condition, the Department may consult with the Commission for Victims and Survivors.

(7) The Department must consider all evidence and information submitted in accordance with this regulation and regulation 17 and determine if the person is eligible for welfare supplementary payment.

### **Evidence for establishing conflict related injury condition**

17. Evidence that the conflict related injury condition is met can only be submitted if it is in the form of a report from—

- (a) a member of the Police Service of Northern Ireland,
- (b) a health care professional within the meaning of section 11C(6) of the Welfare Reform Act (Northern Ireland) 2007(1), or
- (c) a body providing services and support to victims and survivors which is in receipt of a grant under Article 10 of the Victims and Survivors (Northern Ireland) Order 2006(2).

### **Amount**

18.—(1) The amount of welfare supplementary payment payable is—

- (a) in cases where the person scored at least 4 points in relation to the daily living activities' category of the transitional assessment determination (or in the case of eligibility under regulation 14, on appeal, revision or supersession), an amount equal to the relevant standard rate of the daily living component for personal independence payment;
- (b) in all other cases, an amount equal to the relevant standard rate of the mobility component for personal independence payment.

(2) In this regulation—

“standard rate” has the same meaning as in—

- (a) Article 83 of the 2015 Order (in respect of the daily living component),
- (b) Article 84 of the 2015 Order (in respect of the mobility component), and

“relevant standard rate” means the standard rate prescribed under those Articles at the date of coming into operation of these Regulations.

### **Period of payment**

19.—(1) Welfare supplementary payment must be paid at intervals of four weeks (or as soon as is reasonably practicable after that) in arrears.

(2) The period during which welfare supplementary payment is payable commences on the day following the day on which the person's entitlement to disability living allowance terminates in accordance with regulation 17(1) of the Transitional Provisions Regulations (in the case of eligibility under regulation 13).

(3) The period during which welfare supplementary payment is payable commences on the day following the day welfare supplementary payment under Part 2 terminates (in the case of eligibility under regulation 14).

(4) The period during which welfare supplementary payment is payable ends—

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(1) 2007 c. 2 (N.I.); section 11C is inserted by Article 63(2) of the Welfare Reform (Northern Ireland) Order 2015

(2) S.I. 2006/2953 (N.I. 17)

- (a) one year after the day on which—
    - (i) it commences (in the case of eligibility under regulation 13), or
    - (ii) welfare supplementary payment under Part 2 commences (in the case of eligibility under regulation 14), or
  - (b) on 31st March 2020,
- whichever is first to occur.

**Effect of changes in personal independence payment following revision, appeal or supersession of previous decision**

**20.**—(1) This regulation applies where—

- (a) a person is receiving welfare supplementary payment, and
  - (b) following an event referred to in paragraph (3), there is a change in entitlement to personal independence payment to the person.
- (2) If the person—
- (a) is awarded personal independence payment, or
  - (b) obtains a score of less than 4 points in relation to either the daily living activities' category or the mobility activities' category,

then welfare supplementary payment must cease to be paid from the day after the first payment of welfare supplementary payment following the decision to change personal independence payment.

(3) The events referred to in paragraph (1)(b) are—

- (a) the decision to not award personal independence payment is revised under Article 10 of the 1998 Order,
- (b) the decision to not award personal independence payment is appealed under Article 13 or 15 of the 1998 Order,
- (c) the decision to not award personal independence payment is superseded under Article 11 of the 1998 Order.