AGE-RELATED PAYMENTS
(NORTHERN IRELAND) ORDER 2004

S.I. 2004 No. 1987 (N.I. 11)

EXPLANATORY MEMORANDUM

COMMENTARY ON ARTICLES
Comments are not given where the wording is self-explanatory.

Article 1: Title and commencement

Article 2: Interpretation

Article 3: "Qualifying individual" and "relevant week"
Paragraph (1) defines a qualifying individual as being anyone ordinarily resident in Northern Ireland and aged 70 or over during the relevant week. Paragraph (2) defines the relevant week for which qualification applies for the purposes of the Order as the week beginning with Monday 20 September and ending with Sunday 26 September 2004.

Article 4: Entitlement: basic cases
Paragraphs (1) and (2) set out the conditions under which a single person is eligible for (1) a £100, or (2) a £50 payment. Paragraph (1) makes provision for £100 payments to a single person, who is the only qualifying person in the household or, regardless of who else is in the household, is in receipt of state pension credit. Paragraph (2) makes provision for a £50 payment to a single person, who is not receiving state pension credit, and who is living with another qualifying person. Paragraphs (3) and (4) set out the conditions under which a member of a couple is eligible for (3) a £100, or (4) a £50 payment. Paragraph (3) makes provision for £100 payments to a member of a couple when (a) the other member of the couple does not qualify for a payment or (b) either member of the couple is in receipt of an income-related benefit. Paragraph (4) provides for £50 payments to each member of a couple who both qualify for a payment, when neither of them is in receipt of state pension credit. Paragraph (5) contains definitions. Paragraph (6) makes the whole of Article 4 subject to the conditions set out in Article 5.

Article 5: Entitlement: special cases
Paragraph (1) provides that where two (or more) couples live in the same household and one member of each couple would qualify for a payment, if neither couple is in receipt of an income-related benefit, then each qualifying member of those couples will be entitled to a £50 payment. Paragraph (2) makes provision for (a) the payment for a couple who would both qualify for a payment, and are in receipt of an income-related benefit, to be made to the partner who receives the Social Fund Winter Fuel Payment and (b) removes entitlement to a payment for the other member of the couple.
Paragraph (3) transfers entitlement to a payment from one member of a couple to the other where that is necessary in order to ensure that the payment is made to the member of the couple who is to receive the winter fuel payment.
Paragraphs (4) and (5) apply to people who are in a residential care home or nursing home during the relevant week, and for whom that home was their ordinary place of residence for the 12 weeks prior to the relevant week. Paragraph (5) makes provision, where an individual meets the

conditions in paragraph (4), for (a) a £50 entitlement where that individual is not in receipt of state pension credit in the relevant week and (b) no entitlement where the individual is in receipt of state pension credit in the relevant week. Paragraph (6) provides that the member of a couple in a residential care home or nursing home is to be treated as not qualifying for a payment when determining the entitlement or otherwise of the other member of that couple. Paragraph (7) contains definitions.

Article 6: Disqualifications
Paragraph (1) provides for the conditions under which individuals who would otherwise qualify for a payment will be disqualified from receiving a payment. These are (a) receiving free in-patient hospital treatment continuously for 52 weeks including the relevant week, (b) being held in custody throughout the relevant week and (c) being subject to immigration control throughout the relevant week.
Paragraph (3) provides for the disqualified member of a couple to be treated as not qualifying for a payment when determining the entitlement or otherwise of the other member of that couple.

Article 7: Procedure
Paragraph (1) makes provision for the Department to make payments before 31 December 2004 without requiring a claim, where it has sufficient information to determine entitlement.
Paragraph (2) allows claims to be made when a qualifying person has not automatically received a payment before 31 December 2004. Paragraph (3) provides in sub-paragraphs (a), (c) and (d) how, and in sub-paragraph (b) by when, the claim must be made. Paragraph (4) makes provision for payments to be made when valid claims are made.
Paragraph (5) applies the provisions of Chapter II of Part II of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) which provides, inter alia, for an individual to appeal against a decision and for the Department to revise decisions.

Article 8: Payment to be disregarded for social security

Article 9: Power to provide for payments
Paragraph (1) enables the Department to make regulations to make payments to persons aged 60 or over. Paragraph (2)(a) allows for payments to be made to any subset of the specified group and (b) allows payments to be made in specified circumstances.
Paragraph (3)(a) provides that regulations made under paragraph (1) may make provision for future payments to be made once, or for a specified period, or at specified times, (b) make provision for exceptions, and (c) make provision for different treatment in defined circumstances.
Paragraph (4) specifies that regulations made under this power will be subject to the approval of the Northern Ireland Assembly before the expiration of six months from the date they come into operation.
Paragraph (5) amends section 149(5) of the Social Security Administration (Northern Ireland) Act 1992 and section 170(5) of the Social Security Administration Act 1992 to include regulations under this power within the remit of the Social Security Advisory Committee.