
STATUTORY RULES OF NORTHERN IRELAND

1998 No. 3

SOCIAL SECURITY

**The Social Fund Winter Fuel Payment
Regulations (Northern Ireland) 1998**

Made - - - - *9th January 1998*

Coming into operation *16th January 1998*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 134(2) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992⁽¹⁾ and sections 5(1)(j), 57(1) and (2)(c), 165(1) and (3) to (5) of, and paragraph 4 of Schedule 3 to the Social Security Administration (Northern Ireland) Act 1992⁽²⁾ and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Fund Winter Fuel Payment Regulations (Northern Ireland) 1998 and shall come into operation on 16th January 1998.

(2) In these Regulations—

“the Administration Act” means the Social Security Administration (Northern Ireland) Act 1992;

“the Contributions and Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“the Income Support Regulations” means the Income Support (General) Regulations (Northern Ireland) 1987⁽³⁾;

“the Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations (Northern Ireland) 1996⁽⁴⁾;

“constant attendance allowance” means an increase of disablement pension under section 104 of the Contributions and Benefits Act;

“graduated retirement benefit” means the benefit to which section 62 of the Contributions and Benefits Act applies;

(1) 1992 c. 7

(2) 1992 c. 8

(3) S.R. 1987 No. 459; relevant amending regulations are S.R. 1988 No. 146, S.R. 1989 No. 139, S.R. 1992 No. 147, S.R. 1993 Nos. 149, 165, 235 and 373, S.R. 1997 Nos. 113 and 412

(4) S.R. 1996 No. 198; relevant amending regulations are S.R. 1996 No. 503

“income-based jobseeker’s allowance” has the same meaning in these Regulations as it has in the Jobseekers (Northern Ireland) Order 1995⁽⁵⁾ by virtue of Article 3(4) of that Order;

“industrial death benefit” means a benefit to which Part VI of Schedule 7 to the Contributions and Benefits Act refers;

“married couple” means a man and woman who are married to each other and are members of the same household;

“partner” means where a person—

- (a) is a member of a married or an unmarried couple living in the same household, the other member of that couple;
- (b) is married polygamously to two or more members of his household, any such member living in the same household;

“the qualifying week” means the week beginning on and including 5th January 1998;

“retirement pension” for the purposes of regulation 2(6) means a retirement pension to which Parts II and III of the Contributions and Benefits Act refers;

“unmarried couple” means a man and woman who are not married to each other but are living together as husband and wife;

“winter fuel payment” means a payment made under these Regulations out of the social fund, to meet expenses for heating pursuant to section 134(2) of the Contributions and Benefits Act.

(3) Whether in any case a person is or is not to be treated as being a member of a household is to be determined in accordance with regulation 16 of the Income Support Regulations⁽⁶⁾.

(4) The Interpretation Act (Northern Ireland) 1954⁽⁷⁾ shall apply to these Regulations as it applies to a Measure of the Assembly.

Prescribed description of persons

2.—(1) Subject to regulation 3, a winter fuel payment shall be paid to persons who come within either of the categories specified in paragraph (2) or (5).

(2) Except in the case of a person to whom paragraph (3) applies, the first category comprises persons to whom in respect of any day in the qualifying week—

- (a) income support is payable and whose applicable amount includes one or more of the premiums specified in paragraphs 9, 9A or 10 of Schedule 2 to the Income Support Regulations⁽⁸⁾ (applicable amounts), or
- (b) income-based jobseeker’s allowance is payable and whose applicable amount includes one or more of the premiums specified in paragraphs 10, 11 or 12 of Schedule 1 to the Jobseeker’s Allowance Regulations⁽⁹⁾ (applicable amounts).

(3) Subject to paragraph (4), persons to whom income support or income-based jobseeker’s allowance is payable and whose applicable amount includes the allowance specified in paragraph 2A of Schedule 2 to the Income Support Regulations (residential allowance) or paragraph 3 of Schedule 1 to the Jobseeker’s Allowance Regulations (residential allowance) as the case may be, shall not be entitled to a winter fuel payment.

(5) S.I.1995/2705 (N.I. 15)

(6) Regulation 16 was amended by S.R. 1988 No. 146, S.R. 1989 No. 139, S.R. 1990 No. 387, S.R. 1993 Nos. 149 and 373, S.R. 1996 Nos. 199 and 405

(7) 1954 c. 33 (N.I.)

(8) Paragraph 9 was substituted and paragraph 9A was inserted by S.R. 1989 No. 139 and paragraph 10 was amended by S.R. 1988 No. 146 and S.R. 1992 No. 147

(9) Paragraph 12 was amended by S.R. 1996 No. 503

(4) Paragraph (3) shall not have effect in the case of a person or his partner whose applicable amount includes a residential allowance while temporarily residing in accommodation to which—

- (a) paragraph 9(a)(i) of (ii) of column (1) in Schedule 7 to the Income Support Regulations refers and that person's partner is a person to whom paragraph 9(b)(i) or (ii) applies;
- (b) paragraph 5(a)(i) or (ii) of column (1) in Schedule 4 to the Jobseeker's Allowance Regulations refers and that person's partner is a person to whom paragraph 5(b)(i) or (ii) applies;
- (c) paragraph 10(a) or (b) of column (1) in Schedule 7 to the Income Support Regulations refers or, as the case may be, paragraph 6(a) or (b) of column (1) in Schedule 4 to the Jobseeker's Allowance Regulations, applies.

(5) Except in the case of a person to whom paragraph (3) applies or is excluded by virtue of paragraph (7), the second category comprises persons who, in respect of any day falling within the qualifying week, are ordinarily resident in Northern Ireland and who fall within any of the classes of persons to which paragraph (6) refers.

(6) The classes of persons to which this paragraph refers are men aged 65 or over and women aged 60 or over to whom any of the following benefits or pensions is payable in respect of a period which includes a day in the qualifying week—

- (a) attendance allowance, constant attendance allowance, disability living allowance, incapacity benefit⁽¹⁰⁾, industrial death benefit, invalid care allowance or severe disablement allowance under the Contributions and Benefits Act;
- (b) income-based jobseeker's allowance where the claimant's applicable amount is determined in accordance with paragraph 3 of Schedule 4 to the Jobseeker's Allowance Regulations;
- (c) income support where the claimant's applicable amount is determined in accordance with paragraph 6 of Schedule 7 to the Income Support Regulations;
- (d) retirement pension or graduated retirement benefit;
- (e) unemployability supplement under Part I of Schedule 7 to the Contributions and Benefits Act;
- (f) war disablement pension, war widow's pension or temporary allowance to widows of severely disabled war pensioners under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983⁽¹¹⁾ or payable by virtue of any Scheme made under—
 - (i) the Personal Injuries (Emergency Provisions) Act 1939⁽¹²⁾;
 - (ii) the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939⁽¹³⁾;
 - (iii) the Polish Resettlement Act 1947⁽¹⁴⁾, or
 - (iv) the Reserve Forces Act 1980⁽¹⁵⁾, and
- (g) widowed mother's allowance or a widow's pension under section 37 or 38 of the Contributions and Benefits Act.

(7) Except in the case of persons to whom paragraph (8) refers, the persons excluded by this paragraph are—

⁽¹⁰⁾ Incapacity benefit under section 30A of the Contributions and Benefits Act was inserted by the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12))

⁽¹¹⁾ S.I. 1983/883

⁽¹²⁾ 1939 c. 82

⁽¹³⁾ 1939 c. 83

⁽¹⁴⁾ 1947 c. 19

⁽¹⁵⁾ 1980 c. 9

- (a) persons and the partners of persons to whom paragraph (2) applies;
- (b) hospital in-patients to whom regulation 6 of the Social Security (Hospital In-Patients) Regulations (Northern Ireland) 1975⁽¹⁶⁾ (adjustment of personal benefit after 52 weeks in hospital) applies;
- (c) persons to whom income support or income-based jobseeker's allowance is payable by virtue of—
 - (i) regulation 19 of the Income Support Regulations⁽¹⁷⁾ or regulation 86 of the Jobseeker's Allowance Regulations⁽¹⁸⁾ (persons in residential care and nursing homes), or
 - (ii) regulation 21 of the Income Support Regulations⁽¹⁹⁾ or regulation 85 of the Jobseeker's Allowance Regulations⁽²⁰⁾ (special cases) and either paragraph 13 of Schedule 7 to the Income Support Regulations or paragraph 15 of Schedule 4 to the Jobseeker's Allowance Regulations (persons in residential accommodation);
- (d) persons in respect of whom a deduction is being made by the Secretary of State from an award under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983 or the Personal Injuries (Civilians) Scheme 1983⁽²¹⁾ or under any other Scheme made under any of the Acts specified in paragraph (6)(f), where such persons have been maintained in a hospital or similar institution for a continuous period exceeding 52 weeks.

(8) Paragraph (7)(c)(ii) shall not have effect to exclude persons from entitlement to a winter fuel payment where the person concerned is temporarily in Health and Social Services Board or HSS trust accommodation under paragraph 10B(1) or (2) of Schedule 7 to the Income Support Regulations⁽²²⁾.

Prescribed amount

3.—(1) Subject to paragraphs (2) to (4), winter fuel payments shall be of the following amounts—

- (a) in the case of a person to whom regulation 2(2) applies, £50;
- (b) in the case of a person to whom regulation 2(5) applies—
 - (i) who is living in a household where there is no other person in that household who is entitled to a payment under this regulation, £20;
 - (ii) who is of no fixed abode, £20, or
 - (iii) in every other case, £10.

(2) Where a person falls within both of the categories of persons to which regulation 2(2) or (5) refers, payment shall be made under paragraph (1)(a) only.

(3) Subject to paragraph (4), where a person falls within more than one class of person to which regulation 2(6) refers only one payment shall be made under paragraph (1)(b).

(4) Where a person who has received a payment under paragraph (1)(b) is subsequently awarded income support or income-based jobseeker's allowance in respect of the qualifying week, he shall

⁽¹⁶⁾ Regulation 6 was amended by S.R. 1977 No. 316, S.R. 1987 Nos. 12 and 391 and words were substituted by Article 19(1) of the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)), (see paragraph 11 of Schedule 3 to the Social Security (Consequential Provisions) (Northern Ireland) Act 1992 (c. 9))

⁽¹⁷⁾ Regulation 19 was amended by S.R. 1988 No. 146, S.R. 1989 No. 395, S.R. 1991 No. 170, S.R. 1993 Nos. 149 and 373, S.R. 1994 Nos. 65, 77 and 327 and S.R. 1996 Nos. 93 and 199

⁽¹⁸⁾ Regulation 86 was amended by S.R. 1996 No. 503

⁽¹⁹⁾ Regulation 21 was amended by S.R. 1990 No. 131, S.R. 1991 Nos. 46, 170 and 345, S.R. 1992 No. 403, S.R. 1993 Nos. 120, 149, and 165, S.R. 1994 Nos. 65, 77, and 266, S.R. 1995 No. 86, S.R. 1996 Nos. 11, 199, 375, 405, 449 and 489

⁽²⁰⁾ Regulation 85 was amended by S.R. 1996 Nos. 356 and 503 and S.R. 1997 No. 130

⁽²¹⁾ S.I. 1983/686

⁽²²⁾ Paragraph 10B was inserted by regulation 34 of S.R. 1988 No. 146; relevant amending regulations are S.R. 1993 No. 149

be paid the difference between the amount he and his partner, if any, have already received and the amount to which paragraph (1)(a) refers.

Official records

4.—(1) Subject to paragraph (2), official records held by the Department or the Secretary of State as to a person's circumstances shall be sufficient evidence thereof for the purpose of deciding his entitlement to a winter fuel payment and its amount.

(2) Paragraph (1) shall not apply so as to exclude a review of the decision under section 25 of the Administration Act or the consideration on that review of fresh evidence.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland
on

L.S.

9th January 1998.

John O'Neill
Assistant Secretary

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations provide for a winter fuel payment to be paid to persons who fall within the categories prescribed in regulation 2 on any day within the qualifying period (defined in regulation 1(2)) of amounts specified in regulation 3. A decision as to entitlement may be made on the basis of official records held by the Department and the Department of Social Security but not so as to exclude other evidence on a review of that decision under the Social Security Administration (Northern Ireland) Act 1992 (regulation 4).

These Regulations correspond to provision contained in Regulations made by the Secretary of State for Social Security in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992 (c. 8), are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.