

2000 No. 91

SOCIAL SECURITY

**The Social Fund Winter Fuel Payment Regulations
(Northern Ireland) 2000**

Made 15th March 2000

Coming into operation 3rd April 2000

The Department for Social Development, in exercise of the powers conferred by sections 134(2) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a), sections 5(1)(a) and (j) and 165(1) and (4) of the Social Security Administration (Northern Ireland) Act 1992(b) and Articles 16(1) and 74(1) and (3) and paragraph 3 of Schedule 4 to the Social Security (Northern Ireland) Order 1998(c), and now vested in it(d), 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) 2000 and shall come into operation on 3rd April 2000.

(2) In these Regulations—

“free in-patient treatment” shall be construed in accordance with regulation 2(2) of the Social Security (Hospital In-Patients) Regulations (Northern Ireland) 1975(e);

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

“qualifying week” means in respect of any year the week beginning on and including the third Monday in the September of that year;

“nursing home” has the meaning it bears in regulation 19(2) of the Income Support Regulations (persons in homes for persons in need and nursing homes);

“partner” means a member of—

(a) a married or unmarried couple, or

(b) a polygamous marriage;

(a) 1992 c. 7

(b) 1992 c. 8; section 165(1) was amended by paragraph 49(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)

(c) S.I. 1998 No. 1506 (N.I. 10)

(d) See Article 8(b) of, and Part II of Schedule 6 to, the Departments (Transfer and Assignment of Functions) Order (Northern Ireland) 1999 (S.R. 1999 No. 481)

(e) S.R. 1975 No. 109; regulation 2(2) was amended by regulation 2 of S.R. 1992 No. 453

(f) S.R. 1987 No. 459

“residential accommodation” has the meaning it bears in regulation 21(3) of the Income Support Regulations(a) (special cases);

“residential care home” has the meaning it bears in regulation 19(2) of the Income Support Regulations(b).

(3) In these Regulations a person—

(a) is in residential care if, disregarding any period of temporary absence, he lives in—

(i) a residential care home;

(ii) a nursing home, or

(iii) residential accommodation,

throughout the qualifying week and the period of 12 weeks immediately before the qualifying week;

(b) lives with another person if—

(i) disregarding any period of temporary absence, they share accommodation as their mutual home, and

(ii) they are not in residential care.

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

Social fund winter fuel payments

2. Subject to regulation 3, the Department shall pay to a person who—

(a) in respect of any day falling within the qualifying week is ordinarily resident in Northern Ireland, and

(b) has attained the age of 60 in or before the qualifying week,

a winter fuel payment of—

(i) £100 unless he is in residential care or head (ii)(aa) applies, or

(ii) £50 if income support or an income-based jobseeker’s allowance has not been, nor falls to be, paid to him in respect of the qualifying week and he is—

(aa) in that week living with a person to whom a payment under these Regulations has been, or falls to be, made in respect of the winter following the qualifying week, or

(bb) in residential care.

Persons not entitled to a social fund winter fuel payment

3.—(1) Regulation 2 shall not apply in respect of a person who—

(a) is in the qualifying week—

(a) The definition of “residential accommodation” was substituted by paragraph 1(4)(a) of Schedule 1 to S.R. 1993 No. 149

(b) The definition of “residential care home” was inserted by paragraph 1(3)(a) of Schedule 1 to S.R. 1993 No. 149 and amended by regulation 4(9)(d) of S.R. 1993 No. 373 and paragraph 1(e) of Schedule 12 to S.R. 1994 No. 65

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

- (i) a partner of a person aged 60 or over in the qualifying week to whom income support or an income-based jobseeker's allowance has been, or falls to be, paid in respect of the qualifying week;
- (ii) receiving free in-patient treatment and has been receiving free in-patient treatment for more than 52 weeks, or
- (iii) detained in custody under a sentence imposed by a court, or
- (b) subject to paragraph (2), has not made a claim for a winter fuel payment before the 31st March following the qualifying week in respect of the winter following that week.
- (2) paragraph (1)(b) shall not apply where—
 - (a) a payment has been made by virtue of regulation 4(1) before the 31st March following the qualifying week in respect of the winter following that week, or
 - (b) regulation 4(2) applies.

Making a winter fuel payment without a claim

4.—(1) Subject to paragraph (2), the Department may before the 31st March of the year following the year in which the qualifying week falls make a winter fuel payment under regulation 2 in respect of the preceding winter to a person who (disregarding regulation 3(b)) appears from official records held by the Department to be entitled to a payment under that regulation.

(2) Where a person becomes entitled to income support in respect of the qualifying week by virtue of a decision made after that week that section 115 of the Immigration and Asylum Act 1999(a) (exclusions) ceases to apply to him the Department shall make a winter fuel payment to that person under regulation 2 in respect of the winter following the qualifying week.

(3) Subject to paragraph (4), for the purposes of paragraphs (1) and (2) official records held by the Department 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.

(4) Paragraph (3) shall not apply so as to exclude the revision of a decision under Article 10 of the Social Security (Northern Ireland) Order 1998 (revision of decisions) or the supersession of a decision under Article 11 of that Order(b) (decisions superseding earlier decisions) or the consideration of fresh evidence in connection with the revision or supersession of a decision.

Revocations

5. The Social Fund Winter Fuel Payment Regulations (Northern Ireland) 1998(c), the Social Fund Winter Fuel Payment (Amendment) Regulations

(a) 1999 c. 33

(b) Article 11(1) was amended by paragraph 17(a) of Schedule 6 and paragraph 4 was repealed by Schedule 9 to the Social Security Contributions (Transfer of Functions, etc.) Order 1999 (S.I. 1999/671)

(c) S.R. 1998 No. 3

(Northern Ireland) 1998(a), and the Social Fund Winter Fuel Payment (Amendment) Regulations (Northern Ireland) 1999(b) are hereby revoked

Sealed with the Official Seal of the Department for Social Development on 15th March 2000.

(L.S.)

John O'Neill
Senior Officer of the Department
for Social Development

(a) S.R. 1998 No. 276
(b) S.R. 1999 No. 312

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations provide for winter fuel payments to be made out of the social fund to persons who, in the third week of September in any year—

- (a) are aged 60 or over;
- (b) are ordinarily resident in Northern Ireland;
- (c) satisfy the criteria in regulation 2, and
- (d) are not excluded by regulation 3.

Regulation 4 provides for winter fuel payments to be made without the need for a claim to persons—

- (a) whose entitlement thereto can be established from official records held by the Department, and
- (b) who are entitled to income support in the third week in September in a year by virtue of a decision made after that week that they are refugees.

It further provides that decisions as to entitlement which are made without a claim may be made on the basis of official records but not so as to exclude the consideration of other evidence on a revision or supersession of that decision under the Social Security (Northern Ireland) Order 1998.

Regulation 5 revokes legislation which has hitherto provided for social fund winter fuel payments.

These Regulations make in relation to Northern Ireland only provision corresponding 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, are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.

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