
STATUTORY RULES OF NORTHERN IRELAND

2005 No. 383

The Age-Related Payments Regulations (Northern Ireland) 2005

PART IV

DISQUALIFICATIONS, PROCEDURE ETC.

Disqualifications

6.—(1) A person who would (but for this regulation) be entitled to a payment under any of regulations 2 to 5 shall not be entitled to the payment if—

- (a) he is in receipt of free in-patient treatment throughout the period of 52 weeks ending with the relevant week;
- (b) he is in custody throughout the relevant week; or
- (c) he is subject to immigration control throughout the relevant week.

(2) For the purposes of paragraph (1)—

- (a) the reference to receipt of free in-patient treatment shall be construed in accordance with regulation 2(2) and (2A) of the Social Security (Hospital In-Patients) Regulations (Northern Ireland) 1975(1);
- (b) a person is in custody if he is detained in custody under a sentence imposed by a court; and
- (c) the reference to being subject to immigration control shall be construed in accordance with section 115(9) of the Immigration and Asylum Act 1999(2).

(3) Where a person to whom this regulation applies is part of a couple, in the application of these Regulations to the other member of the couple, the person to whom this regulation applies shall be treated as a non-qualifying individual.

Procedure

7.—(1) Where before 31st December 2005 the Department thinks that a person is entitled to a payment under any of regulations 2 to 5, the Department shall make the payment before that date without a claim being required.

(2) Where, by virtue of a decision made after the relevant week that section 115(9) of the Immigration and Asylum Act 1999 (exclusions) ceases to apply to a person, the Department thinks that the person is entitled to a payment, under any of regulations 2 to 5, the Department shall make the payment without a claim being required.

(3) A person who is entitled to a payment under any of regulations 2 to 5 and who does not receive it before 31st December 2005, may claim the payment.

(1) *S.R. 1975 No. 109*; paragraph (2) was substituted by regulation 2 of *S.R. 1992 No. 453* and paragraph (2A) was inserted by regulation 2 of *S.R. 1999 No. 221*

(2) *1999 c. 33*; section 115 was amended by section 4(2) of the State Pension Credit Act (Northern Ireland) 2002, section 4(2) of the State Pension Credit Act 2002 (c. 16), paragraph 21 of Schedule 4, and Schedule 6 to the Tax Credits Act 2002 (c. 21) and paragraph 3 of the Schedule to *S.I.2002/1457*

- (4) A claim under paragraph (3) must—
- (a) be in writing to the Department;
 - (b) be received by the Department before 31st March 2006; and
 - (c) specify—
 - (i) the claimant’s name, address, date of birth and national insurance number (if he has one); and
 - (ii) the date on which the claim is sent to the Department; and
 - (d) include a declaration that the claimant was ordinarily resident in Northern Ireland on at least one day in the relevant week.
- (5) If the Department is satisfied that a person making a claim under paragraph (3) is entitled to a payment under any of regulations 2 to 5, the Department shall make the payment.
- (6) The provisions of Chapter II of Part II of the Social Security (Northern Ireland) Order 1998⁽³⁾ (Social Security Decisions and Appeals) shall apply to a decision of the Department about a person’s entitlement to a payment under regulations 2 to 5 (whether or not following a claim) as they apply to a decision of the Department under Article 9 of that Order.

Payment to be disregarded for social security

8. No account shall be taken of entitlement to a payment under any of regulations 2 to 5 in considering a person’s entitlement to benefit under a statutory provision relating to social security (irrespective of the name or nature of the benefit).

Application of section 69 of the Social Security Administration Act

9. Section 69 of the Social Security Administration (Northern Ireland) Act 1992⁽⁴⁾ (overpayments – general) and regulations made under it shall apply in respect of any payment made under these Regulations as they apply to the benefits specified in subsection (11) of that section.

(3) S.I. 1998/1506 (N.I. 10)

(4) 1992 c. 8; section 69 was amended by Article 33(1) of, and paragraph 31 of Schedule 2 and Schedule 3 to the Jobseekers (Northern Ireland) Order 1995, section 2 of the Social Security (Overpayments) Act 1996 (c. 51), paragraph 62 of Schedule 6 to the Social Security (Northern Ireland) Order 1998, paragraph 8 of Schedule 4 and Schedule 6 to the Tax Credits Act 2002 and paragraph 10 of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002