

2013 No. 191

SOCIAL SECURITY

**The Social Fund Winter Fuel Payment (Amendment)
Regulations (Northern Ireland) 2013**

Made - - - - *10th July 2013*

Coming into operation - *16th September 2013*

The Department for Social Development makes the following Regulations 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) and sections 5(1)(a) and (2)(f) and 165(1) and (4) of the Social Security Administration (Northern Ireland) Act 1992(b), and now vested in it(c).

Citation and commencement

1. These Regulations may be cited as the Social Fund Winter Fuel Payment (Amendment) Regulations (Northern Ireland) 2013 and shall come into operation on 16th September 2013.

Amendment of the Social Fund Winter Fuel Payment Regulations

2.—(1) The Social Fund Winter Fuel Payment Regulations (Northern Ireland) 2000(d) are amended as follows.

(2) In regulation 2(e) (social fund winter fuel payments)—

(a) in paragraph (1)—

(i) for “and (3)” substitute “to (4)”; and

(ii) for sub-paragraph (a) substitute—

“(a) in respect of any day falling within the qualifying week is—

(i) ordinarily resident in Northern Ireland; or

(ii) habitually resident in Switzerland or an EEA state, other than the United Kingdom; and”;

(b) after paragraph (3) add—

“(4) A person does not qualify for a winter fuel payment by virtue of falling within paragraph (2)(a)(ii) unless—

(a) 1992 c. 7; section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)

(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) See Article 8(b) of S.R. 1999 No. 481

(d) S.R. 2000 No. 91; Relevant amending regulations are S.R. 2003 Nos. 349 and 389, S.R. 2004 No. 354, S.R. 2008 No. 286 and S.R. 2010 No. 103

(e) Regulation 2 was substituted by regulation 2 of S.R. 2003 No. 349 and amended by regulation 2 of S.R. 2003 No. 389, regulation 2(3) of S.R. 2004 No. 354, regulation 24(3) of S.R. 2008 No. 286 and regulation 6(3) of S.R. 2010 No. 103

- (a) they are a person to whom Council Regulation (EC) No 1408/71^(a) on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, or Regulation (EC) No 883/2004 of the European Parliament and of the Council^(b) on the coordination of social security systems, applies; and
- (b) they are able to demonstrate a genuine and sufficient link to the United Kingdom social security system.”.

(3) At the end of regulation 3 (persons not entitled to a social fund winter fuel payment), add—

“(3) No person is entitled to a winter fuel payment for the winter of 1997 to 1998, 1998 to 1999 or 1999 to 2000, unless they have made a claim for such a payment on or before 31st March 2014.”.

Sealed with the Official Seal of the Department for Social Development on 10th July 2013

(L.S.)

Anne McCleary

A senior officer of the Department for Social Development

(a) OJ No L 149, 5.7.71, p2 (OJ/SE 1st series 1971 vol II p416).

(b) OJ No L 166, 30.4.04, p1.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Fund Winter Fuel Payment Regulations (Northern Ireland) 2000 (“the 2000 Regulations”).

The amendment made by regulation 2(2) has the effect that a person may qualify for a winter fuel payment only if on any day in the qualifying week (defined in regulation 1(2) of the 2000 Regulations as the week beginning on the third Monday in the September of any year) they are ordinarily resident in Northern Ireland, or habitually resident in Switzerland or an European Economic Area state (other than United Kingdom). A person in the second category must also be a person to whom the provisions on EU social security coordination in Regulation (EC) No 1408/71 or Regulation (EC) No 883/2004 apply, and must have a genuine and sufficient link to the United Kingdom social security system.

Entitlement to a winter fuel payment for the winters of 1997-1998, 1998-1999 or 1999-2000 was governed by the Social Fund Winter Fuel Payment Regulations (Northern Ireland) 1998. However those Regulations did not contain a cut off date by when individuals must make a claim. The amendment made by Regulation 2(3) of these Regulations provides that in order to qualify for a winter fuel payment for these years, a person must make a claim on or before 31st March 2014.

These Regulations make in relation to Northern Ireland only provision corresponding to provision contained in Regulations made by the Secretary of State for Work and Pensions 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.

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