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STATUTORY RULES OF NORTHERN IRELAND

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**2017 No. 28**

**The Welfare Supplementary Payment  
(Amendment) Regulations (Northern Ireland) 2017**

**PART 5**

**AMENDMENTS TO WELFARE SUPPLEMENTARY PAYMENTS  
IN RESPECT OF LOSS OF DISABILITY-RELATED PREMIUMS**

**Amendments to the Welfare Supplementary Payment (Loss of Disability-Related Premiums) Regulations**

**30.** The Welfare Supplementary Payment (Loss of Disability-Related Premiums) Regulations (Northern Ireland) 2016(1) are amended in accordance with this Part.

**Definition of welfare benefit**

**31.** In regulation 2(1) insert in the appropriate place in alphabetical order—  
““welfare benefit” has the same meaning as in Article 101(7) of the 2015 Order;”.

**Entitlement to welfare supplementary payment where couple separates**

**32.** After regulation 38 insert—

**“PART 6A**

**WELFARE SUPPLEMENTARY PAYMENT WHERE A COUPLE SEPARATES**

**Application of this Part**

**38A.—**(1) This Part applies where—

- (a) A and B were a couple,
- (b) on or after 20 July 2016, A and B ceased to be a couple, and
- (c) immediately before that, A was entitled to welfare supplementary payment under Parts 2 to 6.

(2) In this Part, the welfare supplementary payment to which A was entitled is referred to as “the old WSP”.

### **Disability premium**

**38B.**—(1) This regulation applies where the old WSP was in respect of a disability premium.

(2) In this regulation, a disability premium means—

- (a) disability premium under paragraph 11 of Schedule 2 to the Income Support (General) Regulations (Northern Ireland) 1987<sup>(2)</sup>,
- (b) disability premium under paragraph 13 of Schedule 1 to the Jobseeker's Allowance Regulations (Northern Ireland) 1996<sup>(3)</sup>, or
- (c) disability premium under paragraph 20G of Schedule 1 to the Jobseeker's Allowance Regulations (Northern Ireland) 1996<sup>(4)</sup>.

(3) If both A and B met—

- (a) the PIP refusal condition, and
- (b) the loss of disability premium condition,

then A and B are each separately entitled to welfare supplementary payment (under the Part to which A was originally entitled to welfare supplementary payment) when they cease to be a couple.

(4) Where paragraph (3) applies, the amount of welfare supplementary payment payable to each A and B is equal to half the old WSP.

(5) If only one member of the couple (“the eligible member”) met—

- (a) the PIP refusal condition, and
- (b) the loss of disability premium condition,

then only the eligible member is entitled to welfare supplementary payment (under the Part to which A was originally entitled to welfare supplementary payment) when they cease to be a couple.

(6) Where paragraph (5) applies, then immediately after A and B cease to be a couple, the amount of welfare supplementary payment payable to the eligible member is equal to the old WSP.

(7) Where paragraph (5) applies, then when the eligible member makes an application for a welfare benefit as a single person, the amount of welfare supplementary payment payable to the eligible member is equal to the amount of disability premium which would have been payable to the eligible member on the transition date if the eligible member had not been a member of a couple on the date entitlement to the premium was lost.

(8) The PIP refusal condition is that following a transitional assessment determination, the person is refused personal independence payment, or the component of personal independence payment, that is a condition for entitlement to disability premium.

(9) The loss of disability premium condition is that, in consequence of the PIP refusal condition, the decision of the Department to award disability premium is superseded by a decision to not award disability premium.

### **Enhanced disability premium**

**38C.**—(1) This regulation applies where the old WSP was in respect of an enhanced disability premium.

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(2) S.R. 1987 No. 459; as amended by S.R. 2003 No. 191, S.R. 2003 No. 413, S.R. 2007 No. 154 and S.R. 2010 No. 103

(3) S.R. 1996 No. 198; as amended by S.R. 2007 No. 154 and S.R. 2010 No. 103

(4) Paragraph 20G was inserted by paragraph 53(4) of Schedule 2 to S.R. 2000 No. 350 and amended by S.R. 2007 No. 154 and S.R. 2010 No. 103

- (2) In this regulation, an enhanced disability premium means—
- (a) enhanced disability premium under paragraph 13A of Schedule 2 to the Income Support (General) Regulations (Northern Ireland) 1987(5),
  - (b) enhanced disability premium under paragraph 15A of Schedule 1 to the Jobseeker’s Allowance Regulations (Northern Ireland) 1996(6),
  - (c) enhanced disability premium under paragraph 20IA of Schedule 1 to the Jobseeker’s Allowance Regulations (Northern Ireland) 1996(7), or
  - (d) enhanced disability premium under paragraph 7 of Schedule 4 to the Employment and Support Allowance Regulations (Northern Ireland) 2008(8).
- (3) If both A and B met—
- (a) the PIP refusal condition, and
  - (b) the loss of enhanced disability premium condition,

then A and B are each separately entitled to welfare supplementary payment (under the Part to which A was originally entitled to welfare supplementary payment) when they cease to be a couple.

(4) Where paragraph (3) applies, the amount of welfare supplementary payment payable to each A and B is equal to half the old WSP.

- (5) If one member of the couple (“the eligible member”) met—
- (a) the PIP refusal condition, and
  - (b) the loss of enhanced disability premium condition,

then only the eligible member is entitled to welfare supplementary payment (under the Part to which A was originally entitled to welfare supplementary payment) when they cease to be a couple.

(6) Where paragraph (5) applies, then immediately after A and B cease to be a couple, the amount of welfare supplementary payment payable to the eligible member is equal to the old WSP.

(7) Where paragraph (5) applies, then when the eligible member makes an application for a welfare benefit as a single person, the amount of welfare supplementary payment payable to the eligible member is equal to the amount of enhanced disability premium which would have been payable to the eligible member on the transition date if the eligible member had not been a member of a couple on the date entitlement to the premium was lost.

(8) The PIP refusal condition is that following a transitional assessment determination, the person is refused personal independence payment, or the component of personal independence payment, that is a condition for entitlement to enhanced disability premium.

(9) The loss of enhanced disability premium condition is that, in consequence of the PIP refusal condition, the decision of the Department to award enhanced disability premium is superseded by a decision to not award enhanced disability premium.

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(5) Paragraph 13A was inserted by regulation 2(c)(ii) of S.R. 2000 No. 367 and amended by S.R. 2003 No. 195, S.R. 2007 No. 154, S.R. 2011 No. 135, S.R. 2011 No. 357 and S.I. 2013/3021

(6) Paragraph 15A was inserted by regulation 4(c)(ii) of S.R. 2000 No. 367 and amended by S.R. 2003 No. 195, S.R. 2007 No. 154, S.R. 2011 No. 135, S.R. 2011 No. 357, S.I. 2013/3021 and S.R. 2016 No. 228

(7) Paragraph 20IA was inserted by regulation 4(c)(v) of S.R. 2000 No. 367 and amended by S.R. 2007 No. 154, S.R. 2010 No. 103, S.I. 2013/3021 and S.R. 2016 No. 228

(8) S.R. 2008 No. 280 as amended by S.I. 2013/3021 and S.R. 2016 No. 228

### Severe disability premium

**38D.**—(1) This regulation applies where the old WSP was in respect of a severe disability premium.

(2) In this regulation, a severe disability premium means—

- (a) severe disability premium under paragraph 13 of Schedule 2 to the Income Support (General) Regulations (Northern Ireland) 1987(9),
- (b) severe disability premium under paragraph 15 of Schedule 1 to the Jobseeker's Allowance Regulations (Northern Ireland) 1996(10),
- (c) severe disability premium under paragraph 20I of Schedule 1 to the Jobseeker's Allowance Regulations (Northern Ireland) 1996(11),
- (d) severe disability premium under paragraph 6 of Schedule 4 to the Employment and Support Allowance Regulations (Northern Ireland) 2008(12), or
- (e) the additional amount (in respect of the appropriate minimum guarantee) prescribed under regulation 6(4) of the State Pension Credit Regulations (Northern Ireland) 2003(13) for persons treated as severely disabled persons.

(3) A and B are each separately entitled to welfare supplementary payment (under the Part to which A was originally entitled to welfare supplementary payment), when they cease to be a couple, but this is subject to paragraphs (5) and (6).

(4) Where paragraph (3) applies, the amount of welfare supplementary payment payable to each A and B is half the old WSP.

(5) If a person becomes entitled to a severe disability premium in consequence of ceasing to be a member of a couple, then in accordance with regulations 10, 19, 26 or 38, that person must cease to be paid welfare supplementary payment.

(6) If A is entitled to welfare supplementary payment because B satisfies the blind condition, as set out in regulations 6(6), 13(6), 15(7), 22(6) or 34(6), as the case may be, then when A and B cease to be a couple, only A is entitled to welfare supplementary payment (under the Part to which A was originally entitled to welfare supplementary payment) when they cease to be a couple.

(7) Where paragraph (6) applies, the amount of welfare supplementary payment payable to A is equal to the old WSP.”.

### No termination of welfare supplementary payment if conflict related welfare supplementary payment applies

**33.** In regulation 39, after paragraph (2) insert—

“(2A) Paragraph (2) does not apply if the person becomes entitled to welfare supplementary payment under regulation 14 of the Welfare Supplementary Payment (Loss of Disability Living Allowance) Regulations (Northern Ireland) 2016(14) consequent upon that appeal.”.

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(9) Paragraph 13 was amended by S.R. 1988 No.146, S.R. 1992 No.6, S.R. 1993 No. 218, S.R. 1993 No. 373, S.R. 1994 No. 327, S.R. 1994 No. 474, S.R. 2000 No. 74, S.R. 2000 No. 80, S.R. 2002 No. 323, S.R. 2007 No. 154, S.R. 2011 No. 291, S.I. 2013/3021 and S.R. 2014 No. 275

(10) Paragraph 15 was amended by S.R. 2000 No. 74, S.R. 2002 No.80, S.R. 2002 No. 323, S.R. 2007 No. 154, S.R. 2011 No. 291, S.I. 2013/3021, S.R. 2014 No. 275 and S.R. 2016 No. 228

(11) Paragraph 20I was inserted by paragraph 53(4) of Schedule 2 to S.R. 2000 No. 350 and amended by S.R. 2002 No. 80, S.R. 2002 No. 323, S.R. 2007 No. 154, S.R. 2011 No. 291, S.I. 2013/302, S.R. 2014 No. 275 and S.R. 2016 No. 228

(12) Paragraph 6 was amended by S.R. 2011 No. 291, S.R. 2011 No. 357, S.I. 2013/3021 and S.R. 2016 No. 228

(13) S.R. 2003 No. 28

(14) S.R. 2016 No. 250

## Persons to whom welfare supplementary payments may be made

34. After regulation 44 insert—

### “Persons to whom welfare supplementary payments may be made

44A.—(1) A welfare supplementary payment to which a person is entitled under these Regulations must be paid to the person, but this is subject to paragraph (2).

(2) Payment may be made to a person appointed under regulation 33 of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(15).”.

## Effect of sanctions

35. After regulation 44A insert—

### “Effect of sanctions

44B. For the avoidance of doubt, where a person is subject to a benefit sanction (for example for failure to take part in a work-focused interview), the effect of the sanction is to be disregarded in calculating the amount of welfare supplementary payment payable.”.

## Information sharing

36. After regulation 44B insert—

### “Information sharing

44C.—(1) The Department may supply to the Commissioners for Her Majesty’s Revenue and Customs such information as they may require for the purposes of HMRC functions.

(2) The Commissioners for Her Majesty’s Revenue and Customs may supply to the Department such information as the Department may require for the purposes of functions relating to the payment and administration of welfare supplementary payments.

(3) Information supplied under this regulation must not be supplied by the recipient of the information to any other person or body without—

(a) the authority of the Department, in the case of information supplied under paragraph (1),

(b) the authority of the Commissioners for Her Majesty’s Revenue and Customs, in the case of information supplied under paragraph (2).

(4) Where information supplied under this regulation has been used for the purposes for which it was supplied, it is lawful for it to be used for any purposes for which information held for those purposes could reasonably be used.

(5) This regulation does not limit the circumstances in which information may be supplied apart from this regulation.

(6) In this regulation “HMRC functions” means any function—

(a) for which the Commissioners for Her Majesty’s Revenue and Customs are responsible by virtue of section 5 of the Commissioners for Revenue and Customs Act 2005, or

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(15) S.R. 1987 No. 465; relevant amending Regulations are S.R. 1992 No. 7, S.R. 2002 No. 297, S.R. 2005 No. 46 and S.R. 2006 No. 407

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(b) which relates to a matter listed in Schedule 1 to that Act.”.