

*Draft Order in Council laid before Parliament under paragraph 2(1)(a) of the Schedule to the
Northern Ireland Act 2000, for approval by resolution of each House of Parliament*

DRAFT STATUTORY INSTRUMENTS

2004 No. (N.I.)

NORTHERN IRELAND

The Age-Related Payments (Northern Ireland) Order 2004

Made - - - - 2004

Coming into operation in accordance with Article 1(2)

At the Court at Buckingham Palace, the ** day of ** 2004

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order in Council has been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1(1) of the Schedule to the Northern Ireland Act 2000 (c. 1) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

General

Title and commencement

1.—(1) This Order may be cited as the Age-Related Payments (Northern Ireland) Order 2004.

(2) This Order shall come into operation on the expiration of one week from the day on which it is made.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 (c. 33) applies to this Order as it applies to an Act of the Assembly.

(2) In this Order—

“couple” means a man and a woman who share a household and who are, or who live as, husband and wife;

“the Department” means the Department for Social Development;

- “qualifying individual” has the meaning given by Article 3;
- “the relevant week” has the meaning given by Article 3;
- “single”, in relation to an individual, means not part of a couple;
- “state pension credit” has the meaning given by section 1(1) of the State Pension Credit Act (Northern Ireland) 2002 (c. 14); and
- “statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

(3) The provisions of this Order shall apply, with any necessary modifications, to the parties to a polygamous marriage as if they together formed one couple.

Payments for 2004

“Qualifying individual” and “relevant week”

3.—(1) In this Order “qualifying individual” means an individual who—

- (a) is ordinarily resident in Northern Ireland on at least one day in the relevant week, and
- (b) attains the age of 70 years on or before the last day of the relevant week.

(2) In this Order “the relevant week” means the week beginning with (and including) Monday 20th September 2004 and ending with Sunday 26th September 2004.

Entitlement: basic cases

4.—(1) A qualifying individual shall be entitled to a payment of £100 if at any time in the relevant week—

- (a) he is single, and
- (b) either—
 - (i) he is not living with another qualifying individual, or
 - (ii) he is in receipt of state pension credit.

(2) A qualifying individual shall be entitled to a payment of £50 if at any time in the relevant week—

- (a) he is single,
- (b) he is not in receipt of state pension credit, and
- (c) he is living with another qualifying individual.

(3) A qualifying individual shall be entitled to a payment of £100 if at any time in the relevant week he is part of a couple and—

- (a) the other member of the couple is not a qualifying individual, or
- (b) either member of the couple is in receipt of—
 - (i) state pension credit,
 - (ii) an income-based jobseeker’s allowance, or
 - (iii) income support.

(4) A qualifying individual shall be entitled to a payment of £50 if at any time in the relevant week he is part of a couple and—

- (a) the other member of the couple is a qualifying individual, and
- (b) neither member of the couple is in receipt of state pension credit.

(5) In this Article—

“income-based jobseeker’s allowance” has the meaning given by Article 3(1) and (4) of the [Jobseekers \(Northern Ireland\) Order 1995 \(NI 15\)](#); and

“income support” means income support under section 123 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7).

(6) This Article is subject to Article 5.

Entitlement: special cases

5.—(1) Where—

(a) two or more couples live together, and

(b) two or more individuals, each of whom is part of one of the couples, would (but for this paragraph) be entitled to a payment under Article 4(3)(a) (and not under Article 4(3)(b)),

then each of those individuals shall instead be entitled to a payment of £50.

(2) Where each member of a couple would (but for this paragraph) be entitled to a payment under Article 4(3)(b)—

(a) the member who is to receive a payment in 2004 under the Social Fund Winter Fuel Payment Regulations (Northern Ireland) 2000 ([S.R. 2000 No. 91](#)) shall be entitled to the payment under Article 4(3)(b), and

(b) the other member shall not be entitled to a payment under Article 4(3)(b).

(3) Where—

(a) only one member of a couple is a qualifying individual,

(b) he would (but for this paragraph) be entitled to a payment under Article 4(3),

(c) the other member of the couple is to receive a payment in 2004 under the Social Fund Winter Fuel Payment Regulations (Northern Ireland) 2000, and

(d) the qualifying individual is not to receive a payment in 2004 under those regulations,

then—

(i) that other member of the couple shall be entitled to a payment of £100, and

(ii) the qualifying individual shall not be entitled to a payment under Article 4(3).

(4) Paragraph (5) applies to a qualifying individual if—

(a) on the last day of the relevant week he is living in a residential care home or a nursing home, and

(b) throughout the period of 13 weeks ending with the relevant week his ordinary place of residence was a residential care home or a nursing home.

(5) Where this paragraph applies to a qualifying individual—

(a) if he is not in receipt of state pension credit at any time in the relevant week, he shall be entitled to a payment of £50 (and he shall not be entitled to a payment under Article 4), and

(b) if at any time in the relevant week he is in receipt of state pension credit, he shall not be entitled to a payment under Article 4 or this Article.

(6) Where a person to whom paragraph (5) applies is part of a couple, in the application of Article 4(3) and (4) to the other member of the couple the person to whom paragraph (5) applies shall be treated as a non-qualifying individual.

(7) In this Article—

“nursing home” has the meaning given by Article 16 of the [Registered Homes \(Northern Ireland\) Order 1992 \(NI 20\)](#); and

“residential care home” has the meaning given by Article 3 of that Order but shall include an establishment as set out in paragraph (2)(f) of that Article.

Disqualifications

6.—(1) A qualifying individual who would (but for this Article) be entitled to a payment under Article 4 or 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 ([S.R. 1975 No. 109](#)),
- (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 ([c. 33](#)).

(3) Where a person to whom this Article applies is part of a couple, in the application of Article 4(3) and (4) to the other member of the couple the person to whom this Article applies shall be treated as a non-qualifying individual.

Procedure

7.—(1) Where before 31st December 2004 the Department thinks that a person is entitled to a payment under Article 4 or 5, the Department shall make the payment before that date (without a claim being required).

(2) A person who is entitled to a payment under Article 4 or 5 and who does not receive it before 31st December 2004, may claim the payment.

(3) A claim under paragraph (2) must—

- (a) be in writing to the Department,
- (b) be received by the Department before 31st March 2005, 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.

(4) If the Department thinks that a person making a claim under paragraph (2) is entitled to a payment under Article 4 or 5, the Department shall make the payment.

(5) The provisions of Chapter II of Part II of the [Social Security \(Northern Ireland\) Order 1998 \(NI 10\)](#) (revision, appeal, &c.) shall apply to a decision of the Department about a person’s entitlement to a payment under Article 4 or 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 Article 4 or 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).

Future payments

Power to provide for payments

9.—(1) The Department may make regulations providing for the making of payments by it to persons who have attained the age of 60 years.

(2) Regulations under paragraph (1) may provide for payments to be made—

- (a) to persons in a specified class (which may be defined by reference to age or otherwise);
- (b) in specified circumstances.

(3) Regulations under paragraph (1) may, in particular—

- (a) provide for payments to be made only once, at specified times or over a specified period,
- (b) provide for exceptions, and
- (c) apply (with or without modifications) a statutory provision relating to social security (including, in particular, a statutory provision relating to claims, payments, evidence, revision of decisions, appeals or recovery of payment in error).

(4) Regulations under this Article shall be laid before the Assembly after being made and shall take effect on such date as may be specified in the regulations, but shall (without prejudice to the validity of anything done thereunder or to the making of new regulations) cease to have effect upon the expiration of a period of six months from that date unless at some time before the expiration of that period the regulations have been approved by a resolution of the Assembly.

(5) In section 149(5) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8) (functions of Social Security Advisory Committee in relation to legislation and regulations) in the definition of “the relevant enactments” after paragraph (ah) insert—

“(ai) Article 9 of the Age-Related Payments (Northern Ireland) Order 2004;”.

(6) In section 170(5) of the Social Security Administration Act 1992 (c. 5) (Social Security Advisory Committee) in the definition of “the relevant Northern Ireland enactments” after paragraph (ah) insert—

“(ai) Article 9 of the Age-Related Payments (Northern Ireland) Order 2004.”.

Clerk of the Privy Council

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Age-Related Payments (Northern Ireland) Order 2004 No. 1987*

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for payments by the Department for Social Development to persons over the age of 70; and to enable provision to be made for payments by that Department to persons over the age of 60.