

*Draft Regulations laid before Parliament under section 7(4) of the Age-Related Payments Act 2004,
for approval by resolution of each House of Parliament.*

DRAFT STATUTORY INSTRUMENTS

2005 No.

SOCIAL SECURITY

The Age-Related Payments Regulations 2005

Made - - - - 2005
Coming into force - - 1st September 2005

Whereas a draft of this instrument has been laid before Parliament in accordance with section 7(4) of the Age-Related Payments Act 2004⁽¹⁾ and approved by a resolution of each House of Parliament; Now, therefore, the Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by section 7 of the Age-Related Payments Act 2004, after agreement by the Social Security Advisory Committee that proposals to make these Regulations should not be referred to it⁽²⁾, hereby makes the following Regulations:

PART 1

GENERAL

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Age-Related Payments Regulations 2005 and shall come into force on 1st September 2005.

(2) In these Regulations—

“guarantee credit” and “savings credit” have the meanings given by section 17 of the State Pension Credit Act 2002⁽³⁾;

“qualifying individual”—

(a) in Part 2 means an individual who—

(i) is ordinarily resident in Great Britain on at least one day in the relevant week;

(1) 2004 c.10.

(2) See section 173(1)(b) of the Social Security Administration Act 1992 (c.5). Section 7(5) of the Age-Related Payments Act 2004 amended section 170(5) of the Social Security Administration Act 1992 to provide for regulations made under section 7 to be subject to prior consultation with the Social Security Advisory Committee.

(3) 2002 c.16.

- (ii) attains the age of 65 years on or before the last day of the relevant week; and
 - (iii) is—
 - (aa) single and not in receipt of guarantee credit; or
 - (bb) part of a couple of which neither member is in receipt of guarantee credit; and
 - (b) in Part 3 means an individual who—
 - (i) is ordinarily resident in Great Britain on at least one day in the relevant week;
 - (ii) attains the age of 70 years on or before the last day of the relevant week; and
 - (iii) is—
 - (aa) single and in receipt of guarantee credit; or
 - (bb) part of a couple of which either member is in receipt of guarantee credit; and
- “the relevant week” means the week beginning with Monday 19th September 2005 and ending with Sunday 25th September 2005.
- (3) These Regulations shall apply, with any necessary modifications, to the parties to a polygamous marriage as if they together formed one couple.

PART 2

PAYMENTS TO PERSONS OVER THE AGE OF 65

Entitlement: basic cases

- 2.—(1) A qualifying individual shall be entitled to a payment of £200 if at any time in the relevant week—
- (a) he is single; and
 - (b) he is not living with another qualifying individual.
- (2) 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) he is living with another qualifying individual.
- (3) A qualifying individual shall be entitled to a payment of £200 if at any time in the relevant week he is part of a couple and—
- (a) the other member of the couple is not in receipt of guarantee credit, income-based jobseeker’s allowance or income support; and
 - (b) either—
 - (i) the other member of the couple is not a qualifying individual; or
 - (ii) either member of the couple is in receipt of savings credit.
- (4) 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 the other member of the couple is also a qualifying individual.
- (5) This regulation is subject to regulation 3.

Entitlement: special cases

- 3.—(1) Where—

(a) a member of a couple would (but for this paragraph) be entitled to a payment under regulation 2(3)(b)(i) (and not under regulation 2(3)(b)(ii)); and

(b) the couple lives with one or more qualifying individuals who are single,

then the member of the couple shall instead be entitled to a payment of £100.

(2) 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 regulation 2(3),

then each of those individuals who would (but for this paragraph) be entitled to a payment under regulation 2(3)(b)(i) (and not under regulation 2(3)(b)(ii)) shall instead be entitled to a payment of £100.

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

(a) the member who is to receive a payment in 2005 under the Social Fund Winter Fuel Payment Regulations 2000(4) shall be entitled to a payment under regulation 2(3)(b)(ii); and

(b) the other member shall not be entitled to a payment under regulation 2(3)(b)(ii).

(4) 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 regulation 2(3);

(c) the other member of the couple is to receive a payment in 2005 under the Social Fund Winter Fuel Payment Regulations 2000; and

(d) the qualifying individual is not to receive a payment in 2005 under those Regulations,

then—

(i) that other member of the couple shall be entitled to a payment of £200; and

(ii) the qualifying individual shall not be entitled to a payment under regulation 2(3).

(5) 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 either of paragraph (1) or (2);

(c) the other member of the couple is to receive a payment in 2005 under the Social Fund Winter Fuel Payment Regulations 2000; and

(d) the qualifying individual is not to receive a payment in 2005 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 these Regulations.

PART 3

PAYMENTS TO PERSONS IN RECEIPT OF GUARANTEE CREDIT

Entitlement: guarantee credit basic cases

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

(2) 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 the other member of the couple is not a qualifying individual.

(3) 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) he (and not the other member) is in receipt of guarantee credit.

(4) This regulation is subject to regulation 5.

Entitlement: guarantee credit special cases

5.—(1) 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 regulation 4(2);
- (c) the other member of the couple is to receive a payment in 2005 under the Social Fund Winter Fuel Payment Regulations 2000; and
- (d) the qualifying individual is not to receive a payment in 2005 under those Regulations,

then—

- (i) that other member of the couple shall be entitled to a payment of £50; and
- (ii) the qualifying individual shall not be entitled to a payment under regulation 4(2).

(2) A qualifying individual shall not be entitled to a payment under this Part if—

- (a) on the last day of the relevant week he is living in a care home; and
- (b) throughout the period of 13 weeks ending with the relevant week his ordinary place of residence was a care home.

(3) Where a person who ceases to be entitled to a payment by virtue of paragraph (2) is part of a couple, in the application of regulation 4(2) and (3) to the other member of the couple, the person who ceases to be entitled under paragraph (2) shall be treated as a non-qualifying individual.

PART 4

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 1975⁽⁵⁾;
 - (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⁽⁶⁾.
- (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 Secretary of State thinks that a person is entitled to a payment under any of regulations 2 to 5, the Secretary of State shall make the payment before that date (without a claim being required).

(2) Where a person becomes entitled to a payment under any of regulations 2 to 5 by virtue of a decision made after the relevant week that section 115 of the Immigration and Asylum Act 1999 (exclusions) ceases to apply to him, the Secretary of State, if he is satisfied that the person is entitled to the payment, 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.

(4) A claim under paragraph (3) must—

- (a) be in writing to the Secretary of State;
- (b) be received by the Secretary of State 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 Secretary of State; and
- (d) include a declaration that the claimant was ordinarily resident in Great Britain on at least one day in the relevant week.

(5) If the Secretary of State is satisfied that a person making a claim under paragraph (3) is entitled to a payment under any of regulations 2 to 5, the Secretary of State shall make the payment.

(6) The provisions of Chapter II of Part I of the Social Security Act 1998⁽⁷⁾ (revision, appeal &c.) shall apply to a decision of the Secretary of State 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 Secretary of State under section 8 of that Act.

Payment to be disregarded for tax and 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—

- (a) liability to tax;

(5) [S.I.1975/555](#). Paragraph (2) was substituted by regulation 11 of [S.I.1992/2595](#) and paragraph (2A) was inserted by regulation 2 of [S.I.1999/1326](#).

(6) [1999 c.33](#).

(7) [1998 c.14](#).

- (b) entitlement to benefit under an enactment relating to social security (irrespective of the name or nature of the benefit), or
- (c) entitlement to a tax credit.

Application of section 71 of the Social Security Administration Act 1992

9. Section 71 of the Social Security Administration Act 1992⁽⁸⁾ (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.

Signed by authority of the Secretary of State for Work and Pensions.

2005

Minister of State,
Department for Work and Pensions.

⁽⁸⁾ 1992 c.5. Section 71 was amended by sections 32 and 41 of, and paragraph 48 of Schedule 2 to, the Jobseekers Act 1995 (c.18), section 1 of the Social Security (Overpayments) Act 1996 (c.51), section 86 of, and paragraph 81 of Schedule 7 to, the Social Security Act 1998, sections 51 and 60 of, and paragraphs 1 and 2 of Schedule 4 and Schedule 6 to, the Tax Credits Act 2002 (c.21), and section 14 of, and paragraphs 8 and 10 of Schedule 2 to, the State Pension Credit Act 2002.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the payment of a one-off lump sum of £200 or £100 to households with occupants who have attained the age of 65, and £50 to households with occupants who have attained the age of 70 (if they are also in receipt of state pension credit guarantee credit), no later than the end of the week commencing Monday 19th September 2005 and who are ordinarily resident in Great Britain on any day in that week.

Part 1 (regulation 1) defines certain terms used in the Regulations, including “qualifying individual” and “the relevant week”.

Part 2 (regulations 2 and 3) provides for payment to persons over the age of 65.

Regulation 2 sets out the conditions under which a single person and a member of a couple is eligible for a £200, or a £100, payment.

Regulation 3 varies entitlement for qualifying individuals who are part of couples or share their household with another qualifying individual, and transfers entitlement to a payment from one member of a couple to the other in order to ensure that the payment is made to the member of the couple who is to receive the Winter Fuel Payment.

Part 3 (regulations 4 and 5) provides for payments to persons in receipt of guarantee credit.

Regulation 4 sets out the conditions under which a single person and couples on state pension credit guarantee credit are eligible for a £50 payment.

Regulation 5 transfers entitlement to a payment from one member of a couple to the other in order to ensure that the payment is made to the member of the couple who is to receive the Winter Fuel Payment. It also provides that a person who has been in a care home during the relevant week, and for whom the care home was their ordinary place of residence for the 12 weeks prior to the relevant week, is not entitled to a £50 payment.

Part 4 (regulations 6 to 9) provides for disqualifications, procedure and miscellaneous matters.

Regulation 6 disqualifies a person from receiving a payment if he has been receiving free in-patient hospital treatment continuously for 52 weeks including the relevant week, is being held in custody throughout the relevant week or is subject to immigration control throughout that week.

Regulation 7 enables the Secretary of State to make payments without a claim as well as allowing for a claim to be made by a qualifying individual who has not automatically received a payment before 31st December 2005. It also applies the provisions of the Social Security Act 1998 (c.14) concerning the revision and appeal of decisions.

Regulation 8 provides that payments made under these Regulations shall not be taken into account in assessing a person’s liability to tax, entitlement to benefit or entitlement to a tax credit.

Regulation 9 applies section 71 of the Social Security Administration Act 1992 (c.5) (which deals with the recovery of overpayments) and regulations made under it to payments under these Regulations in the same way as they apply to the benefits listed in that section.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business, charities or voluntary bodies.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: The Age-Related Payments Regulations 2005 No. 1983