
STATUTORY INSTRUMENTS

2016 No. 999

The Welfare Reform and Work (Northern Ireland) Order 2016

Further mitigation payments

Payments to persons affected by social sector size criteria in calculation of universal credit or housing benefit **N.I.**

19.—(1) The 2015 Order is amended as follows.

(2) After Article 137 insert—

“Payments to persons affected by social sector size criteria in calculation of universal credit or housing benefit

137A.—(1) The Department may, in accordance with regulations under this Article, make payments in respect of persons who qualify under paragraph (2) or (3).

(2) A person qualifies under this paragraph if—

- (a) the person is entitled to universal credit in respect of a period which falls within the mitigation period;
- (b) the amount of the award of universal credit includes an amount under Article 16 (“the housing costs element”);
- (c) the amount of the housing costs element falls to be calculated in accordance with Part 5 of Schedule 4 to the Universal Credit Regulations (renters in social rented sector); and
- (d) in the calculation of the amount of the housing costs element a deduction is made under paragraph 35 of that Schedule (deduction if the number of bedrooms in the accommodation occupied by the renter exceeds the number of bedrooms to which the renter is entitled in accordance with the regulations).

(3) A person qualifies under this paragraph if—

- (a) the person is entitled to housing benefit in the form of a rent rebate or rent allowance in respect of a period which falls within the mitigation period;
- (b) the calculation of the amount of rent allowance or rent rebate to which the person is entitled involves making a determination in accordance with regulation B14 of the Housing Benefit Regulations (determination of maximum rent (social sector)); and
- (c) in making that determination a reduction is made under paragraph (2)(b) of that regulation (reduction in eligible rent if the number of bedrooms in the dwelling occupied by the claimant exceeds the number of bedrooms to which the claimant is entitled in accordance with the regulations).

(4) The mitigation period—

- (a) begins on 2nd January 2017; and
- (b) ends on 31st March 2020.

(5) Regulations may make provision—

- (a) for determining the amount of payments, the periods in respect of which payments are to be made, and the persons to whom payments are to be made;
- (b) for payments to be made without any claim being made;
- (c) imposing conditions on persons receiving payments, including conditions requiring them to provide to the Department such information as may be prescribed;
- (d) for the disclosure of information relating to payments in prescribed circumstances or to prescribed persons;
- (e) for the recovery by the Department in prescribed circumstances and by prescribed means (which may include any of the means mentioned in section 69ZB(7) of the Administration Act) of any amount of payments made in excess of entitlement;
- (f) requiring or authorising reviews (whether by the Department or by prescribed persons) of decisions made by the Department with respect to the making or recovery of payments;
- (g) imposing functions (including functions as to the disclosure of information) on a statutory body other than the Department in connection with the administration of the regulations;
- (h) for such other matters as appear to the Department to be necessary or appropriate in connection with the making of payments including provision creating criminal offences and provision amending or applying (with or without modification) any statutory provision.

(6) The provision included in regulations under paragraph (5)(a) for determining, in the case of any person, the amount of a payment in respect of any period must be such as to ensure that the amount of the payment when added to the amount of the housing costs element to which that person is entitled in respect of that period does not exceed—

- (a) in a case falling within paragraph (2), the amount of the housing costs element to which that person would have been entitled in respect of that period if the deduction mentioned in sub-paragraph (d) of that paragraph had not been made;
- (b) in a case falling within paragraph (3), the amount of the rent allowance or rent rebate to which that person would have been entitled in respect of that period if the reduction mentioned in sub-paragraph (c) of that paragraph had not been made.

(7) Without prejudice to the generality of paragraph (5), regulations may make any provision referred to in that paragraph by applying to, or in relation to, payments (with or without prescribed modifications) any provision which applies to, or in relation to, a particular social security benefit or a class or description of such benefits.

(8) The Department shall, in respect of each financial year in which payments are made, prepare and lay before the Assembly a report on the payments made in that year.

(9) No regulations shall be made under this Article unless a draft of the regulations has been laid before, and approved by resolution of, the Assembly.

(10) If regulations under this Article impose functions on any statutory body other than the Department, the Department must consult that body before making the regulations.

(11) A power conferred by this Article to make regulations includes power—

- (a) to make such incidental, supplementary, consequential or transitional provision as appears to the Department to be necessary or expedient for the purposes of those regulations;
- (b) to provide for the Department to exercise a discretion in dealing with any matter.

(12) In this Article—

“the Housing Benefit Regulations” means the Housing Benefit Regulations (Northern Ireland) 2006;

“payment” means a payment under this Article;

“prescribed” means prescribed by regulations under this Article;

“statutory body” means a body established by or under a statutory provision;

“the Universal Credit Regulations” means the Universal Credit Regulations (Northern Ireland) 2016.”

(3) In Article 4(2) at the end add “ or Article 137A (payments to persons affected by social sector size criteria in calculation of universal credit or housing benefit) ”.

Cost of work allowance **N.I.**

20.—(1) The 2015 Order is amended as follows.

(2) After Article 137A (inserted by Article 19(2)) insert—

“Cost of work allowance

137B.—(1) The Department may, in accordance with this Article and regulations, make payments known as cost of work allowances.

(2) A cost of work allowance is a payment which—

(a) is made on one occasion in each of the years 2017, 2018 and 2019;

(b) is awarded in each of those years—

(i) to an individual who on the qualifying date in that year satisfies the 4 requirements set out in paragraphs (4) to (7) as they apply in relation to an individual;

(ii) to a couple who on the qualifying date in that year satisfy the 4 requirements set out in paragraphs (4) to (7) as they apply in relation to a couple.

(3) In relation to an individual or a couple “the qualifying date” in a year is such date as may be prescribed; and different dates may be prescribed in relation to different classes or descriptions of individual or couple.

(4) The first requirement—

(a) in relation to an individual is that the individual has, on the qualifying date, been ordinarily resident in Northern Ireland for a period of at least 3 months;

(b) in relation to a couple is that both of them have on the qualifying date been ordinarily resident in Northern Ireland for period of at least 3 months.

(5) The second requirement—

(a) in relation to an individual is that on the qualifying date the individual—

(i) is entitled (otherwise than jointly with another) to universal credit or to working tax credit; and

(ii) has been so entitled for the whole of the preceding period of 3 months;

(b) in relation to a couple is that on the qualifying date the couple—

(i) are jointly entitled to universal credit or to working tax credit; and

(ii) have been so entitled for the whole of the preceding period of 3 months.

(6) The third requirement—

(a) in relation to an individual, is that on the qualifying date the individual—

- (i) is engaged in qualifying remunerative work; and
 - (ii) has been so engaged for the whole of the preceding period of 3 months;
- (b) in relation to a couple, is that at least one of them—
 - (i) is, on the qualifying date, engaged in qualifying remunerative work, and
 - (ii) has been so engaged for the whole of the preceding period of 3 months.
- (7) The fourth requirement—
 - (a) in relation to an individual, is that the income of the individual in respect of a prescribed period exceeds such amount as may be prescribed but does not exceed such other higher amount as may be prescribed;
 - (b) in relation to a couple, is that the combined income of the couple in respect of a prescribed period exceeds such amount as may be prescribed but does not exceed such other higher amount as may be prescribed.
- (8) Regulations may make provision—
 - (a) for cases where an individual is, or couple are, to be taken as satisfying, or not satisfying, the requirements in paragraphs (4) to (7) and in particular for determining—
 - (i) for the purposes of the second requirement, whether an individual is, or couple are, on the qualifying date entitled to universal credit or working tax credit and, if so, for what period the individual has, or couple have, been so entitled;
 - (ii) for the purposes of the third requirement, what is, or is not, qualifying remunerative work and the circumstances in which a person is, or is not, engaged in it;
 - (iii) for the purposes of the fourth requirement, the income of a person in respect of any period;
 - (b) for determining the amount of an allowance payable to an individual or a couple which must include provision—
 - (i) for the allowance awarded to an individual to include, in prescribed circumstances, an additional amount where the individual is responsible for one or more children;
 - (ii) for the allowance awarded to a couple to include, in prescribed circumstances, an additional amount where the couple is responsible for one or more children;
 - (c) for the circumstances in which—
 - (i) a person is, or is not, responsible for a child;
 - (ii) a couple are, or are not, responsible for a child;
 - (d) for payment of the allowance to be made without any claim being made;
 - (e) imposing conditions on persons receiving an allowance, including conditions requiring them to provide to the Department such information as may be prescribed;
 - (f) for the disclosure of information relating to allowances in prescribed circumstances or to prescribed persons;
 - (g) for the recovery by the Department in prescribed circumstances and by prescribed means (which may include any of the means mentioned in section 69ZB(7) of the Administration Act) of any amount of an allowance paid in excess of entitlement;
 - (h) requiring or authorising reviews (whether by the Department or by prescribed persons) of decisions made by the Department with respect to the making or recovery of allowances and for appeals against such decisions;

- (i) imposing functions (including functions as to the disclosure of information) on a statutory body other than the Department in connection with the administration of the regulations;
- (j) for such other matters as appear to the Department to be necessary or appropriate in connection with the paying of allowances including provision creating criminal offences and provision amending or applying (with or without modification) any statutory provision.

(9) Without prejudice to the generality of paragraph (8), regulations may make any provision referred to in that paragraph by applying to, or in relation to, an allowance (with or without prescribed modifications) any statutory provision which applies to, or in relation to, a particular social security benefit or a class or description of such benefits.

(10) The Department shall, in respect of each financial year in which payments are made, prepare and lay before the Assembly a report on the payments made in that year.

(11) No regulations shall be made under this Article unless a draft of the regulations has been laid before, and approved by resolution of, the Assembly.

(12) If regulations under this Article impose functions on any statutory body other than the Department, the Department must consult that body before making the regulations.

(13) A power conferred by this Article to make regulations includes power—

- (a) to make such incidental, supplementary, consequential or transitional provision as appears to the Department to be necessary or expedient for the purposes of those regulations;
- (b) to provide for the Department to exercise a discretion in dealing with any matter.

(14) In this Article—

“allowance” means a cost of working allowance;

“child” means a person under the age of 16;

“couple”—

- (a) in relation to a case where the second requirement applies by reference to entitlement to universal credit, has the same meaning as it has for the purposes of the Part 2;
- (b) in relation to a case where that requirement applies by reference to entitlement to working tax credit, has the same meaning as it has for the purposes of Part 1 of the Tax Credits Act 2002;

“prescribed” means prescribed by regulations under this Article;

“statutory body” means a body established by or under a statutory provision.”

(3) In Article 4(2) at the end add “ or Article 137B (cost of work allowance) ”.

Changes to legislation:

There are currently no known outstanding effects for the The Welfare Reform and Work (Northern Ireland) Order 2016, Further mitigation payments.