

2005 No. 383

SOCIAL SECURITY

The Age-Related Payments Regulations (Northern Ireland) 2005

Made - - - - - *10th August 2005*

Coming into operation - *1st September 2005*

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The Department for Social Development, in exercise of the powers conferred by Article 9 of the Age-Related Payments (Northern Ireland) Order 2004(a), and of all other powers enabling it in that behalf, hereby makes the following Regulations:

PART I

GENERAL

Citation, commencement and interpretation

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

(2) In these Regulations—

“guarantee credit” has the meaning given by section 17 of the State Pension Credit Act (Northern Ireland) 2002(b);

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

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

“nursing home” has the meaning given by Article 11 of the Health and Personal Social Services (Quality, Improvement and Regulation)(Northern Ireland) Order 2003(e);

“qualifying individual”—

(a) in Part II means an individual who—

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

(ii) has attained 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 III means an individual who—

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

(ii) has attained 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;

“the relevant week” means the week beginning with (and including) Monday 19th September 2005 and ending with Sunday 25th September 2005;

“residential care home” has the meaning given by Article 10 of the Health and Personal Social Services (Quality, Improvement and Regulation)(Northern Ireland) Order 2003; and

“savings credit” has the meaning given by Article 17 of the State Pension Credit Act (Northern Ireland) 2002.

(a) S.I. 2004/1987 (N.I. 11)

(b) 2002 c. 14 (N.I.)

(c) S.I. 1995/2705 (N.I. 15); Article 3 was amended by paragraph 3(4) of Schedule 7 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))

(d) 1992 c. 7. Section 123 was amended by Schedules 2 and 3 to the Jobseekers (Northern Ireland) Order 1995 and paragraph 2 of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002

(e) S.I. 2003/431 (N.I. 9); Articles 10 and 11 came into operation on 1st April 2005 under the provisions of the Health and Personal Social Services (Quality, Improvement and Regulation)(2003 Order) (Commencement No. 3 & Transitional Provisions) Order (Northern Ireland) 2005 S.R. 2005 No. 44 (C. 4)

(3) These regulations shall apply, with any necessary modifications, to the parties to a polygamous marriage as if they together formed one couple.

PART II

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 (Northern Ireland) 2000^(a) 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 (Northern Ireland) 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 the 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 (Northern Ireland) 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 III

PAYMENTS TO PERSONS OVER THE AGE OF 70

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);

^(a) S.R. 2000 No. 91

- (c) the other member of the couple is to receive a payment in 2005 under the Social Fund Winter Fuel Payment Regulations (Northern Ireland) 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 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.

(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 IV

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 (Northern Ireland) 1975(a);
- (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(b).

(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 Department thinks that a person is entitled to a payment under any of regulations 2 to 5, the Department shall make the payment before that date without a claim being required.

(a) S.R. 1975 No. 109; paragraph (2) was substituted by regulation 2 of S.R. 1992 No. 453 and paragraph (2A) was inserted by regulation 2 of S.R. 1999 No. 221

(b) 1999 c. 33; section 115 was amended by section 4(2) of the State Pension Credit Act (Northern Ireland) 2002, section 4(2) of the State Pension Credit Act 2002 (c. 16), paragraph 21 of Schedule 4, and Schedule 6 to the Tax Credits Act 2002 (c. 21) and paragraph 3 of the Schedule to S.I. 2002/1457

(2) Where, by virtue of a decision made after the relevant week that section 115(9) of the Immigration and Asylum Act 1999 (exclusions) ceases to apply to a person, the Department thinks that the person is entitled to a payment, under any of regulations 2 to 5, the Department 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 Department;
- (b) be received by the Department 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 Department; and
- (d) include a declaration that the claimant was ordinarily resident in Northern Ireland on at least one day in the relevant week.

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

(6) The provisions of Chapter II of Part II of the Social Security (Northern Ireland) Order 1998^(a) (Social Security Decisions and Appeals) shall apply to a decision of the Department 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 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 any of regulations 2 to 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).

Application of section 69 of the Social Security Administration Act

9. Section 69 of the Social Security Administration (Northern Ireland) Act 1992^(b) (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.

Sealed with the Official Seal of the Department for Social Development on 10th August 2005.



John O'Neill

A senior officer of the Department for Social Development

(a) S.I. 1998/1506 (N.I. 10)

(b) 1992 c. 8; section 69 was amended by Article 33(1) of, and paragraph 31 of Schedule 2 and Schedule 3 to the Jobseekers (Northern Ireland) Order 1995, section 2 of the Social Security (Overpayments) Act 1996 (c. 51), paragraph 62 of Schedule 6 to the Social Security (Northern Ireland) Order 1998, paragraph 8 of Schedule 4 and Schedule 6 to the Tax Credits Act 2002 and paragraph 10 of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These are the first Regulations made pursuant to Article 9 of the Age-Related Payments (Northern Ireland) Order 2004. They 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 no later than the end of the week commencing Monday 19th September 2005 and who are not in receipt of the state pension credit guarantee credit and who are ordinarily resident in Northern Ireland on any day in that week. The Regulations also provide for the payment of £50 to households with occupants who have attained the age of 70 no later than the end of the week commencing Monday 19th September 2005 and who are in receipt of the state pension credit guarantee credit and ordinarily resident in Northern Ireland on any day in that week.

Regulation 1 makes provision for citation, commencement and interpretation.

Regulations 2 and 3 provide 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.

Regulations 4 and 5 provide for payments to persons over the age of 70. 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 residential care home or a nursing home during the relevant week, and for whom the residential care home or nursing home was their ordinary place of residence for the 12 weeks prior to the relevant week, is not entitled to a £50 payment.

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 Department 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 (Northern Ireland) Order 1998 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 entitlement to benefit under a statutory provision relating to social security.

Regulation 9 applies section 69 of the Social Security Administration (Northern Ireland) Act 1992 (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.

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, are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.

A regulatory impact assessment has not been produced for this rule as it has no impact on the costs of business.

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