

2010 No. 344

SOCIAL SECURITY

**The Social Fund (Cold Weather Payments) (General)
(Amendment) Regulations (Northern Ireland) 2010**

Made - - - - - *7th October 2010*

Coming into operation - *1st November 2010*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 134(2) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a) and now vested in it(b).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Fund (Cold Weather Payments) (General) (Amendment) Regulations (Northern Ireland) 2010 and shall come into operation on 1st November 2010.

(2) The Interpretation Act (Northern Ireland) 1954(c) shall apply to these Regulations as it applies to an Act of the Assembly.

Amendment of the Social Fund (Cold Weather Payments) (General) Regulations

2.—(1) The Social Fund (Cold Weather Payments) (General) Regulations (Northern Ireland) 1988(d) are amended in accordance with paragraphs (2) to (5).

(2) In regulation 1(2) (citation, commencement and interpretation)—

(a) for the definition of “the Order” substitute—

““the Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;”;

(b) after the definition of “claimant”(e) insert—

““cold weather payment” means a payment to meet expenses for heating made out of the social fund under section 134(2) of the Act and these Regulations;”;

(a) 1992 c. 7; section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)

(b) See Article 8(b) of S.R. 1999 No. 481

(c) 1954 c. 33 (N. I.)

(d) S.R. 1988 No. 368; relevant amending Regulations are S.R. 1991 Nos. 464 and 487, S.R. 1992 No. 470, S.R. 1996 No. 488, S.R. 1997 No. 437, S.R. 2001 No. 386, S.R. 2002 No. 315, S.R. 2003 Nos. 191 and 267, S.R. 2004 No. 429, S.R. 2005 Nos. 447 and 458 and S.R. 2008 Nos. 286 and 411

(e) The definition of “claimant” was substituted by regulation 2(a) of S.R. 1991 No. 464 and amended by regulation 2(a)(i) of S.R. 2005 No. 447 and regulation 16(2)(b) of S.R. 2008 No. 286

- (c) for the definition of “family” substitute—
 - ““family” has the meaning given to it in section 133(1)(a) of the Act and the General Regulations;”;
 - (d) for the definition of “income support” substitute—
 - ““income support” means income support under Part 7 of the Act;”;
 - (e) omit the definition of “polygamous marriage”; and
 - (f) after the definition of “station”(b) insert—
 - ““winter period” means the period beginning on 1st November in any year and ending on 31st March in the following year.”.
- (3) For regulation 1A(c) (prescribed description of persons) substitute—

“Prescribed description of persons

1A.—(1) A cold weather payment may be made in the circumstances prescribed by regulation 2 to a person who satisfies the following conditions.

(2) The first condition is that, in respect of at least one day during the recorded or the forecasted period of cold weather specified in regulation 2(1)(a) the person has been awarded—

- (a) state pension credit;
- (b) income support;
- (c) an income-based jobseeker’s allowance; or
- (d) an income-related employment and support allowance.

(3) The second condition (which applies only if the person (“P”) falls within paragraph (2)(b), (c) or (d)) is that, in respect of the day to which paragraph (2) relates—

- (a) P’s family includes a member aged less than 5;
- (b) where P has been awarded income support, P’s applicable amount includes one or more of the premiums specified in paragraphs 9 to 14 of Part 3 of Schedule 2 to the General Regulations;
- (c) where P has been awarded a jobseeker’s allowance, P’s applicable amount includes one or more of the premiums specified in paragraphs 10 to 16 of Part 3 of Schedule 1 to the Jobseeker’s Allowance Regulations (Northern Ireland) 1996(d);
- (d) P’s child tax credit includes an individual element referred to in regulation 7(4)(a), (b), (d) or (e) of the Child Tax Credit Regulations 2002(e); or
- (e) where P has been awarded an employment and support allowance, P’s applicable amount includes—
 - (i) one or more of the premiums specified in paragraphs 5 to 7 of Part 2 of Schedule 4 to the Employment and Support Allowance Regulations (Northern Ireland) 2008(f), or
 - (ii) an amount under section 4(2)(b) of the Welfare Reform Act.

(a) The definition of “family” in section 133(1) was amended by paragraph 99(2) of Schedule 24 to the Civil Partnership Act 2004 (c. 33)

(b) The definition of “station” was substituted by regulation 2(c) of S.R. 1996 No. 488

(c) Regulation 1A was inserted by regulation 2 of S.R. 1991 No. 487 and amended by regulation 3(b) of S.R. 1996 No. 488, regulation 25(4) and (5)(a) and (b) of S.R. 2003 No. 191, regulation 3 of S.R. 2003 No. 267, regulation 2 of S.R. 2004 No. 429, regulation 6 of S.R. 2005 No. 458, regulation 16(3) of S.R. 2008 No. 286 and regulation 2 of S.R. 2008 No. 411

(d) S.R. 1996 No. 198

(e) S.I. 2002 /2007

(f) S.R. 2008 No. 280

(4) The third condition (which does not apply to a person who falls within paragraph (3)(a) or (d)) is that the person does not reside in—

- (a) an independent hospital;
- (b) an establishment run by the Abbeyfield Society or by a body corporate or incorporate which is affiliated to that Society; or
- (c) a residential care home or a nursing home.

(5) In paragraph (4)—

“independent hospital” has the meaning assigned to it by Article 2(2) of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003(a);

“nursing home” has the meaning it has for the purposes of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 by virtue of Article 11 of that Order;

“residential care home” has the meaning it has for the purposes of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 by virtue of Article 10 of that Order.”.

(4) In regulation 2(b) (prescribed circumstances)—

- (a) in paragraph (1) for “a payment may be made out of the social fund to meet expenses for heating under Article 33(2A) of the Order” substitute “a cold weather payment may be made”;
- (b) in paragraph (1)(a)(c), for “and (5)” substitute “, (5) and (6)”;
- (c) for paragraph (5)(d) substitute—

“(5) Where—

- (a) a claimant satisfies the conditions in regulation 1A and paragraph (1) in respect of a recorded period of cold weather; and
- (b) a payment in respect of the recorded period of cold weather does not fall to be made by virtue of paragraph (4); and
- (c) the claimant does not satisfy the conditions in regulation 1A in respect of the forecasted period of cold weather which is linked to the recorded period of cold weather by an overlap period,

a cold weather payment may be made in respect of that recorded period of cold weather.

(6) A cold weather payment may not be made after the end of the period of 26 weeks beginning with the last day of the winter period in which the period of cold weather concerned falls.”.

(5) For the Schedule(e) substitute the Schedule set out in Schedule 1 to these Regulations.

(a) S.I. 2003/431 (N.I. 9)
(b) Regulation 2 was substituted by regulation 3 of S.R. 1991 No. 464
(c) Sub-paragraph (a) was amended by regulation 3(d) of S.R. 1992 No. 470, regulation 4(2)(a) of S.R. 1996 No. 488, regulation 2(2)(a) of S.R. 1997 No. 437 and regulation 3(a) of S.R. 2005 No. 447
(d) Paragraph (5) was amended by regulation 3(d) and (e) of S.R. 1991 No. 487
(e) The Schedule was substituted by regulation 2 of S.R. 2001 No. 386 and amended by regulation 2 of S.R. 2002 No. 315

Revocations

3. The provisions specified in column (1) of Schedule 2 are revoked to the extent specified in column (3).

Sealed with the Official Seal of the Department for Social Development on 7th October 2010

(L.S.)

Anne Mc Cleary
A senior officer of the Department for Social Development

SCHEDULE 1

“SCHEDULE

Regulation 2

<i>Column (1)</i>	<i>Column (2)</i>
<i>Meteorological Office Station</i>	<i>Postcode districts</i>
1. Aldergrove	BT27 – 29, BT39 – 46, BT80
2. Ballykelly	BT47 – 49, BT51 – BT57
3. Castlederg	BT78 – BT79, BT81 – 82
4. Glenanne	BT35, BT60 – 71
5. Katesbridge	BT24 – 26, BT30 – 34
6. St Angelo	BT74 – 77, BT92 – 94
7. Stormont Castle	BT1 – 23, BT36 – 38”

SCHEDULE 2

Regulation 3

Revocations

<i>Column (1)</i> <i>Citation</i>	<i>Column (2)</i> <i>Reference</i>	<i>Column (3)</i> <i>Extent of revocation</i>
The Social Fund (Cold Weather Payments) (General) Regulations (Northern Ireland) 1988	S.R. 1988 No. 368	Regulation 4
The Social Fund (Miscellaneous Amendments) Regulations (Northern Ireland) 1990	S.R. 1990 No. 132	Regulation 3
The Social Fund (Cold Weather Payments) (General) (Amendment No. 2) Regulations (Northern Ireland) 1991	S.R. 1991 No. 464	Regulation 2(d) and (6)
The Social Fund (Cold Weather Payments) (General) (Amendment No. 3) Regulations (Northern Ireland) 1991	S.R. 1991 No. 487	Regulations 2, 3(d) and (e)
The Social Fund (Cold Weather Payments) (General) (Amendment No. 3) Regulations (Northern Ireland) 1992	S.R. 1992 No. 470	Regulations 2, 3(a) to (c) and 4
The Social Fund (Cold Weather Payments) (General) (Amendment) Regulations (Northern Ireland) 1993	S.R. 1993 No. 413	The whole Regulations
The Social Fund (Cold Weather Payments) (General) (Amendment) Regulations (Northern Ireland) 1996	S.R. 1996 No. 488	Regulations 3 and 4(2)(c)
The Social Fund (Cold Weather Payments) (General) (Amendment) Regulations (Northern Ireland) 1997	S.R. 1997 No. 437	Regulation 2(3)
The Social Fund (Cold Weather Payments) (General) (Amendment) Regulations (Northern Ireland) 1998	S.R. 1998 No. 351	The whole Regulations
The Social Fund (Cold Weather Payments) (General) (Amendment) Regulations (Northern Ireland) 2001	S.R. 2001 No. 386	The whole Regulations
The Social Fund (Cold Weather Payments) (General) (Amendment) Regulations (Northern Ireland) 2002	S.R. 2002 No. 315	The whole Regulations
The State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) Regulations (Northern Ireland) 2003	S.R. 2003 No. 191	Regulations 25(3) to (6)

<i>Column (1) Citation</i>	<i>Column (2) Reference</i>	<i>Column (3) Extent of revocation</i>
The Social Security (Removal of Residential Allowance and Miscellaneous Amendments) Regulations (Northern Ireland) 2003	S.R. 2003 No. 267	Regulation 3
The Social Fund (Cold Weather Payments) (General) (Amendment) Regulations (Northern Ireland) 2004	S.R. 2004 No. 429	The whole Regulations
The Social Security (Residential Care Homes, Nursing Homes and Independent Hospitals) Regulations (Northern Ireland) 2005	S.R. 2005 No. 458	Regulation 6
The Employment and Support Allowance (Consequential Provisions) Regulations (Northern Ireland) 2008	S.R. 2008 No. 286	Regulation 16(3)
The Social Fund (Cold Weather Payments) (General) (Amendment) Regulations (Northern Ireland) 2008	S.R. 2008 No. 411	The whole Regulations
The Social Fund (Cold Weather Payments) (General) (Amendment) Regulations (Northern Ireland) 2009	S.R. 2009 No. 342	The whole Regulations

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Fund Cold Weather Payments (General) Regulations (Northern Ireland) 1988 (“the 1988 Regulations”).

Regulation 2(2) updates some definitions and adds definitions of “cold weather payment” and “winter period” to regulation 1(2) of the 1988 Regulations.

Regulation 2(3) substitutes a new regulation 1A of the 1988 Regulations in order to simplify the description of persons who are eligible for a cold weather payment, to remove an unnecessary reference to State Pension Credit and to update some legislative references.

Regulation 2(4) makes some consequential amendments to regulation 2 of the 1988 Regulations and adds a new paragraph (6) to make clear that a payment may not be made more than 26 weeks from and including the last day of the winter period in which the relevant period of cold weather falls. It makes amendments to regulation 2(5) consequential on the amendments to regulation 1A.

The Schedule to the 1988 Regulations specifies weather stations which are relevant to determining whether there is a recorded or forecasted period of cold weather.

Regulation 2(5) replaces the Schedule to the 1988 Regulations with the Schedule to these Regulations. The new Schedule largely re-enacts the list contained in the former Schedule, but it assigns some postcodes from existing stations to two new weather stations, Glenanne and Stormont and transfers some postcodes to different weather stations.

Regulation 3 makes consequential revocations.

The Postcode Atlas of Great Britain and Northern Ireland and the postcode maps may be obtained from their publishers. A person may establish the current postcode for his or her address by contacting the Royal Mail Postcode Enquiries Office (telephone 08457 111 222) or by logging on to the Royal Mail website at www.royalmail.com.

These Regulations make in relation to Northern Ireland only provision corresponding to provision 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.

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