
STATUTORY INSTRUMENTS

1998 No. 19

SOCIAL SECURITY

The Social Fund Winter Fuel Payment Regulations 1998

Made - - - - *8th January 1998*
Laid before Parliament *8th January 1998*
Coming into force - - *16th January 1998*

The Secretary of State for Social Security, in exercise of the powers conferred on her by sections 138(2) and (4) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992⁽¹⁾ and sections 5(1)(i), 59(1) and (2)(c) and 189(1) and (3) to (5) of, and paragraph 4 of Schedule 3 to the Social Security Administration Act 1992⁽²⁾ and of all other powers enabling her in that behalf, after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it⁽³⁾, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Fund Winter Fuel Payment Regulations 1998 and shall come into force on 16th January 1998.

(2) In these Regulations—

“the Administration Act” means the Social Security Administration Act 1992;

“constant attendance allowance” means—

(a) an increase of disablement pension under section 104 of the Contributions and Benefits Act;

(b) an increase of an allowance which is payable in respect of constant attendance under paragraph 6(4)(b) of Schedule 8 to that Act;

“the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992;

“graduated retirement benefit” means the benefit to which section 62 of the Contributions and Benefits Act applies;

(1) 1992 c. 4; section 123(1) was amended to have effect with respect to council tax benefit by the Local Government Finance Act 1992 (c. 14) Schedule 9 paragraph 1(1) and section 138(4) is an interpretation provision and is cited because of the meaning ascribed to the word “prescribed”.

(2) 1992 c. 5.

(3) See section 173(1)(b) of the Social Security Administration Act 1992 (c. 5).

“income-based jobseeker’s allowance” has the same meaning in these Regulations as it has in the Jobseekers Act 1995(4) by virtue of section 1(4) of that Act;

“the Income Support Regulations” means the Income Support (General) Regulations 1987(5);

“industrial death benefit” means a benefit to which Part VI of Schedule 7 to the Contributions and Benefits Act refers;

“the Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations 1996(6);

“married couple” means a man and woman who are married to each other and are members of the same household;

“partner” means where a person—

- (a) is a member of a married or an unmarried couple living in the same household, the other member of that couple;
- (b) is married polygamously to two or more members of his household, any such member living in the same household;

“the qualifying week” means the week beginning on 5th January 1998;

“retirement pension” for the purposes of regulation 2(6) means a retirement pension to which Parts II and III of the Contributions and Benefits Act refer;

“unmarried couple” means a man and woman who are not married to each other but are living together as husband and wife;

“winter fuel payment” means a payment made under these Regulations out of the social fund, to meet expenses for heating pursuant to section 138(2) of the Contributions and Benefits Act.

(3) Whether in any case a person is or is not to be treated as being a member of a household is to be determined in accordance with regulation 16 of the Income Support Regulations(7).

(4) In these Regulations, unless the context otherwise requires, a reference—

- (a) to a numbered regulation is to the regulation in these Regulations bearing that number;
- (b) in a regulation to a numbered paragraph is to the paragraph in that regulation bearing that number.

Prescribed description of persons

2.—(1) Subject to regulation 3, a winter fuel payment shall be paid to persons who come within either of the categories specified in paragraph (2) or (5) below.

(2) Except in the case of a person to whom paragraph (3) applies, the first category comprises persons to whom in respect of any day in the qualifying week—

- (a) income support is payable and whose applicable amount includes one or more of the premiums specified in paragraphs 9, 9A or 10 of Schedule 2 to the Income Support Regulations(8); or
- (b) income-based jobseeker’s allowance is payable and whose applicable amount includes one or more of the premiums specified in paragraphs 10 to 12 of Schedule 1 to the Jobseeker’s Allowance Regulations(9).

(4) 1995 c. 18.

(5) S.I.1987/1967.

(6) S.I.1996/207.

(7) Regulation 16 was amended by S.I.1988/663, 1989/534, 1990/547, 1992/468, 3147, 1993/2119, 1996/206 and 1944.

(8) Paragraph 9 was substituted and paragraph 9A was inserted by S.I.1989/534 and paragraph 10 was amended by S.I.1988/663 and 1992/468.

(9) Paragraph 12 was amended by S.I.1996/2538.

(3) Subject to paragraph (4), persons to whom income support or income-based jobseeker's allowance is payable and whose applicable amount includes the allowance specified in paragraph 2A of Schedule 2 to the Income Support Regulations or paragraph 3 of Schedule 1 to the Jobseeker's Allowance Regulations (residential allowance) as the case may be, shall not be entitled to a winter fuel payment.

(4) Paragraph (3) shall not have effect in the case of a person or his partner whose applicable amount includes a residential allowance while temporarily residing in accommodation to which—

- (a) paragraph 9(a)(i) or (ii) of column (1) in Schedule 7 to the Income Support Regulations refers and that person's partner is a person to whom paragraph 9(b)(i) or (ii) applies;
- (b) paragraph 5(a)(i) or (ii) of column (1) in Schedule 5 to the Jobseeker's Allowance Regulations refers and that person's partner is a person to whom paragraph 5(b)(i) or (ii) applies;
- (c) paragraph 10(a) or (b) of column (1) in Schedule 7 to the Income Support Regulations refers or, as the case may be, paragraph 6(a) or (b) of column (1) in Schedule 5 to the Jobseeker's Allowance Regulations, applies.

(5) Except in the case of a person to whom paragraph (3) applies or is excluded by virtue of paragraph (7), the second category comprises persons who, in respect of any day falling within the qualifying week, are ordinarily resident in Great Britain and who fall within any of the classes of persons to which paragraph (6) refers.

(6) The classes of persons to which this paragraph refers are men aged 65 or over and women aged 60 or over to whom any of the following benefits or pensions is payable in respect of a period which includes a day in the qualifying week—

- (a) attendance allowance, constant attendance allowance, disability living allowance, incapacity benefit⁽¹⁰⁾, industrial death benefit, invalid care allowance or severe disablement allowance under the Contributions and Benefits Act;
- (b) income-based jobseeker's allowance, where the claimant's applicable amount is determined in accordance with paragraph 3 of Schedule 5 to the Jobseeker's Allowance Regulations;
- (c) income support, where the claimant's applicable amount is determined in accordance with paragraph 6 of Schedule 7 to the Income Support Regulations;
- (d) retirement pension or graduated retirement benefit;
- (e) unemployability supplement under Part I of Schedule 7 to the Contributions and Benefits Act or paragraph 6(4)(a) of Schedule 8 to that Act;
- (f) war disablement pension, war widow's pension or temporary allowance to widows of severely disabled war pensioners under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983⁽¹¹⁾ or payable by virtue of any Scheme made under—
 - (i) the Personal Injuries (Emergency Provisions) Act 1939⁽¹²⁾;
 - (ii) the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939⁽¹³⁾;
 - (iii) the Polish Resettlement Act 1947⁽¹⁴⁾; or
 - (iv) the Reserve Forces Act 1980⁽¹⁵⁾; and

⁽¹⁰⁾ Incapacity benefit under section 30A of the Contributions and Benefits Act was inserted by the Social Security (Incapacity for Work) Act 1994 (c. 18).

⁽¹¹⁾ S.I.1983/883.

⁽¹²⁾ 1939 c. 82.

⁽¹³⁾ 1939 c. 83.

⁽¹⁴⁾ 1947 c. 19.

⁽¹⁵⁾ 1980 c. 9.

- (g) widowed mother's allowance or a widow's pension under section 37 or 38 of the Contributions and Benefits Act.
- (7) Except in the case of persons to whom paragraph (8) refers, the persons excluded by this paragraph are—
- (a) persons and the partners of persons to whom paragraph (2) applies;
 - (b) hospital in-patients to whom regulation 6 of the Social Security (Hospital In-Patients) Regulations 1975 (adjustment of personal benefit after 52 weeks in hospital⁽¹⁶⁾) applies;
 - (c) persons to whom income support or income-based jobseeker's allowance is payable by virtue of—
 - (i) regulation 19 of the Income Support Regulations⁽¹⁷⁾ or regulation 86 of the Jobseeker's Allowance Regulations (persons in residential care and nursing homes); or
 - (ii) regulation 21 of the Income Support Regulations⁽¹⁸⁾ or regulation 85 of the Jobseeker's Allowance Regulations and either—
 - (aa) paragraph 13 of Schedule 7 to the Income Support Regulations or paragraph 15 of Schedule 5 to the Jobseeker's Allowance Regulations (persons in residential accommodation); or
 - (bb) paragraph 13A or 13B of Schedule 7 to the Income Support Regulations⁽¹⁹⁾ (Polish resettlement);
 - (d) persons in respect of whom a deduction is being made by the Secretary of State from an award under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983 or the Personal Injuries (Civilians) Scheme 1983⁽²⁰⁾ or under any other Scheme made under any of the Acts specified in paragraph (6)(f), where such persons have been maintained in a hospital or similar institution for a continuous period exceeding 52 weeks.
- (8) Paragraph (7)(c)(ii)(aa) shall not have effect to exclude persons from entitlement to a winter fuel payment where the person concerned is temporarily in local authority accommodation under paragraph 10B(1) or (2) of Schedule 7 to the Income Support Regulations⁽²¹⁾.

Prescribed amount

- 3.—(1) Subject to paragraphs (2) to (4), winter fuel payments shall be of the following amounts—
- (a) in the case of a person to whom regulation 2(2) applies, £50;
 - (b) in the case of a person to whom regulation 2(5) applies—
 - (i) who is living in a household where there is no other person in that household who is entitled to a payment under this regulation, £20;
 - (ii) who is of no fixed abode, £20; or
 - (iii) in every other case, £10.

(16) Regulation 6 was amended by [S.I.1977/1963](#), [1987/31](#) and [1683](#) and words were substituted by section 18(1) of the Social Security Act 1986.

(17) Regulation 19 was amended by [S.I.1988/663](#), [1445](#), [2022](#), [1989/1678](#), [1991/1033](#), [1992/3147](#), [2119](#), [1994/527](#), [2139](#), [1995/516](#), [1996/206](#) and [462](#).

(18) Regulation 21 was amended by [S.I.1990/547](#), [1991/236](#), [1033](#), [1656](#), [1992/2155](#), [3147](#), [1993/315](#), [518](#), [2119](#), [1994/527](#), [1807](#), [2139](#), [1995/516](#), [1996/30](#), [206](#), [1944](#), [2006](#), [2431](#), [2614](#)

(19) Paragraph 13A was inserted by [S.I.1989/1678](#) relevant amending instruments [S.I.1995/516](#) and [1996/599](#) and paragraph 13B by [S.I.1994/2139](#).

(20) [S.I.1983/686](#).

(21) Paragraph 10B was inserted by [S.I.1988/663](#); relevant amending instrument [S.I.1992/2137](#).

(2) Where a person falls within both of the categories of persons to which regulation 2(2) or (5) refers, payment shall be made under paragraph (1)(a) only.

(3) Subject to paragraph (4), where a person falls within more than one class of person to which regulation 2(6) refers only one payment shall be made under paragraph (1)(b).

(4) Where a person who has received a payment under paragraph (1)(b) is subsequently awarded income support or income-based jobseeker's allowance in respect of the qualifying week, he shall be paid the difference between the amount he and his partner, if any, have already received and the amount to which paragraph (1)(a) refers.

Official records

4.—(1) Subject to paragraph (2), official records held by the Secretary of State as to a person's circumstances shall be sufficient evidence thereof for the purpose of deciding his entitlement to a winter fuel payment and its amount.

(2) Paragraph (1) shall not apply so as to exclude a review of the decision under section 25 of the Administration Act or the consideration on that review of fresh evidence.

Signed by authority of the Secretary of State for Social Security.

8th January 1998

John Y. Denham
Parliamentary Under-Secretary of State,
Department of Social Security

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for a winter fuel payment to be paid to persons who fall within the categories prescribed in regulation 2 on any day within the qualifying period (defined in regulation 1(2)) of amounts specified in regulation 3. A decision as to entitlement may be made on the basis of official records held by the Secretary of State but not so as to exclude other evidence on a review of that decision under the Social Security Administration Act 1992 (regulation 4).

These Regulations do not impose any charge on business.