

**EXPLANATORY MEMORANDUM TO THE  
AGE-RELATED PAYMENTS REGULATIONS 2005**

**2005 No. 1983**

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

## **2. Description**

- 2.1. This statutory instrument provides for the payment of two one-off lump sum payments in 2005:

a payment of £200 to households with someone aged 65 or over, not in receipt of the guarantee credit element of Pension Credit, to help with council tax bills;

a payment of £50 to households with someone aged 70 or over, in receipt of the guarantee credit element of Pension Credit, to help with living expenses.

Details of the provisions of this statutory instrument are in Annex A.

## **3. Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1. This is the first time the power under Section 7 of the Age-Related Payments Act 2004 (c.10) has been exercised.

## **4. Legislative Background**

4.1. This statutory instrument is made under powers conferred by Section 7 of the Age-Related Payments Act 2004 (c. 10). Section 7 provides for the Secretary of State to make regulations for payments to people aged 60 or over, and for those payments to go to specified categories within this group, under specified circumstances. The Secretary of State may also specify the regularity of these payments.

4.2. This instrument is being made in order to allow for the payments as announced by the Chancellor.

4.3. In his Pre-Budget Report statement on 2 December 2004 the Chancellor announced the intention to make a payment to those aged 70 and over (Annex B).

4.4. In his Budget statement on 16 March 2005 the Chancellor announced a £200 payment to households with someone aged 65 or over, not in receipt of the guarantee credit element of Pension Credit, to help with council tax bills (Annex C).

## **5. Extent**

5.1. This instrument applies to Great Britain.

## **6. European Convention on Human Rights**

6.1. The Minister of State for Pensions Reform (Stephen Timms MP) has made the following statement regarding Human Rights:

“In my view the provisions of the Age-Related Payments Regulations 2005 are compatible with the Convention rights.”

## **7. Policy Background**

7.1. In 2004 the Age-Related Payments Act provided for payment of up to £100 to households with someone aged 70 or over. This was in recognition of the fact that households made up of older pensioners, often on fixed incomes, have particular difficulties in meeting additional one-off expenses such as increased council tax bills. Section 7 of the Act provides a power to make affirmative regulations to allow for further payments to be made, where circumstances warrant it.

7.2. The £200 payment will be made in 2005 to households with someone aged 65 or over, not in receipt of the guarantee credit element of Pension Credit, to help with council tax bills. This payment recognises the fact that while older pensioners, often on fixed incomes, are disproportionately affected by increases in their council tax bills, those pensioners who receive pension credit guarantee element are eligible for full council tax benefit and so are protected from these increases. This payment targets those who do not have this protection.

7.3. This £200 payment will reach around 7.2 million individuals in around 4.9 million households.

7.4. The £50 payment will be made in 2005 to households with someone aged 70 or over, in receipt of the guarantee credit element of Pension Credit, to help with living expenses. While these pensioners are eligible for full council tax benefit, and so protected from increases in council tax bills, they are the poorest pensioners in our society and so most vulnerable to increases in general living costs. This payment reflects this.

7.5. This £50 payment will reach around 1.6 million people in around 1.3 million households.

7.6. The regulations were put before the Social Security Advisory Committee, who decided that formal consultation was not required.

## **8. Impact**

8.1. A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2. The impact on the public sector of these two payments is an estimated cost of £1.025 billion plus £5 million for administration.

## **9. Contact**

Norman Cockett at the Department for Work and Pensions Tel: 020 7712 2236 or e-mail: [norman.cockett@dwp.gsi.gov.uk](mailto:norman.cockett@dwp.gsi.gov.uk) can answer any queries regarding the instrument.

## Synopsis of Age Related Payments Regulations 2005

### Regulation 1

Regulation 1 defines certain terms used in the regulations, including ‘qualifying individual’, ‘guarantee credit’, ‘savings credit’ and ‘relevant week’.

### Regulation 2

Regulation 2 sets out entitlement to the £200 payment to those aged 65 or over, not in receipt of the guarantee credit element of Pension Credit, in basic cases. It prescribes the conditions under which single individuals, and couples where one or both members are eligible, will receive either a £200 or a £100 payment. It ensures that each household receives a minimum of £200 and where possible the award is shared evenly between qualifying individuals within the household.

### Regulation 3

Regulation 3 sets out entitlement to the £200 payment to those aged 65 or over, not in receipt of the guarantee credit element of Pension Credit, in special cases. It sets out a number of specific circumstances which affect eligibility and payable amount including payments to couples who share a household with one or more eligible single people, or another eligible couple (or couples). It ensures equitable treatment of each qualifying individual in a multiple-occupancy household regardless of their single or couple status.

#### *Example 1:*

*A married couple, Alvin aged 67 and Dorothy aged 45, live together with Alvin’s sister Delilah, aged 68, in the same household. Neither Alvin nor Delilah is in receipt of the savings credit element of Pension Credit. As a result of regulation 3(1) Alvin receives a £100 shared payment as he is sharing his household with another qualifying individual. Delilah also receives a £100 shared payment. If not for regulation 3(1) Alvin would have received £200, by virtue of being the only qualifying member of a couple, and Delilah would receive a £100 shared payment, resulting in £300 for the household.*

Regulation 3 also allows for payments to couples where either one or both members qualify, to go to the member who would receive the winter fuel payment, and to remove entitlement from the other member.

*Example 2:*

*Judith, 72, is married to Dan, 69. Judith receives the savings credit element of Pension Credit on behalf of the couple. Both are eligible for the £200 payment. As a result of regulation 3(3) the payment will go to Judith, as the member of the couple who receives the winter fuel payment, and Dan will no longer be entitled.*

#### **Regulation 4**

This regulation sets out entitlement to the £50 payment to those aged 70 or over, in receipt of the guarantee credit element of Pension Credit in basic cases. It provides for a payment of £50 to eligible single people, couples where only one member qualifies, and couples where both members qualify. For the purposes of this payment each benefit unit is treated as a household.

#### **Regulation 5**

Regulation 5 sets out entitlement to the £50 payment to those aged 70 or over, in receipt of the guarantee credit element of Pension Credit, in special cases. It allows for transference of eligibility, where one member of a couple qualifies, to the other member of the couple if that member receives a winter fuel payment.

*Example 3:*

*Fred, 68, receives the guarantee credit element of Pension Credit for himself and his wife Rose, aged 73. Rose is eligible for the £50 payment. As a result of regulation 5(1) entitlement to the £50 payment will transfer to Fred, as the member of the couple who receives the winter fuel payment, and Rose will no longer be entitled.*

Regulation 5 also sets that those people who have been living in a care home for 13 weeks or more by the end of the qualifying week are not eligible for the payment. Where this applies to a member of a couple, for the purposes of establishing eligibility of their partner, the person living in a care home is treated as a non-qualifying individual.

*Example 4:*

*Matt, 89, is married to Jo, 84, and they share a household. Matt receives the guarantee credit element of Pension Credit on behalf of the couple. Matt enters a care home on 4 June 2005 and remains there until December 2005. Under regulation 5(2) Matt is no longer eligible for the £50 payment. However by virtue of regulation 5(3) Matt is treated as a non-qualifying individual and so Jo receives the £50 payment as though she were the only qualifying individual in the couple under regulation 4(2).*

## **Regulation 6**

This sets out the disqualifications that apply to both the £200 and the £50 payments. These mirror those for winter fuel payments and include those who in the relevant week are; in receipt of free-in patient treatment for 52 weeks or more, in custody under a sentence imposed by the court or; subject to immigration control. Where one of these exclusions applies to one member of a couple, this regulation allows for that person to be treated as being a non-qualifying individual for the purposes of assessing their partner's eligibility.

## **Regulation 7**

Regulation 7 deals with procedure for both the £200 and the £50 payments. It sets out; that the Secretary of State can make a payment based on official records and the date by which this can be made; the date by which, and the information required for a claim to be made; that a payment can be made to a qualifying individual retrospectively following a decision on immigration status and that all decisions are subject to revision and appeal.

## **Regulation 8**

Regulation 8 provides for the payment to be disregarded for tax and social security and tax credit purposes.

## **Regulation 9**

This regulation allows for these payments to be covered under the overpayment provision within Section 71 of the Social Security Administration Act.

**Hansard extract from the Chancellor's Pre-Budget Report Statement:**

**2 Dec 2004 : Column 790**

A society is judged by its generosity to its children and the elderly, who have served the community all their lives. I can also announce that next year, at a cost of an additional £260 million, for those over 70 we will add to the winter fuel payment with an additional £50 payment. Pensioners aged over 70 will receive a total of £250, and pensioners over 80 will receive a total of £350.

**Hansard extract from the Chancellor's Budget Statement:**

**16 March 2005 : Column 269**

In the pre-Budget report, I announced a £50 council tax refund. Today, with the resources now available, I can announce that we will pay to every pensioner household, 65 and over, paying council tax, a refund not of £50 but a council tax refund of £200—a measure that is fairer and worth more to more pensioners than all other proposed schemes.