

EXPLANATORY MEMORANDUM TO
THE SOCIAL FUND COLD WEATHER PAYMENTS (GENERAL) AMENDMENT
REGULATIONS 2008

2008 No. 2569

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.
2. **Description**
 - 2.1 This instrument amends the Social Fund Cold Weather Payments (General) Regulations 1988.
 - 2.2 Its provisions correct two errors in the list of eligible customers made by the Employment and Support Allowance (Consequential Provisions)(No. 2) Regulations 2008.
 - 2.3 The instrument makes minor technical changes to the scheme, following advice from the Meteorological Office, to ensure that postcodes are linked to the most appropriate weather station.
 - 2.4 Its provisions also provide for an increase in the rate of a Cold Weather Payment from £8.50 to £25 for the winter of 2008/09.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.
4. **Legislative Background**
 - 4.1 Cold Weather Payments provide help to vulnerable people receiving Pension Credit, Income Support and income-based Jobseeker's Allowance to meet heating costs incurred, or likely to be incurred, in cold weather. That is when the average of the daily temperature for a period of seven consecutive days at a given weather station is recorded as, or is forecast to be, 0 degrees Celsius or below.
 - 4.2 The Employment and Support Allowance (Consequential Provisions) (No. 2) Regulations 2008 inserted certain Employment and Support Allowance ("ESA") recipients into the list of eligible customers but made an omission by not specifying that these customers are not entitled to a Cold Weather Payment if they reside in a care home or similar establishment. The regulations also contained an incorrect reference with the result that the carer premium of income-related ESA was inserted, in error, as one of the qualifying conditions for a Cold Weather Payment.

- 4.3 Each residential postcode in the country is linked to one of the 76 weather stations used in the scheme. The Meteorological Office uses data from these weather stations to calculate a rolling seven day average temperature. DWP is then notified of any “triggers” so that payments can be made to eligible customers.
- 4.4 Every year the Cold Weather Payment legislation is amended following expert advice from the Meteorological Office about the continued availability of any weather station and whether any new stations are more suitable and should be introduced into the scheme. The Meteorological Office also consider the effect of any changes to the postcode system made by the Royal Mail and consider any representations from MPs made since the previous winter about the suitability of postcode to weather station links affecting their constituents.
- 4.5 It was announced on 11 September that the rate of a Cold Weather Payment would be increased from £8.50 to £25 for each period of cold weather for the winter of 2008/09. Regulation 3 provides for this increased rate.

5. Territorial Extent and Application

- 5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- 7.1 Cold Weather Payments provide help for vulnerable groups in receipt of Pension Credit, Income Support or income-based Jobseeker’s Allowance when the temperature criterion is met for their postcode.
- 7.2 The Employment and Support Allowance (Consequential Provisions) (No. 2) Regulations 2008 which will come into force on 27 October 2008 inserted certain Employment and Support Allowance (“ESA”) recipients into the list of eligible customers. People in receipt of the other qualifying benefits are not entitled to a Cold Weather Payment if they reside in a care home or similar establishment and the Regulations should have made a similar provision in respect of ESA but did not do so. The regulations also contained an incorrect reference with the result that the carer premium of income-related ESA was inserted, in error, as one of the qualifying conditions for a Cold Weather Payment. Regulation 2(3) amends the list of eligible customers in the Regulations to correct the error and omission, thus restoring the policy intent.
- 7.3 Each year the scheme is reviewed, expert advice sought from the Meteorological Office, and changes made where necessary prior to the following winter to ensure that postcodes are linked to the most appropriate weather station.
- 7.4 Regulation 2(4) and Schedule 1 of the instrument detail the revised postcode to weather station links. Regulation 2(5) and Schedule 2 detail the revised specified alternative weather stations.

- 7.5 Regulation 2(2) replaces an outdated reference to “Department of Social Security” with “Department for Work and Pensions” in the definition of “forecast”.
- 7.6 Regulation 3 provides for the rate of a Cold Weather Payment to be increased from £8.50 to £25 for each period of cold weather for the winter of 2008/09 as announced by the Government on 11 September.
- 7.7 No formal consultation has taken place. These proposed regulations were scrutinised by the Social Security Advisory Committee under the provisions of section 173 of the Social Security Act 1992. The Committee decided that it did not require the regulations to be formally referred to it for the preparation of a report to the Secretary of State for Work and Pensions and, accordingly, it did not conduct a public consultation exercise upon the proposals.
- 7.8 The increase in the rate for Winter 2008/09 as announced by the Prime Minister on 11 September 2008 was included in the Government’s press notice of the same date. Cold Weather Payments are made automatically without the need to claim. Jobcentre Plus field staff have been briefed about the change in order to respond to queries from customers that are expected as a result of the announcement. Website information has also been updated.
- 7.9 Informal consolidation of the instrument will be included in due course in the Department’s “The Law Relating to Social Security” (The Blue Volumes) which are available on the internet at http://www.dwp.gov.uk/advisers/docs/lawvols/bluevol/pdf/a6_8301.pdf at no cost to the public.

8. Impact

- 8.1 A full Impact Assessment has not been produced for this instrument as it has no impact on the private or voluntary sectors.
- 8.2 The impact on the public sector is negligible.

9. Contact

Chris Etty at the Transformation and Product Management Directorate of the Department for Work and Pensions (Tel: 0113 2324811 or e-mail: chris.etty@jobcentreplus.gsi.gov.uk) can answer any queries regarding the instrument.