

2024 No. 869

SOCIAL SECURITY

The Social Fund Winter Fuel Payment Regulations 2024

Made - - - - at 9:00 a.m. on 22nd August 2024

Laid before Parliament at 2:30 p.m. on 22nd August 2024

Coming into force - - 16th September 2024

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 138(2) and 175(1) and (3) to (5) of the Social Security Contributions and Benefits Act 1992(a), sections 5(1)(a) and (i) and 189(1) and (4) to (6) of the Social Security Administration Act 1992(b), sections 16(1) and 79(1) and (4) of, and paragraph 3 of Schedule 5 to, the Social Security Act 1998(c) and section 71(1)(a), (2)(a), (3) and (5) of the Scotland Act 2016(d).

In accordance with section 173(1)(a) of the Social Security Administration Act 1992, it appears to the Secretary of State that by reason of the urgency of this matter it is inexpedient to refer the proposals in respect of these Regulations to the Social Security Advisory Committee.

Citation, commencement, extent and interpretation

1.—(1) These Regulations may be cited as the Social Fund Winter Fuel Payment Regulations 2024 and come into force on 16th September 2024.

(2) Subject to paragraph (3), these Regulations extend to England and Wales only.

(3) Regulations 1 and 7(1), and Schedule 2 (revocations), also extend to Scotland.

(4) In these Regulations—

“child tax credit” and “working tax credit” have the same meanings as in the Tax Credits Act 2002(e);

“couple” means—

(a) 1992 c. 4. See section 138(4) for the definition of “prescribed”. Section 175(1) is amended by paragraph 29(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).

(b) 1992 c. 5. See section 191 for the definition of “prescribed”. Section 189(1) is amended by paragraph 109(a) of Schedule 7 to the Social Security Act 1998 (c. 14) (“the 1998 Act”) and paragraph 57(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2). Section 189(4) is amended by paragraph 109(c) of Schedule 7 to the 1998 Act and section 189(5) is amended by paragraph 109(d) of Schedule 7 to that Act. Section 189(4) and (6) is amended by S.I. 2013/252.

(c) 1998 c. 14. Section 79(1) is amended by paragraph 13(2) of Schedule 4 to the Tax Credits Act 2002 (c. 21) and by S.I. 2008/2833.

(d) 2016 c. 11. See also section 23 which amends Section F1 (social security schemes) in Part 2 of Schedule 5 to the Scotland Act 1998 (c. 46), to give the Scottish Parliament legislative competence over provision of financial or other assistance for the purposes of meeting or reducing expenses for heating incurred due to cold weather.

(e) 2002 c. 21.

- (a) two people who are married to, or civil partners of, each other and are members of the same household; or
- (b) two people who are not married to, or civil partners of, each other but are living together as if they were a married couple or civil partners;

“polygamous marriage” means any marriage which took place under the laws of a country which permits polygamy where—

- (a) any member of the marriage is for the time being married to more than one person; and
- (b) all the members of the marriage are members of the same household;

“qualifying week” means in respect of any year the week beginning on the third Monday in the September of that year.

Entitlement to a Winter Fuel Payment

2.—(1) Subject to regulation 4, the Secretary of State must pay a winter fuel payment out of the social fund to a person where—

- (a) that person has reached pensionable age in or before the qualifying week; and
- (b) in respect of any day falling within the qualifying week, paragraph (2) or (3) applies to the person.

(2) This paragraph applies if the person is—

- (a) ordinarily resident in England and Wales; and
- (b) entitled to—
 - (i) a relevant benefit; or
 - (ii) an award of child tax credit or working tax credit of not less than £26 in respect of the tax year 2024-25.

(3) This paragraph applies if the person is—

- (a) habitually resident in any of the countries listed in Schedule 1;
- (b) covered by—
 - (i) Title III of Part 2 of the withdrawal agreement, as set out at Article 30 of that agreement^(a);
 - (ii) Title III of Part 2 of the EEA EFTA separation agreement, as set out at Article 29 of that agreement^(b);
 - (iii) Part Three of the Swiss citizens’ rights agreement, as set out at Article 25 of that agreement^(c); or
 - (iv) the Convention on Social Security between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland signed at Dublin on 1st February 2019, as set out in Article 2 of that Convention^(d); and
- (c) able to demonstrate—
 - (i) entitlement to a benefit payable in the country in which the person is habitually resident that is equivalent to a relevant benefit; and

(a) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/862063/TS3202_1.PDF.
 (b) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/861908/MS_1.2020_Agreement_on_arrangements_between_Iceland_Liechtenstein_Norway_and_UK_following_withdrawal_of_UK_from_EU_EEA_agreement_and_other_agreements_applicable_UK_and_EEA_EFTA_States.pdf.
 (c) https://assets.publishing.service.gov.uk/media/5c77e524ed915d29df8f9f59/CS_Swiss_5.2019_Citizens.pdf.
 (d) https://assets.publishing.service.gov.uk/media/5c629e1ee5274a31522b14be/CS_Ireland_1.2019_Soc_Sec.pdf.

(ii) a genuine and sufficient link to the United Kingdom.

(4) In this regulation—

“pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995 (c. 26);

“relevant benefit” means—

- (a) income support under Part 7 of the Social Security Contributions and Benefits Act 1992;
- (b) an income-based jobseeker’s allowance under the Jobseekers Act 1995(a);
- (c) state pension credit under the State Pension Credit Act 2002(b);
- (d) an income-related employment and support allowance under Part 1 of the Welfare Reform Act 2007(c);
- (e) universal credit under Part 1 of the Welfare Reform Act 2012(d);

“withdrawal agreement”, “EEA EFTA separation agreement” and “Swiss citizens’ rights agreement” have the same meanings as in section 39(1) of the European Union (Withdrawal Agreement) Act 2020(e).

(5) The reference in paragraph (2)(b) and (3)(c)(i) to a person being entitled to a relevant benefit or tax credit includes where the person is a member of a couple or polygamous marriage and the other member of the couple or another member of that marriage is entitled to the benefit or tax credit.

Amount of a Winter Fuel Payment

3. The amount of a winter fuel payment is as follows—

- (a) if the person has reached the age of 80 in or before the qualifying week, £300;
- (b) if the person has not reached the age of 80 in or before the qualifying week but they are a member of a couple or a polygamous marriage and the other member of the couple or another member of that marriage has reached that age in or before that week, £300; or
- (c) in any other case, £200.

Persons not entitled to a Winter Fuel Payment

4.—(1) Regulation 2 does not apply in respect of a person who—

- (a) throughout the qualifying week, is—
 - (i) one member of a couple where the Secretary of State has paid a winter fuel payment in respect of the qualifying week to the other member of that couple;
 - (ii) a member of a polygamous marriage where the Secretary of State has paid a winter fuel payment in respect of the qualifying week to another member of that marriage;
 - (iii) receiving free in-patient treatment and has been receiving free in-patient treatment for a period of at least 52 weeks ending immediately before the qualifying week;
 - (iv) detained in custody under a sentence imposed by a court; or

(a) 1995 c. 18.
(b) 2002 c. 16.
(c) 2007 c. 5.
(d) 2012 c. 5.
(e) 2020 c. 1, amended by S.I. 2024/164.

- (v) in residential care and has been in residential care for a period of at least 12 weeks ending immediately before the qualifying week;
 - (b) having been ordinarily resident in England and Wales on a day falling within the qualifying week, becomes ordinarily resident in Scotland or Northern Ireland by the last day of that week; or
 - (c) subject to paragraph (2), has not made a claim for a winter fuel payment on or before 31st March following the qualifying week in respect of the winter following that week.
- (2) Paragraph (1)(c) does not apply where—
- (a) a payment has been made by virtue of regulation 5(1) in respect of the winter following the qualifying week; or
 - (b) regulation 5(2) applies.

(3) In this regulation—

“care home” in England, has the meaning assigned to it by section 3 of the Care Standards Act 2000(a), and in Wales, means a care home service within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016(b) which is provided wholly or mainly to persons aged 18 or over;

“free in-patient treatment” is to be construed in accordance with regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005(c);

“independent hospital” means—

- (a) in England, a hospital as defined by section 275(1) of the National Health Service Act 2006(d) that is not a health service hospital as defined by that section;
- (b) in Wales, has the meaning assigned to it by section 2 of the Care Standards Act 2000(e);
- (c) in relation to Scotland, means an independent health care service as defined in section 10F(1)(a) and (b) and (2) of the National Health Service (Scotland) Act 1978(f);

“residential care” means, disregarding any period of temporary absence, a person residing in—

- (a) a care home;
- (b) an independent hospital; or
- (c) accommodation provided under section 3(1) of the Polish Resettlement Act 1947(g).

Making a Winter Fuel Payment without a claim

5.—(1) The Secretary of State may, on or before the 31st March following the qualifying week, pay a winter fuel payment in respect of the winter following the qualifying week to a person who (disregarding regulation 4(1)(c)) appears to the Secretary of State to be entitled to a payment under regulation 2.

(a) 2000 c. 14. Section 3 is amended by paragraph 3 of Schedule 3 to the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2) and paragraph 4 of Schedule 5 to the Health and Social Care Act 2008 (c. 14).
 (b) 2016 anaw 2.
 (c) S.I. 2005/3360.
 (d) 2006 c. 41. The definition of “health service hospital” is amended by paragraph 138(2)(b) of Schedule 4 to the Health and Social Care Act 2012 (c. 7).
 (e) Section 2 is amended by paragraph 3 of Schedule 5 to the Health and Social Care Act 2008 (c. 14).
 (f) 1978 c. 29. Section 10F was inserted by section 108 of the Public Services Reform (Scotland) Act 2010 (2010 asp 8).
 (g) 1947 c. 19. Section 3(1) is amended by paragraph 1 of Schedule 4 to the Social Security Act 1980 (c. 30).

(2) Where a person becomes entitled to state pension credit^(a), universal credit^(b), child tax credit or working tax credit in respect of any day falling within the qualifying week by virtue of a decision made after that week by the Secretary of State, the Commissioners for His Majesty's Revenue and Customs, the First-tier Tribunal or the Upper Tribunal, the Secretary of State may pay a winter fuel payment to that person in respect of the winter following the qualifying week if (disregarding regulation 4(1)(c)) it appears to the Secretary of State that person is entitled to a payment under regulation 2.

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

(4) Paragraph (3) does not apply so as to exclude the revision of a decision under section 9 of the Social Security Act 1998 (revision of decisions)^(c) or the supersession of a decision under section 10 of that Act (decisions superseding earlier decisions) or the consideration of fresh evidence in connection with the revision or supersession of a decision.

Consequential amendments to the Social Security (Claims and Payments) Regulations 1987

6.—(1) The Social Security (Claims and Payments) Regulations 1987^(d) are amended as follows.

(2) In regulation 4(6A)(a)(ii) (making a claim for benefit)^(e) for “regulation 3(1)(b) of the Social Fund Winter Fuel Payment Regulations 2000” substitute “regulation 4(1)(c) of the Social Fund Winter Fuel Payment Regulations 2024”.

(3) Omit regulation 36(2) (payment to partner as alternative payee)^(f).

Revocations and expiry

7.—(1) The Regulations specified in the first column of the table in Schedule 2 are revoked to the extent specified in the third column of that table.

(2) The following provisions cease to have effect on 1st April 2025—

(a) in regulation 2—

(i) in paragraph (1)(b), the words “or (3)”;

(ii) paragraph (3);

(iii) in paragraph (4), the definition of “withdrawal agreement”, “EEA EFTA separation agreement” and “Swiss citizens' rights agreement”; and

(iv) in paragraph (5), the words “and (3)(c)(i)”;

(b) Schedule 1.

Signed by authority of the Secretary of State

Emma Reynolds
Parliamentary Under Secretary of State
Department for Work and Pensions

At 9.00 a.m. on 22nd August 2024

(a) State pension credit under the State Pension Credit Act 2002 (c. 21).

(b) Universal credit under Part 1 of the Welfare Reform Act 2012 (c. 5).

(c) 1998 c. 14. Sections 9 and 10 are amended by Part 8 of Schedule 14 to the Welfare Reform Act 2012 (c. 5). Section 10 is amended by paragraph 23 of Schedule 7 to the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c. 2) and paragraph 4 of Schedule 12 to the Welfare Reform Act 2012 (c. 5.) and by S.I. 2008/2833.

(d) S.I. 1987/1968.

(e) Paragraph (6A) was inserted by S.I. 2003/1632 and amended by S.I. 2007/2911. Sub-paragraph (a)(ii) was amended by S.I. 2005/1551 and 2015/1985.

(f) Regulation 36(2) is amended by S.I. 2002/2660, 2005/2877, 2008/1554 and 2009/1488.

SCHEDULES

SCHEDULE 1

Regulation 2(3)(a)

Countries

Republic of Austria	Republic of Latvia
Kingdom of Belgium	the Principality of Liechtenstein
Republic of Bulgaria	Republic of Lithuania
Republic of Croatia	Grand Duchy of Luxembourg
Czech Republic	Kingdom of the Netherlands
Kingdom of Denmark	Kingdom of Norway
Republic of Estonia	Republic of Poland
Republic of Finland	Romania
Federal Republic of Germany	Slovak Republic
Hungary	Republic of Slovenia
Iceland	Kingdom of Sweden
Republic of Ireland	Swiss Confederation
Italian Republic	

SCHEDULE 2

Regulation 7(1)

Regulations revoked

Regulations revoked	Reference	Extent of revocation
The Social Fund Winter Fuel Payment Regulations 2000	S.I. 2000/729	The whole regulations
The Social Fund Winter Fuel Payment and Maternity and Funeral Expenses (General) Amendment Regulations 2000	S.I. 2000/2229	Regulation 2
The Social Fund Winter Fuel Payment (Amendment) Regulations 2000	S.I. 2000/2864	The whole regulations
The Social Fund Winter Fuel Payment (Temporary Increase) Regulations 2000	S.I. 2000/2997	The whole regulations
The Social Fund Winter Fuel Payment (Amendment) Regulations 2001	S.I. 2001/3375	The whole regulations

Regulations revoked	Reference	Extent of revocation
The Social Security (Claims and Payments and Miscellaneous Amendment) (No. 3) Regulations 2002	S.I. 2002/2660	Regulation 3
The Social Fund Winter Fuel Payment (Amendment) Regulations 2003	S.I. 2003/1737	The whole regulations
The Social Fund Winter Fuel Payment (Amendment) (No. 2) Regulations 2003	S.I. 2003/2192	The whole regulations
The Social Fund Winter Fuel Payment (Amendment) Regulations 2004	S.I. 2004/2154	The whole regulations
The Social Security (Care Homes and Independent Hospitals) Regulations 2005	S.I. 2005/2687	Regulation 8
The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc Provisions) Order 2005	S.I. 2005/2877	Paragraph 34 of Schedule 3
The Social Security (Hospital In-Patients) Regulations 2005	S.I. 2005/3360	Regulation 7
The Employment and Support Allowance (Consequential Provisions) (No. 2) Regulations 2008	S.I. 2008/1554	Regulation 7
The Social Security (Equalisation of State Pension Age) Regulations 2009	S.I. 2009/1488	Regulations 18 to 21
The Health and Social Care Act 2008 (Miscellaneous Consequential Amendments) Order 2010	S.I. 2010/1881	Regulation 10
The Public Services Reform (Scotland) Act 2010 (Consequential Modifications of Enactments) Order 2011	S.I. 2011/2581	Paragraph 29 of Schedule 2
The Social Security (Miscellaneous Amendments) Regulations 2012	S.I. 2012/757	Regulation 18
The Social Fund Winter Fuel Payment (Amendment) Regulations 2013	S.I. 2013/1509	The whole regulations
The Marriage (Same Sex Couples) Act 2013 (Consequential Provisions) Order 2014	S.I. 2014/107	Paragraph 28 of Schedule 1
The Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014	S.I. 2014/3229	Paragraph 19 of Schedule 6
The Social Fund Winter Fuel Payment (Amendment) Regulations 2014	S.I. 2014/3270	The whole regulations
The Social Security (Miscellaneous Amendments) Regulations 2015	S.I. 2015/67	Regulation 4
The Social Security and Child Support (Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Provision) Regulations 2018	S.I. 2018/228	Regulation 6

Regulations revoked	Reference	Extent of revocation
The Social Security (Updating of EU References) (Amendment) Regulations 2018	S.I. 2018/1084	Paragraph 9 of the Schedule
The Civil Partnership (Opposite-Sex Couples) Regulations 2019	S.I. 2019/1458	Paragraph 58 of Schedule 3
The Social Security (Reciprocal Agreements) (Miscellaneous Amendments) (EU Exit) Regulations 2021	S.I. 2021/811	Regulation 2
The Social Fund Winter Fuel Payment (Temporary Increase) Regulations 2023	S.I. 2023/549	The whole regulations

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations require the Secretary of State to pay a winter fuel payment to a person who, in the week beginning on the third Monday in September in any year, has reached pensionable age, and

— is ordinarily resident in England and Wales and entitled to income support, income-based jobseeker’s allowance, state pension credit, income-related employment and support allowance or universal credit (“relevant benefits”) or an award of child tax credit or working tax credit of not less than £26 in respect of the tax year 2024-25; or

— is habitually resident in one of the countries listed in Schedule 1 and demonstrates an entitlement to a benefit in that country which is equivalent to a relevant benefit, if that person is covered by the Withdrawal Agreement or one of the other Agreements listed in regulation 2(3)(b) and they are able to demonstrate a genuine and sufficient link to the United Kingdom.

A person is not entitled to a winter fuel payment where the person:

— is a member of a couple where the Secretary of State has paid a winter fuel payment in respect of the qualifying week to the other member of the couple;

— is a member of a polygamous marriage where the Secretary of State has paid a winter fuel payment in respect of the qualifying week to another member of that marriage;

— has been in hospital getting free treatment for more than a year;

— is in prison serving a sentence throughout the qualifying week;

— is in residential care throughout the qualifying week and the period of 12 weeks immediately before that week; or

— has not made a claim for a winter fuel payment by 31 March following the qualifying week.

There are exceptions to the requirement to make a claim for a winter fuel payment. The first exception applies if the Secretary of State has paid a winter fuel payment to a person who appears to be eligible (based on official records) before 31 March.

The second exception applies if a person becomes entitled to state pension credit, universal credit, child tax credit or working tax credit in respect of a day in the qualifying week by virtue of a decision made after that week. In those circumstances, a winter fuel payment may be paid to the person if it appears to the Secretary of State that they are eligible.

The amount of a winter fuel payment is £300, if the person has reached the age of 80 in or before the qualifying week or they are in a couple or a polygamous marriage and the other member of that couple or marriage has reached that age, and £200, in any other case.

These Regulations revoke the Social Fund Winter Fuel Payment Regulations 2000 (S.I. 2000/729) as well as provisions amending those Regulations. Provision is also made for the provisions giving entitlement to winter fuel payments to persons habitually resident in one of the countries listed in Schedule 1 to expire on 1st April 2025.

Hard copies of the documents referenced in regulation 2(3)(b) are available by writing to the International Policy team, Department for Work and Pensions, Caxton House, Tothill Street, London, SW1H 9NA.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, public or voluntary sectors is foreseen.

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