STATUTORY RULES OF NORTHERN IRELAND

2024 No. 160

SOCIAL SECURITY

The Social Fund Winter Fuel Payment Regulations (Northern Ireland) 2024

Made - - - -	*9th September 2024*
Coming into operation -	*16th September 2024*

The Department for Communities(**a**) makes the following Regulations in exercise of the powers conferred by sections 134(2) and 171(1), (3) to (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**b**), sections 5(1)(a) and (i) and 165(1), and (4) to (6) of the Social Security Administration (Northern Ireland) Act 1992(**c**), and Articles 16(1) and 74(1) of, and paragraph 3 of Schedule 4 to, the Social Security (Northern Ireland) Order 1998(**d**) and now vested in it(**e**).

Citation, commencement and interpretation

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

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

(3) In these Regulations—

""child tax credit" and "working tax credit"" have the same meanings as in the Tax Credits Act 2002(**g**);

"couple" means—

(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

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(**a**) The Department for Social Development was renamed the Department for Communities in accordance with section 1(7) of the Departments Act (Northern Ireland) 2016 (c. 5 (N.I.).
(**b**) 1992 c. 7; *see* section 134(4) for the definition of 'prescribed'.
(**c**) 1992 c. 8; section 165(1) was amended by paragraph 49(2) of Schedule 3 to The Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) and by section 18(5) of the National Insurance Contributions Act 2014 (c. 7). Section 165(6) was amended by Schedule 7 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)).
(**d**) S.I. 1998 No. 1506 (N.I. 10); Article 74(1) was amended by paragraph 17 of Schedule 4 to the Tax Credits Act 2002 (c. 21).
(**e**) *See* Article 8(b) of S.R. 1999 No. 481.
(**f**) 1954 c. 33 (N.I.)
(**g**) 2002 c. 21

(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 Department 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 Northern Ireland, 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

(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 1 to the Pensions (Northern Ireland) Order 1995;

"relevant benefit" means—

(a) income support under Part 7 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

(b) an income-based jobseeker's allowance under the Jobseekers (Northern Ireland) Order 1995(**e**);

(c) state pension credit under the State Pension Credit Act (Northern Ireland) 2002(**f**);

(**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/media/5dfb9c03ed915d1f8f269b58/WAB_Fact_Sheet_-_EEA_EFTA.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
(**e**) S.I. 1995/2705 (N.I. 15)
(**f**) 2002 c. 14

(d) an income-related employment and support allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007(**a**);

(e) universal credit under Part 2 of the Welfare Reform (Northern Ireland) Order 2015(**b**);

"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(**c**).

(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 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 Department 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 Department 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

(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 Northern Ireland on a day falling within the qualifying week, becomes ordinarily resident in England and Wales or Scotland 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—

"nursing home" has the meaning assigned to it by Article 11 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003(**a**) which is provided wholly or mainly to persons aged 18 or over;

(**a**) 2007 c. 2
(**b**) S.I. 2015/2006 (N.I. 1)
(**c**) 2020 c. 1; amended by S.I. 2024/164.

"free in-patient treatment" is to be construed in accordance with regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations (Northern Ireland) 2005(**b**);

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

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

(a) a nursing home;

(b) an independent hospital; or

(c) accommodation provided under section 3(1) of the Polish Resettlement Act 1947(**d**).

Making a Winter Fuel Payment without a claim

5.—(1) The Department 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 Department to be entitled to a payment under regulation 2.

(2) Where a person becomes entitled to state pension credit(**e**), universal credit(**f**), 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 Department, the Commissioners for His Majesty's Revenue and Customs, or the Appeal Tribunals, the Department 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 Department 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 Department 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 Article 10 (revision of decisions) of the Social Security (Northern Ireland) Order 1998(**g**) or the supersession of a decision under Article 11 (decisions superseding earlier decisions) of that Order or the consideration of fresh evidence in connection with the revision or supersession of a decision.

Consequential amendment to the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987

6.—(1) The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**h**) are amended as follows.

(2) In regulation 4(6A)(a)(ii) (making a claim for benefit)(**i**) for "regulation 3(1)(b) of the Social Fund Winter Fuel Payment Regulations (Northern Ireland) 2000" substitute "regulation 4(1)(c) of the Social Fund Winter Fuel Payment Regulations (Northern Ireland) 2024".

(3) Omit regulation 35(2) (payment to a partner as alternative payee)(**j**).

(**a**) S.I. 2003/431 (N.I. 9); Article 11 was amended by paragraph 1(1)(d) of Schedule 6 to the Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1).
(**b**) S.R. 2005 No. 580
(**c**) Article 2 was amended by paragraph 1(1)(d) of Schedule 6 to the Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1).
(**d**) 1947 c.19
(**e**) State pension credit under the State Pension Credit Act (Northern Ireland) 2002 c.14.
(**f**) Universal credit under Part 2 of the Welfare Reform (Northern Ireland) Order 2015.
(**g**) S.I. 1998/1506 (N.I. 10); Articles 10 and 11 were amended by Part 7 of Schedule 12 to the Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006 (N.I. 1).
(**h**) S.R. 1987 No. 465
(**i**) Paragraph (6A) was inserted by regulation 2(2)(b) of S.R. 2003 No. 317 and amended by S.R. 2007 No. 467. Sub-paragraph (a)(ii) was amended by S.R. 2005 No. 299 and S.R 2015 No. 411.
(**j**) Regulation 35(2) was amended by S.R. 2002 No. 327, S.R. 2005 No. 536, S.R. 2008 No. 286 and S.R. 2010 No. 103.

Revocations

7.—(1) The Regulations and Orders 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)"; and

(b) Schedule 1.

Sealed with the Official Seal of the Department for Communities on 9th September 2024.

(L.S.)

David Tarr
A senior officer of the Department for Communities

SCHEDULES

SCHEDULE 1

Regulation 2(3)(a)

Countries

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 and Orders revoked

Regulations and Orders revoked	Reference	Extent of revocation
The Social Fund Winter Fuel Payment Regulations (Northern Ireland) 2000	S.R. 2000 No. 91	The whole regulations
The Social Fund (Winter Fuel Payment and Maternity and Funeral Expenses (General)) (Amendment) Regulations (Northern Ireland) 2000	S.R. 2000 No. 259	Regulation 2
The Social Fund Winter Fuel Payment (Amendment) Regulations (Northern Ireland) 2000	S.R. 2000 No. 321	The whole regulations
The Social Fund Winter Fuel Payment (Temporary Increase) Regulations (Northern Ireland) 2000	S.R. 2000 No. 340	The whole regulations
The Social Fund Winter Fuel Payment (Amendment) Regulations (Northern Ireland) 2001	S.R. 2001 No. 373	The whole regulations
The Social Security (Claims and Payments and Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 2002	S.R. 2002 No. 327	Regulation 3
The Social Fund Winter Fuel Payment (Amendment) Regulations (Northern Ireland) 2003	S.R. 2003 No. 349	The whole regulations
The Social Fund Winter Fuel Payment (Amendment No. 2) Regulations (Northern	S.R. 2003 No. 389	The whole regulations

Ireland) 2003		
The Social Fund Winter Fuel Payment (Amendment) Regulations (Northern Ireland) 2004	S.R. 2004 No. 354	The whole regulations
The Social Security (Residential Care Homes, Nursing Homes and Independent Hospitals) Regulations (Northern Ireland) 2005	S.R. 2005 No. 458	Regulation 10
The Social Security (Hospital In-Patients) Regulations (Northern Ireland) 2005	S.R. 2005 No. 580	Regulation 6
The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order (Northern Ireland) 2005	S.R. 2005 No. 536	Paragraph 26 of Schedule 3
The Employment and Support Allowance (Consequential Provisions) Regulations (Northern Ireland) 2008	S.R. 2008 No. 286	Regulation 24
The Social Security (Equalisation of State Pension Age) Regulations (Northern Ireland) 2010	S.R. 2010 No. 103	Regulation 6
The Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2012	S.R. 2012 No. 121	Regulation 16
The Social Fund Winter Fuel Payment (Amendment) Regulations (Northern Ireland) 2013	S.R. 2013 No. 191	The whole regulations
The Social Fund Winter Fuel Payment (Amendment) Regulations (Northern Ireland) 2015	S.R. 2015 No. 216	The whole regulations
The Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2015	S.R. 2015 No. 34	Regulation 4
The Social Security (Reciprocal Agreements) (Miscellaneous Amendments) Regulations (Northern Ireland) 2021	S.R. 2021 No. 207	Regulation 2
The Social Fund Winter Fuel Payment (Temporary Increase) Regulations (Northern Ireland) 2023	S.R. 2023 No. 85	The whole regulations

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations require the Department 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 Northern Ireland 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 Department 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 Department 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 winter fuel payment by 31 March following the qualifying week.

There are exceptions to the requirements to make a claim for a winter fuel payment. The first exception applies if the Department 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 Department 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 (Northern Ireland) 2000 (S.R. 2000 No. 91) 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.

These Regulations make in relation to Northern Ireland only provision corresponding to provision contained in Regulations made by the Secretary of State for Work and Pensions in relation to Great Britain and accordingly, by virtue of section 150(1)(a) 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.

A full impact assessment has not been produced for this instrument as it has no impact on the private or voluntary sectors.

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