Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Bereavement Support Payment (No. 2) Regulations (Northern Ireland) 2019. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY RULES OF NORTHERN IRELAND

2019 No. 181

SOCIAL SECURITY

The Bereavement Support Payment (No. 2) Regulations (Northern Ireland) 2019

Made - - - -	*11th September 2019*
Coming into operation	*29th September 2019*

The Department for Communities makes the following Regulations in exercise of the powers conferred by sections 29(1)(c), (2), (3), (4)(a) and (7), 31(1) and (3), and 51(6) of the Pensions Act (Northern Ireland) 2015 [F1].

F1 2015 c.5 (N.I.). See section 1(7) of the Departments Act (Northern Ireland) 2016 (c.5 (N.I.))

Citation and commencement

1. These Regulations may be cited as the Bereavement Support Payment (No. 2) Regulations (Northern Ireland) 2019 and come into operation on the 29th September 2019.

Period for which bereavement support payment is payable

2.—(1) The period for which bereavement support payment is payable is as follows.

(2) The period starts—

(a) on the date the person's spouse or civil partner died, where the person claims the payment three months or less after that date; or

(b) at the beginning of the period of three months preceding the date the person claims the payment, where the person claims the payment—

(i) more than three months after the date the person's spouse or civil partner died; and

(ii) no more than three months after the date the period finishes under paragraph (3).

(3) The period finishes at the end of the period of 18 months beginning with the day after the date the person's spouse or civil partner died.

Rate of bereavement support payment

3.—(1) The higher rate of bereavement support payment is £350 for each monthly recurrence of the day of the month on which the person's spouse or civil partner died during the period for which bereavement support payment is payable (see regulation 2).

(2) Where the person claims bereavement support payment 12 months or less after the date their spouse or civil partner died, the higher rate of bereavement support payment is £3,500 for the first month of the period for which bereavement support payment is payable.

(3) Any higher rate mentioned in paragraph (2) is in addition to any higher rate mentioned in paragraph (1).

(4) The standard rate of bereavement support payment is £100 for each monthly recurrence of the day of the month on which the person's spouse or civil partner died during the period for which bereavement support payment is payable.

(5) Where the person claims bereavement support payment 12 months or less after the date their spouse or civil partner died, the standard rate of bereavement support payment is £2,500 for the first month of the period for which bereavement support payment is payable.

(6) Any standard rate mentioned in paragraph (5) is in addition to any standard rate mentioned in paragraph (4).

(7) Where a person's spouse or civil partner died on the 31st day of a month, the monthly recurrence of the day of death is to be treated for the purposes of paragraphs (1) and (4) as falling on the last day of the month.

(8) Where a person's spouse or civil partner died on the 29th or 30th day of a month, the monthly recurrence of the day of death in February is to be treated for those purposes as falling on the last day of February.

Modifications etc. (not altering text)

C1 Reg. 3 sums confirmed (6.4.2020) by The Social Security Benefits Up-rating Order (Northern Ireland) 2020 (S.R. 2020/40), arts. 1(1)(c), **20**

Persons entitled to the higher rate of bereavement support payment

4.—(1) A person falling within any of paragraphs (2) to (4) is entitled to the higher rate of bereavement support payment under regulation 3(1) to (3).

(2) A person who was pregnant when their spouse or civil partner died.

(3) A person who was entitled to child benefit under section 137 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (child benefit) [F2] when their spouse or civil partner died.

(4) A person who, after their spouse or civil partner died, becomes entitled to child benefit under section 137 of that Act for a child or qualifying young person who was residing with the person or their deceased spouse or civil partner immediately before the spouse or civil partner died.

(5) Paragraph (4) applies to a person whether or not they later cease to be entitled to child benefit for that child or qualifying young person.

(6) In this regulation, "child" and "qualifying young person" have the same meaning as in section 138 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 [F3] (definitions of "child" and "qualifying young person")

F2 1992 c. 7; section 137 was amended by section 2 of the Child Benefit Act 2005 (c.6)

F3 Section 138(2) was substituted by section 2(2) of the Child Benefit Act 2005

Persons entitled to the standard rate of bereavement support payment

5. A person is entitled to the standard rate of bereavement support payment under regulation 3(4) to (6) if they are not entitled to the higher rate of bereavement support payment.

Prisoners who are not to be paid bereavement support payment

6.—(1) Subject to regulation 7, a person is not to be paid a bereavement support payment for any period during which the person is a prisoner [F4].

(2) Except where paragraph (3) applies, a person is a prisoner for the purposes of paragraph (1) where the person is—

(a) a prisoner in Northern Ireland or elsewhere who is imprisoned or detained in legal custody in connection with, or as a result of, criminal proceedings;

(b) a prisoner in Northern Ireland or elsewhere who is unlawfully at large;

(c) a prisoner in Northern Ireland who is being detained—

(i) under Article 53 of the Mental Health (Northern Ireland) Order 1986 (removal to hospital of persons serving sentences of imprisonment, etc.) [F5]; and

(ii) on or before the day which the Minister of Justice certifies to be the person's release date (if any) within the meaning of Article 56(3) of that Order (further provisions as to prisoners under sentence).

(3) Where a person outside Northern Ireland is a prisoner within paragraph (2)(a) or (b) and, in similar circumstances in Northern Ireland, the person would not have been a prisoner, the person is not a prisoner within paragraph (2)(a) or (b).

F4 See section 31(2) of the Pensions Act (Northern Ireland) 2015
F5 S.I. 1986/595 (NI 4)

Paying bereavement support payment to persons who are remanded in custody

7.—(1) Where a person is remanded in custody for an offence, regulation 6(1) does not apply unless a sentence described in paragraph (2) is later imposed on the person for the offence.

(2) Subject to paragraph (3), the sentences described for the purposes of paragraph (1) are—

(a) a sentence of imprisonment or detention in legal custody as a result of criminal proceedings;

(b) a sentence of detention where the provision mentioned in regulation 6(2)(c)(i) applies;

(c) a suspended sentence within the meaning in section 18 of the Treatment of Offenders Act (Northern Ireland) 1968 [F6](suspended sentences of imprisonment).

(3) A sentence described in paragraph (2)(a) which is imposed outside Northern Ireland is not a sentence described for the purposes of paragraph (1) if, in similar circumstances in Northern Ireland, a sentence described in paragraph (2)(a) would not have been imposed.

F6 1968 c. 29 (N.I.); section 18 was amended by Article 9(1) of the Treatment of Offenders (Northern Ireland) Order 1989 (S.I. 1989/1344 (N.I. 15))

Territory in which a person may be entitled to bereavement support payment

8. For the purposes section 29(1)(c) of the Pensions Act (Northern Ireland) 2015 (bereavement support payment), the territory specified is any part of the Channel Islands which is not subject to