STATUTORY RULES OF NORTHERN IRELAND

2017 No. 35

SOCIAL SECURITY

The Housing Benefit (Welfare Supplementary Payment) Regulations (Northern Ireland) 2017

Laid before the Assembly in draft

Made - - - - 26th January 2017

Coming into operation 20th February 2017

The Department for Communities makes the following Regulations in exercise of the powers conferred on it by Article 137A of the Welfare Reform (Northern Ireland) Order 2015(**1**).

In accordance with Article 137A(9) of that Order, a draft of these Regulations was laid before, and approved by a resolution of, the Assembly.

In accordance with Article 137A(10) of that Order, the Department consulted the Northern Ireland Housing Executive, as a statutory body on which these Regulations impose functions, before making these Regulations.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Housing Benefit (Welfare Supplementary Payment) Regulations (Northern Ireland) 2017.

(2) These Regulations come into operation on 20th February 2017.

(3) In these Regulations—

"housing benefit" means housing benefit in the form of a rent rebate or rent allowance;

"the Housing Executive" means the Northern Ireland Housing Executive;

"registered housing association" means a housing association which is registered under Part 2 of the Housing (Northern Ireland) Order 1992(**2**).

(**1**) S.I. 2015/2006 (N.I. 1). Article 137A was inserted by Article 19 of S.I. 2016/999 (N.I. 1). Under section 1(7) of the Departments (Northern Ireland) Act 2016, the Department for Social Development, on which the enabling power for these Regulations was conferred, was renamed the Department for Communities.

(**2**) S.I. 1992/1725 (N.I. 15).

Eligibility

2.—(1) A person is entitled to a payment known as a "welfare supplementary payment" if the person qualifies under Article 137A(3) of the Welfare Reform (Northern Ireland) Order 2015 (case where person is affected by social sector size criteria in calculation of housing benefit).

(2) But a person's entitlement to a welfare supplementary payment ceases, even though the person continues to be entitled to housing benefit, if—

(a) the person moves to a dwelling the landlord of which is either the Housing Executive or a registered housing association, and

(b) the number of bedrooms in that dwelling exceeds the permitted number of bedrooms by at least the same number as the number of bedrooms in the dwelling from which the person moved exceeded the permitted number immediately before the move.

(3) The exception under paragraph (2) does not apply if the dwelling is allocated to the person because he or she has the status commonly known as "Management Transfer status" in accordance with the scheme for the time being approved by the Department under Article 22 of the Housing (Northern Ireland) Order 1981(**3**).

(4) In paragraph (2)(b), "the permitted number", in relation to a person, means the number of bedrooms to which the person is entitled under the Housing Benefit Regulations at the time concerned.

(5) Payments of welfare supplementary payment are to be made without the need for a claim to be made.

(6) In the Discretionary Support Regulations (Northern Ireland) 2016(**4**)—

(a) in Schedule 3 (sums to disregard in calculating annual income threshold), at the end insert—

"**40.** Any payment arising as a result of the Housing Benefit (Welfare Supplementary Payment) Regulations (Northern Ireland) 2017.", and

(b) in Schedule 4 (capital to be disregarded) , at the end insert—

"**17.** Any payment arising as a result of the Housing Benefit (Welfare Supplementary Payment) Regulations (Northern Ireland) 2017.".

Amount

3.—(1) The amount of a welfare supplementary payment to which a person is entitled is the difference between—

(a) the housing benefit to which the person would be entitled but for the reduction under regulation B14(2)(b) of the Housing Benefit Regulations, and

(b) the housing benefit (if any) to which the person is entitled after that reduction.

(2) Accordingly, where there is a variation in the amount by which the housing benefit is reduced as mentioned in paragraph (1), the amount of the welfare supplementary payment to which the person is entitled is varied by the same amount.

Period of payment

4.—(1) Payments of welfare supplementary payment must be made at intervals of four weeks (or as soon as is reasonably practicable after that) in arrears.

(**3**) S.I. 1981 No. 156 (N.I. 3). Relevant amendments to Article 22 have been made by S.I. 1992 No. 1725 (N.I. 15) and S.I. 2003/412 (N.I. 2).
(**4**) S.R. 2016 No. 270.

(2) A person's entitlement to a welfare supplementary payment begins on the date on which there is a determination under regulation B14(2) of the Housing Benefit Regulations in that person's case.

Recipient

5. The payments of welfare supplementary payment to which a person is entitled are to be made—

(a) to the person's landlord, or

(b) if the payments of housing benefit to which the person is entitled are made direct to that person or to another person on his or her behalf by virtue of regulation 91(2) or (3) of the Housing Benefit Regulations, direct to that person or the other person, as the case may be.

Change of circumstances

6. A person who is entitled to a welfare supplementary payment must notify the Housing Executive of any change of circumstances of which the person would be required to notify the Housing Executive under regulation 84 of the Housing Benefit Regulations.

Disclosure

7.—(1) Information which relates to claimants for housing benefit or to the amounts paid and which is held by the Housing Executive or a registered housing association, or a person providing services to the body in question in connection with the provision of those services, may be supplied to the Department for use by it in connection with—

(a) determining entitlement to a welfare supplementary payment and the amount to which a person is entitled, or

(b) the administration of welfare supplementary payments.

(2) The reference in paragraph (1) to information relating to claimants for housing benefit includes a reference to information relating to whether a claimant has the status commonly known as "Management Transfer status" as referred to in regulation 2(3).

(3) The reference in paragraph (1) to information relating to the amounts of housing benefit paid includes a reference to information relating to investigations of whether an overpayment has been made, recovery of overpayments or appeals against decisions relating to overpayments.

(4) Information which relates to entitlement to a welfare supplementary payment, to the amount to which a person is entitled or to the administration of welfare supplementary payments and which is held by the Department, or a person providing services to it in connection with the provision of those services, may be supplied—

(a) to the Housing Executive or a registered housing association for use by it in connection with the management of tenants' accounts;

(b) to a body which appears to the Department to represent housing associations in Northern Ireland for the supply by it to the Housing Executive or a registered housing association for the use referred to in sub-paragraph (a).

Recovery of overpayment: circumstances

8.—(1) The Department may recover an amount of a welfare supplementary payment paid in excess of entitlement (an "overpayment") in each of the following four cases.

(2) The first case is where the overpayment is made in consequence of a misrepresentation of or failure to disclose a material fact made, whether fraudulently or otherwise, in connection with the claim for housing benefit to which the welfare supplementary payment relates.

(3) In the first case, recovery may be made from—

(a) the landlord of the claimant for housing benefit, and

(b) the claimant, and

(c) if the claimant has a partner, the claimant's partner, and

(d) if the person who made the misrepresentation or failed to make the disclosure was a person other than the claimant or the claimant's partner, that other person.

(4) The second case is where the overpayment is made in consequence of—

(a) a failure to notify a relevant change of circumstances under regulation 6 above or under regulation 84 of the Housing Benefit Regulations in connection with the claim for housing benefit to which the welfare supplementary payment relates, or

(b) giving either of those notifications only after an unreasonable delay.

(5) In the second case, recovery may be made from—

(a) the landlord of the claimant for housing benefit, and

(b) the claimant, and

(c) if the claimant has a partner, the claimant's partner, and

(d) if the person who failed to give the notification or did so only after an unreasonable delay was a person other than the claimant or the claimant's partner, that other person.

(6) The third case is where the overpayment is made in consequence of a mistake, whether in the form of an act or omission, by the Housing Executive or the Department or by an officer of the body in question or a person providing services to it.

(7) In the third case, recovery may be made from—

(a) the landlord of the claimant for housing benefit, and

(b) the person to whom the overpayment was made, and

(c) if that person is the claimant for housing benefit and has a partner, that person's partner.

(8) The fourth case is where the overpayment is made in consequence of—

(a) an increase in the amount of an award of housing benefit on an appeal against the amount of the award, and

(b) the making of a payment of welfare supplementary payment pending that appeal.

(9) In the fourth case, recovery may be made from—

(a) the landlord of the claimant for housing benefit,

(b) the claimant and, if the claimant has a partner, the claimant's partner, and

(c) if the overpayment was made to another person on behalf of the claimant, that other person.

(10) In the first or second case, recovery may be made whether or not a right of appeal was exercisable in respect of housing benefit to which the entitlement to the welfare supplementary payment relates.

(11) "Partner" has the same meaning as in the Housing Benefit Regulations; and, accordingly, if the claimant is a member of a polygamous marriage, a reference to the claimant's partner is a reference to any of his or her partners.

Recovery of overpayment: methods

9.—(1) An amount recoverable under regulation 8 may be recovered—

(a) by means of deduction of certain welfare supplementary payments under regulation 10,

(b) in so far as the outstanding amount is not recovered under regulation 10, by means of deduction from benefits under regulation 11,

(c) in so far as the outstanding amount is not recovered under regulations 10 and 11, by means of deduction from earnings under regulation 12, and

(d) in so far as the outstanding amount is not recovered under regulations 10, 11 and 12, by means of action taken in court under regulation 13.

(2) In this regulation and in regulations 10 to 13, "the outstanding amount" means, in relation to an amount which is recoverable under regulation 8, the amount which for the time being remains to be recovered.

Recovery of overpayment: deduction from certain welfare supplementary payments

10.—(1) The Department may, in the case of a person from whom an amount is recoverable under regulation 8, recover the outstanding amount by making deductions from—

(a) such amounts of welfare supplementary payment as are still to be paid in that person's case, and

(b) in so far as the outstanding amount is not recovered by using the method under sub-paragraph (a), such amounts of any relevant payment as are still to be paid in that person's case.

(2) When acting under paragraph (1) in a case where the outstanding amount is less than the total of the amounts referred to in sub-paragraph (a) or (b) (as the case may be), the Department must continue to pay the amounts in question until that total is equal to the outstanding amount.

(3) "Relevant payment" means a payment under—

(a) the Welfare Supplementary Payments Regulations (Northern Ireland) 2016(**5**),

(b) the Welfare Supplementary Payment (Loss of Disability Living Allowance) Regulations (Northern Ireland) 2016(**6**),

(c) the Welfare Supplementary Payment (Loss of Carer Payments) Regulations 2016(**7**), or

(d) the Welfare Supplementary Payment (Loss of Disability-Related Premiums) Regulations (Northern Ireland) 2016(**8**).

Recovery of overpayment: deduction from benefits

11.—(1) The Department may, in the case of a person from whom an amount is recoverable under regulation 8, recover the outstanding amount (subject to regulation 9(1)(b)) by making deductions from such amounts as are payable by way of relevant benefit in that person's case.

(2) Each of the benefits listed in Schedule 1 is a "relevant benefit".

(3) In the case of a relevant benefit which is income-related, a deduction under this regulation may, for any week for which the benefit is payable in that person's case, be made at a rate of not more than 3 times 5% of the relevant personal allowance (see paragraph (6)).

(4) In the case of a relevant benefit which is not income-related, a deduction under this regulation may, for any week for which the benefit is payable in that person's case, be made at a rate of not more than one-third of the amount of the benefit that is applicable to that person.

(5) Each of the following relevant benefits is "income-related"—

(a) income support;

(b) income-based jobseeker's allowance;

(**5**) S.R. 2016 No. 178.
(**6**) S.R. 2016 No. 250.
(**7**) S.R. 2016 No. 253.
(**8**) S.R. 2016 No. 254.