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STATUTORY RULES OF NORTHERN IRELAND

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**2016 No. 254**

**WELFARE**

**The Welfare Supplementary Payment (Loss of Disability-Related Premiums) Regulations (Northern Ireland) 2016**

*Made* - - - - *29th June 2016*

*Coming into operation* *20th July 2016*

The Department for Communities makes the following Regulations in exercise of the powers conferred on it by Article 137 of the Welfare Reform (Northern Ireland) Order 2015 <sup>F1</sup> and now vested in it <sup>F2</sup>.

In accordance with Article 137(5) of that Order, a draft of these Regulations has been laid before and approved by a resolution of the Assembly.

**F1** [S.I. 2015/2006 \(N.I.\)](#)

**F2** [See Article 8\(b\) of S.R. 1999 No. 481 and section 1\(7\) of the Departments Act \(Northern Ireland\) 2016 \(c.5 \(N.I.\)\)](#)

**PART 1**

Introduction

**Citation and commencement**

1.—(1) These Regulations may be cited as the Welfare Supplementary Payment (Loss of Disability-Related Premiums) Regulations (Northern Ireland) 2016.

(2) These Regulations come into operation on 20th July 2016.

**Interpretation**

2.—(1) In these Regulations—

“the 1998 Order” means the Social Security (Northern Ireland) Order 1998 <sup>F3</sup>;

“the 2015 Order” means the Welfare Reform (Northern Ireland) Order 2015;

“the Transitional Provisions Regulations” means the Personal Independence Payment (Transitional Provisions) Regulations (Northern Ireland) 2016 <sup>F4</sup>.

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to *The Welfare Supplementary Payment (Loss of Disability-Related Premiums) Regulations (Northern Ireland) 2016*. 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](#)

“appeal tribunal” means the appeal tribunal constituted under Chapter 1 of Part II of the 1998 Order;

“award” in relation to disability living allowance, means the award having effect immediately prior to its termination under regulation 17(1) of the Transitional Provisions Regulations;

“Commissioner” means the Chief Social Security Commissioner or any other Social Security Commissioner and includes a tribunal of 2 or more Commissioners constituted under Article 16(7) of the 1998 Order;

“couple” (except in regulation 28(7)) has the same meaning as in Article 45 of the 2015 Order;

“decision notice” means the decision notice under regulation 53(3) of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 <sup>F5</sup>.

“disability living allowance” means disability living allowance under section 71 of the Contributions and Benefits Act <sup>F6</sup>;

“income support” means income support under section 122 of the Contributions and Benefits Act;

“transfer claimant” has the same meaning as in the Transitional Provisions Regulations;

“transitional assessment determination” means the determination, under regulation 4 of the Personal Independence Payment Regulations (Northern Ireland) 2016 <sup>F7</sup> of a claim for personal independence payment made by a transfer claimant;

[<sup>F8</sup>“welfare benefit” has the same meaning as in Article 101(7) of the 2015 Order;]

- (2) The transition date is the date on which—
- (a) the Department sends a notification to the person in accordance with regulation 3(1) of the Transitional Provisions Regulations inviting the person to make a claim for personal independence payment; or
  - (b) the person makes a claim for personal independence payment in accordance with regulation 4 of the Transitional Provisions Regulations.

**F3** [S.I. 1998/1506 \(N.I. 10\)](#)

**F4** [S.R. 2016 No. 277](#)

**F5** [S.R. 1999 No. 162](#); regulation 53(3) was amended by regulation 6(15)(a) of [S.R. 2000 No. 215](#) and regulation 7(10)(a) of [S.R. 2005 No.46](#)

**F6** [1992 c. 7](#); section 71 was amended by Article 64(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/ 3147 (N.I. 11))

**F7** [S.R. 2016 No. 217](#)

**F8** Words in reg. 2(1) inserted (6.2.2017) by [The Welfare Supplementary Payment \(Amendment\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/28\)](#), regs. 1(2), **31**

## Welfare supplementary payment

3.—(1) Welfare supplementary payment is payable in accordance with these Regulations.

(2) Welfare supplementary payment is payable on the transition from disability living allowance to personal independence payment under—

- (a) Part 2 (for loss of disability-related premiums for income support claimants),
- (b) Part 3 (for loss of disability-related premiums for jobseeker's allowance claimants),
- (c) Part 4 (for loss of disability-related premiums for employment and support allowance claimants),
- (d) Part 5 (for loss of disability-related element of working tax credit),

(e) Part 6 (for loss of severe disability component of state pension credit).

(3) But a person is not entitled to more than one welfare supplementary payment under these Regulations at a time.

## PART 2

### Welfare Supplementary Payment for loss of Disability-Related Premium on transition from Disability Living Allowance to Personal Independence Payment (Income Support claimants)

#### Eligibility

4.—(1) A person is entitled to welfare supplementary payment under this Part if the person meets—

- (a) the IS entitlement condition,
- (b) the disability-related premium entitlement condition,
- (c) the PIP refusal condition, and
- (d) the termination of disability-related premium condition.

(2) The IS entitlement condition is that the person is in receipt of income support on the transition date.

(3) The disability-related premium entitlement condition is that the person is in receipt of disability-related premium on the transition date.

(4) In this Part disability-related premium means—

- (a) disability premium under paragraph 11,
- (b) severe disability premium under paragraph 13, or
- (c) enhanced disability premium under paragraph 13A,

of Schedule 2 to the Income Support (General) Regulations (Northern Ireland) 1987<sup>F9</sup>.

(5) The PIP refusal condition is that following a transitional assessment determination, the person is refused personal independence payment, or the component of personal independence payment, that is a condition for entitlement to disability-related premium.

(6) The termination of disability-related premium condition is that, in consequence of the PIP refusal condition, the decision of the Department to award disability-related premium is superseded by a decision to not award disability-related premium.

**F9** S.R.1987 No. 459; relevant amending instruments are S.R. 1988 No. 146, S.R. 1992 No. 6, S.R. 1993 No. 218, S.R. 1993 No. 373, S.R. 1994 No. 327, S.R. 1994 No. 474, S.R. 2000 No. 74, S.R. 2000 No. 367, S.R. 2002 No. 80, S.R. 2002 No. 323, S.R. 2003 No. 191, S.R. 2003 No. 195, S.R. 2003 No. 413, S.R. 2007 No. 154, S.R. 2010 No. 103, S.R. 2011 No. 135, S.R. 2011 No. 291, S.R. 2011 No. 357, S.I. 2013/3021 and S.R. 2014 No. 275

#### Eligibility (couples: disability premium and enhanced disability premium)

5.—(1) A person (A) is entitled to welfare supplementary payment under this Part if—

- (a) A is a member of a couple with another person (B),
- (b) A meets the IS entitlement condition,

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- (c) A meets the disability-related premium entitlement condition in respect of disability premium or enhanced disability premium,
  - (d) A or B meet the PIP refusal condition, and
  - (e) A meets the termination of disability-related premium condition.
- (2) The IS entitlement condition is that the person is in receipt of income support on the transition date.
- (3) The disability-related premium entitlement condition in respect of disability premium or enhanced disability premium is that the person is in receipt of—
- (a) disability premium under paragraph 11,
  - (b) enhanced disability premium under paragraph 13A,
- of Schedule 2 to the Income Support (General) Regulations (Northern Ireland) 1987, on the transition date.
- (4) The PIP refusal condition is that following a transitional assessment determination, the person is refused personal independence payment, or the component of personal independence payment, that is a condition for entitlement to disability-related premium.
- (5) The termination of disability-related premium condition is that, in consequence of the PIP refusal condition, the decision of the Department to award disability-related premium is superseded by a decision to not award disability-related premium.

#### **Eligibility (couples: severe disability premium)**

- 6.—(1) A person (A) is entitled to welfare supplementary payment under this Part if—
- (a) A is a member of a couple with another person (B),
  - (b) A meets the IS entitlement condition,
  - (c) A meets the disability-related premium entitlement condition in respect of severe disability premium,
  - (d) A or B meet the PIP refusal condition (but this is subject to paragraph (6)), and
  - (e) A meets the termination of disability-related premium condition.
- (2) The IS entitlement condition is that the person is in receipt of income support on the transition date.
- (3) The disability-related premium entitlement condition in respect of severe disability premium is that the person is in receipt of severe disability premium under paragraph 13 of Schedule 2 to the Income Support (General) Regulations (Northern Ireland) 1987 on the transition date.
- (4) The PIP refusal condition is that following a transitional assessment determination, the person is refused personal independence payment, or the component of personal independence payment, that is a condition for entitlement to disability-related premium.
- (5) The termination of disability-related premium condition is that, in consequence of the PIP refusal condition, the decision of the Department to award disability-related premium is superseded by a decision to not award disability-related premium.
- (6) Paragraph (8) applies where—
- (a) A does not meet the PIP refusal condition,
  - (b) B meets the PIP refusal condition, and
  - (c) B meets the blind condition on the transition date.
- (7) The blind condition is that the person is certified as severely sight impaired or blind by a consultant ophthalmologist.

(8) Where this paragraph applies, the termination of disability-related premium condition is met if, in consequence of the matters set out in paragraph (6), the decision of the Department to award severe disability premium at a higher rate is superseded by a decision of the Department to award severe disability premium at a lower rate.

### **Amount**

7.—(1) The amount of welfare supplementary payment payable is equal to the disability-related premium which was payable to the person on the date entitlement to the premium is lost.

(2) Where regulation 6(8) applies, the amount of welfare supplementary payment payable is equal to the difference between the severe disability premium payable at the higher rate and the severe disability premium payable at the lower rate.

### **Period of payment**

8.—(1) Welfare supplementary payment must be paid at intervals of four weeks (or as soon as is reasonably practicable after that) in arrears.

(2) The period during which welfare supplementary payment is payable commences on the day following the day on which the person's entitlement to disability-related premium terminates.

(3) The period during which welfare supplementary payment is payable ends—

- (a) one year after the day on which it commences, or
- (b) on 31st March 2020,

whichever is first to occur.

### **Effect of loss of income support**

9.—(1) Welfare supplementary payment must cease to be paid from the end of the week in which the conditions for payment of income support cease to be met in relation to the person.

(2) But this is subject to the provisions in Part 7 on temporary cessation of underlying benefits.

### **Termination of payment on award of disability-related premium**

10.—(1) Welfare supplementary payment must cease to be paid to a person from the date the person is entitled to disability-related premium.

(2) The entitlement to disability-related premium must arise out of—

- (a) a new award of disability-related premium,
- (b) a revision under Article 10 of the 1998 Order,
- (c) a supersession of a previous decision under Article 11 of the 1998 Order, or
- (d) an appeal under Article 13 of the 1998 Order.