Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Welfare Supplementary Payment (Loss of Carer Payments) 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*

STATUTORY RULES OF NORTHERN IRELAND

2016 No. 253

WELFARE

The Welfare Supplementary Payment (Loss of Carer Payments) 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 [F1] and now vested in it [F2].

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. 1)
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 Carer Payments) 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 [F3],

"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 [F4],

"caree" means a person being cared for on the transition date,

[F5"couple" has the same meaning as in Article 45 of the Welfare Reform (Northern Ireland) Order 2015,".**]**

"disability living allowance" means disability living allowance under section 71 of the Contributions and Benefits Act F6,

"transitional assessment determination" means the determination, under regulation 4 of the Personal Independence Payment Regulations (Northern Ireland) 2016 F7 of a claim for personal independence payment made by a transfer claimant,

"transfer claimant" has the same meaning as in the Transitional Provisions Regulations,

"the Transitional Provisions Regulations" means the Personal Independence Payment (Transitional Provisions) Regulations (Northern Ireland) 2016.

(2) The transition date is the date on which—

(a) the Department sends a notification to the caree, in accordance with regulation 3(1) of the Transitional Provisions Regulations, inviting the caree to make a claim for personal independence payment, or

(b) the caree 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. 227
F5 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), **38**
F6 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

Welfare supplementary payments

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

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

(a) Part 2 (as a result of loss of carer's allowance),

(b) Part 3 (as a result of loss of carer premium),

(c) Part 4 (as a result of loss of income support for carers),

(d) Part 5 (as a result of loss of additional amount in respect of carers under state pension credit).

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

[F8(4) If a person satisfies the criteria for entitlement to welfare supplementary payment under both Part 2 and Part 3, then only entitlement under Part 3 is to be applied.

(5) If a person satisfies the criteria for entitlement to welfare supplementary payment under Part 2, Part 3 and Part 4, then only entitlement under Part 4 is to be applied.

(6) If a person satisfies the criteria for entitlement to welfare supplementary payment under Part 5 and any other Part, then only entitlement under Part 5 is to be applied.**]**

F8 Reg. 3(4)-(6) inserted (6.2.2017) by The Welfare Supplementary Payment (Amendment) Regulations (Northern Ireland) 2017 (S.R. 2017/28), regs. 1(2), **39**

PART 2

Welfare Supplementary Payment as a result of loss of Carer's Allowance on caree's transition from Disability Living Allowance to Personal Independence Payment

Eligibility

4.—(1) A person is entitled to welfare supplementary payment under this Part if the following conditions are met—

(a) the carer's allowance entitlement condition,

(b) the PIP daily living component refusal condition, and

(c) the termination of carer's allowance condition.

(2) The carer's allowance entitlement condition is that a person is in receipt of carer's allowance under section 70 of the Contributions and Benefits Act [F9], in respect of a caree, on the transition date.

(3) The PIP daily living component refusal condition is that following a transitional assessment determination the caree is not awarded the daily living component of personal independence payment.

(4) The termination of carer's allowance condition is that, in consequence of the PIP daily living component refusal condition, the decision of the Department to award carer's allowance is superseded by a decision of the Department to not award carer's allowance.

F9 Section 70 was amended by regulations 2(2) and 3 of S.R. 2002 No. 321, **regulation 2(3)** of S.R. 2011 No. 356 and is amended by regulation 5(2) of S.R. 2016 No. 228

Amount

5.—(1) Where a person is entitled to a contributory benefit, the amount of welfare supplementary payment payable is given by the formula—

$$WSP = CA - CB$$

where —
WSP is welfare supplementary payment,
CA is the carer's allowance payable to the person on the date entitlement to the allowance is lost, and
CB is the amount of contributory benefit payable to the person.

(2) Where the contributory benefit is greater than the carer's allowance, then no welfare supplementary payment is payable.

(3) Where a person is not entitled to contributory benefit, the amount of welfare supplementary payment payable is given by the formula—

$$WSP = CA$$

where —
WSP is welfare supplementary payment, and
CA is the carer's allowance payable to the person on the date entitlement to the allowance is lost.

(4) In this regulation contributory benefit means—

(a) contributory benefit within the meaning of Part 2 of the Contributions and Benefits Act,

(b) employment and support allowance under section 1(2)(a) of the Welfare Reform Act (Northern Ireland) 2007 [F10], or

(c) a contribution-based jobseeker's allowance within the meaning of Article 3 of the Jobseekers (Northern Ireland) Order 1995 [F11].

F10 2007 c.2 (N.I.)

F11 S.I. 1995/2705 (N.I. 15); Article 3 was amended by paragraph 3 of Schedule 7 to S.I. 1999/3147 (N.I. 11), **paragraph 131** of Schedule 24 to the Civil Partnership Act 2004 (c. 33) and paragraph 6(3) of Schedule 3 to the Welfare Reform Act (Northern Ireland) 2007 (c. 2 (N.I.))

[F12Change in the amount of contributory benefit

5A.—(1) This regulation applies if there is a change in the amount of contributory benefit (within the meaning of regulation 5) that a person is entitled to.

(2) The amount of welfare supplementary payment the person is entitled to must be recalculated in accordance with the provisions set out in regulation 5.

(3) The effective date of the change in the amount of contributory benefit, for the purposes of calculating the person's entitlement to welfare supplementary payment, is the date on which the change in the person's award of contributory benefit takes effect.**]**

F12 Reg. 5A inserted (6.2.2017) by The Welfare Supplementary Payment (Amendment) Regulations (Northern Ireland) 2017 (S.R. 2017/28), regs. 1(2), **40**

Period of payment

6.—(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 carer's allowance 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.

Termination of payment on award of carer's allowance

7.—(1) Welfare supplementary payment must cease to be paid to a person from the date the person is entitled to carer's allowance.

(2) The entitlement to carer's allowance must arise out of—

(a) a new claim for carer's allowance,

(b) a revision under Article 10 of the 1998 Order,

(c) a supersession of a previous decision under Article 11 of the 1998 Order [F13], or

(d) an appeal under Article 13 of the 1998 Order [F14].

F13 Article 11 was amended by paragraph 17 of Schedule 6 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999

F14 Article 13 was amended by paragraph 19 of Schedule 6 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671), **Article 4(2)** of S.I. 2014/886 and Articles 107(2), (3) and (4) and 109(6) of the Welfare Reform (Northern Ireland) Order 2015

PART 3

Welfare Supplementary Payment as a result of loss of Carer Premium on caree's transition from Disability Living Allowance to Personal Independence Payment

Eligibility

8.—(1) A person is entitled to welfare supplementary payment under this Part if the following conditions are met—

(a) the carer premium entitlement condition,

(b) the PIP daily living component refusal condition,

(c) the termination of carer's allowance condition, and

(d) the termination of carer premium condition.

(2) The carer premium entitlement condition is that a person is in receipt of carer premium under—

(a) paragraph 17 or paragraph 20J of Schedule 1 to the Jobseekers' Allowance Regulations (Northern Ireland) 1996 [F15],

(b) paragraph 8 of Schedule 4 to the Employment and Support Allowance Regulations (Northern Ireland) 2008 [F16], or

(c) paragraph 14ZA of Schedule 2 to the Income Support (General) Regulations (Northern Ireland) 1987 [F17],

in respect of a caree, on the transition date.

(3) The PIP daily living component refusal condition is that following a transitional assessment determination the caree is not awarded the daily living component of personal independence payment.

(4) The termination of carer's allowance condition is that, in consequence of the PIP daily living component refusal condition, the decision of the Department to award carer's allowance is superseded by a decision of the Department to not award carer's allowance.

(5) The termination of carer premium condition is that, in consequence of the termination of carer's allowance condition, the decision of the Department to award carer premium is superseded by a decision of the Department to not award carer premium.

F15 S.R. 1996 No. 198; paragraph 17 of Schedule 1 was amended was amended by regulation 4(3)(b)(i) and (iii) of S.R. 2000 No. 74, **regulation 3(a)** of S.R. 2002 No. 322, **regulation 3** of S.R. 2002 No. 323 and regulation 4(3)(a) of S.R. 2003 No. 417; paragraph 20J of Schedule 1 was inserted by paragraph 53(4) of S.R. 2000 No. 350 and amended by regulation 3(b) of S.R. 2002 No. 322, **regulation 3** of S.R. 2002 No. 323 and regulation 4(3) of S.R. 2003 No. 417

F16 S.R. 2008 No. 280