STATUTORY RULES OF NORTHERN IRELAND

2010 No. 344

SOCIAL SECURITY

The Social Fund (Cold Weather Payments) (General) (Amendment) Regulations (Northern Ireland) 2010

Made - - - -	*7th October 2010*
Coming into operation	*1st November 2010*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 134(2) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**) and now vested in it(**2**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Fund (Cold Weather Payments) (General) (Amendment) Regulations (Northern Ireland) 2010 and shall come into operation on 1st November 2010.

(2) The Interpretation Act (Northern Ireland) 1954(**3**) shall apply to these Regulations as it applies to an Act of the Assembly.

Amendment of the Social Fund (Cold Weather Payments) (General) Regulations

2.—(1) The Social Fund (Cold Weather Payments) (General) Regulations (Northern Ireland) 1988(**4**) are amended in accordance with paragraphs (2) to (5).

(2) In regulation 1(2) (citation, commencement and interpretation)—

(a) for the definition of "the Order" substitute—

> ""the Act" means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;";

(b) after the definition of "claimant"(**5**) insert—

(**1**) 1992 c. 7; section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)
(**2**) *See* Article 8(b) of S.R. 1999 No. 481
(**3**) 1954 c. 33 (N. I.)
(**4**) S.R. 1988 No. 368; relevant amending Regulations are S.R. 1991 Nos. 464 and 487, S.R. 1992 No. 470, S.R. 1996 No. 488, S.R. 1997 No. 437, S.R. 2001 No. 386, S.R. 2002 No. 315, S.R. 2003 Nos. 191 and 267, S.R. 2004 No. 429, S.R. 2005 Nos. 447 and 458 and S.R. 2008 Nos. 286 and 411
(**5**) The definition of "claimant" was substituted by regulation 2(a) of S.R. 1991 No. 464 and amended by regulation 2(a)(i) of S.R. 2005 No. 447 and regulation 16(2)(b) of S.R. 2008 No. 286

""cold weather payment" means a payment to meet expenses for heating made out of the social fund under section 134(2) of the Act and these Regulations;";

(c) for the definition of "family" substitute—

""family" has the meaning given to it in section 133(1)(**6**) of the Act and the General Regulations;";

(d) for the definition of "income support" substitute—

""income support" means income support under Part 7 of the Act;";

(e) omit the definition of "polygamous marriage"; and

(f) after the definition of "station"(**7**) insert—

""winter period" means the period beginning on 1st November in any year and ending on 31st March in the following year.".

(3) For regulation 1A(**8**) (prescribed description of persons) substitute—

"**Prescribed description of persons**

1A.—(1) A cold weather payment may be made in the circumstances prescribed by regulation 2 to a person who satisfies the following conditions.

(2) The first condition is that, in respect of at least one day during the recorded or the forecasted period of cold weather specified in regulation 2(1)(a) the person has been awarded—

(a) state pension credit;

(b) income support;

(c) an income-based jobseeker's allowance; or

(d) an income-related employment and support allowance.

(3) The second condition (which applies only if the person ("P") falls within paragraph (2)(b), (c) or (d)) is that, in respect of the day to which paragraph (2) relates—

(a) P's family includes a member aged less than 5;

(b) where P has been awarded income support, P's applicable amount includes one or more of the premiums specified in paragraphs 9 to 14 of Part 3 of Schedule 2 to the General Regulations;

(c) where P has been awarded a jobseeker's allowance, P's applicable amount includes one or more of the premiums specified in paragraphs 10 to 16 of Part 3 of Schedule 1 to the Jobseeker's Allowance Regulations (Northern Ireland) 1996(**9**);

(d) P's child tax credit includes an individual element referred to in regulation 7(4)(a), (b), (d) or (e) of the Child Tax Credit Regulations 2002(**10**); or

(e) where P has been awarded an employment and support allowance, P's applicable amount includes—

(**6**) The definition of "family" in section 133(1) was amended by paragraph 99(2) of Schedule 24 to the Civil Partnership Act 2004 (c. 33)

(**7**) The definition of "station" was substituted by regulation 2(c) of S.R. 1996 No. 488

(**8**) Regulation 1A was inserted by regulation 2 of S.R. 1991 No. 487 and amended by regulation 3(b) of S.R. 1996 No. 488, regulation 25(4) and (5)(a) and (b) of S.R. 2003 No. 191, regulation 3 of S.R. 2003 No. 267, regulation 2 of S.R. 2004 No. 429, regulation 6 of S.R. 2005 No. 458, regulation 16(3) of S.R. 2008 No. 286 and regulation 2 of S.R. 2008 No. 411

(**9**) S.R. 1996 No. 198

(**10**) S.I. 2002 /2007

(i) one or more of the premiums specified in paragraphs 5 to 7 of Part 2 of Schedule 4 to the Employment and Support Allowance Regulations (Northern Ireland) 2008(**11**), or

(ii) an amount under section 4(2)(b) of the Welfare Reform Act.

(4) The third condition (which does not apply to a person who falls within paragraph (3)(a) or (d)) is that the person does not reside in—

(a) an independent hospital;

(b) an establishment run by the Abbeyfield Society or by a body corporate or incorporate which is affiliated to that Society; or

(c) a residential care home or a nursing home.

(5) In paragraph (4)—

"independent hospital" has the meaning assigned to it by Article 2(2) of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003(**12**);

"nursing home" has the meaning it has for the purposes of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 by virtue of Article 11 of that Order;

"residential care home" has the meaning it has for the purposes of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 by virtue of Article 10 of that Order.".

(4) In regulation 2(**13**) (prescribed circumstances)—

(a) in paragraph (1) for "a payment may be made out of the social fund to meet expenses for heating under Article 33(2A) of the Order" substitute "a cold weather payment may be made";

(b) in paragraph (1)(a)(**14**), for "and (5)" substitute ", (5) and (6)";

(c) for paragraph (5)(**15**) substitute—

"(5) Where—

(a) a claimant satisfies the conditions in regulation 1A and paragraph (1) in respect of a recorded period of cold weather; and

(b) a payment in respect of the recorded period of cold weather does not fall to be made by virtue of paragraph (4); and

(c) the claimant does not satisfy the conditions in regulation 1A in respect of the forecasted period of cold weather which is linked to the recorded period of cold weather by an overlap period,

a cold weather payment may be made in respect of that recorded period of cold weather.

(6) A cold weather payment may not be made after the end of the period of 26 weeks beginning with the last day of the winter period in which the period of cold weather concerned falls.".

(5) For the Schedule(**16**) substitute the Schedule set out in Schedule 1 to these Regulations.

(**11**) S.R. 2008 No. 280
(**12**) S.I. 2003/431 (N.I. 9)
(**13**) Regulation 2 was substituted by regulation 3 of S.R. 1991 No. 464
(**14**) Sub-paragraph (a) was amended by regulation 3(d) of S.R. 1992 No. 470, regulation 4(2)(a) of S.R. 1996 No. 488, regulation 2(2)(a) of S.R. 1997 No. 437 and regulation 3(a) of S.R. 2005 No. 447
(**15**) Paragraph (5) was amended by regulation 3(d) and (e) of S.R. 1991 No. 487
(**16**) The Schedule was substituted by regulation 2 of S.R. 2001 No. 386 and amended by regulation 2 of S.R. 2002 No. 315