STATUTORY RULES OF NORTHERN IRELAND

1998 No. 3

SOCIAL SECURITY

The Social Fund Winter Fuel Payment Regulations (Northern Ireland) 1998

Made - - - -	*9th January 1998*
Coming into operation	*16th January 1998*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 134(2) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**) and sections 5(1)(*j*), 57(1) and (2)(*c*), 165(1) and (3) to (5) of, and paragraph 4 of Schedule 3 to the Social Security Administration (Northern Ireland) Act 1992(**2**) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Fund Winter Fuel Payment Regulations (Northern Ireland) 1998 and shall come into operation on 16th January 1998.

(2) In these Regulations—

"the Administration Act" means the Social Security Administration (Northern Ireland) Act 1992;

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

"the Income Support Regulations" means the Income Support (General) Regulations (Northern Ireland) 1987(**3**);

"the Jobseeker's Allowance Regulations" means the Jobseeker's Allowance Regulations (Northern Ireland) 1996(**4**);

"constant attendance allowance" means an increase of disablement pension under section 104 of the Contributions and Benefits Act;

"graduated retirement benefit" means the benefit to which section 62 of the Contributions and Benefits Act applies;

(**1**) 1992 c. 7
(**2**) 1992 c. 8
(**3**) S.R. 1987 No. 459; relevant amending regulations are S.R. 1988 No. 146, S.R. 1989 No. 139, S.R. 1992 No. 147, S.R. 1993 Nos. 149, 165, 235 and 373, S.R. 1997 Nos. 113 and 412
(**4**) S.R. 1996 No. 198; relevant amending regulations are S.R. 1996 No. 503

"income-based jobseeker's allowance" has the same meaning in these Regulations as it has in the Jobseekers (Northern Ireland) Order 1995(**5**) by virtue of Article 3(4) of that Order;

"industrial death benefit" means a benefit to which Part VI of Schedule 7 to the Contributions and Benefits Act refers;

"married couple" means a man and woman who are married to each other and are members of the same household;

"partner" means where a person—

(a) is a member of a married or an unmarried couple living in the same household, the other member of that couple;

(b) is married polygamously to two or more members of his household, any such member living in the same household;

"the qualifying week" means the week beginning on and including 5th January 1998;

"retirement pension" for the purposes of regulation 2(6) means a retirement pension to which Parts II and III of the Contributions and Benefits Act refers;

"unmarried couple" means a man and woman who are not married to each other but are living together as husband and wife;

"winter fuel payment" means a payment made under these Regulations out of the social fund, to meet expenses for heating pursuant to section 134(2) of the Contributions and Benefits Act.

(3) Whether in any case a person is or is not to be treated as being a member of a household is to be determined in accordance with regulation 16 of the Income Support Regulations(**6**).

(4) The Interpretation Act (Northern Ireland) 1954(**7**) shall apply to these Regulations as it applies to a Measure of the Assembly.

Prescribed description of persons

2.—(1) Subject to regulation 3, a winter fuel payment shall be paid to persons who come within either of the categories specified in paragraph (2) or (5).

(2) Except in the case of a person to whom paragraph (3) applies, the first category comprises persons to whom in respect of any day in the qualifying week—

(a) income support is payable and whose applicable amount includes one or more of the premiums specified in paragraphs 9, 9A or 10 of Schedule 2 to the Income Support Regulations(**8**) (applicable amounts), or

(b) income-based jobseeker's allowance is payable and whose applicable amount includes one or more of the premiums specified in paragraphs 10, 11 or 12 of Schedule 1 to the Jobseeker's Allowance Regulations(**9**) (applicable amounts).

(3) Subject to paragraph (4), persons to whom income support or income-based jobseeker's allowance is payable and whose applicable amount includes the allowance specified in paragraph 2A of Schedule 2 to the Income Support Regulations (residential allowance) or paragraph 3 of Schedule 1 to the Jobseeker's Allowance Regulations (residential allowance) as the case may be, shall not be entitled to a winter fuel payment.

(**5**) S.I.1995/2705 (N.I. 15)
(**6**) Regulation 16 was amended by S.R. 1988 No. 146, S.R. 1989 No. 139, S.R. 1990 No. 387, S.R. 1993 Nos. 149 and 373, S.R. 1996 Nos. 199 and 405
(**7**) 1954 c. 33 (N.I.)
(**8**) Paragraph 9 was substituted and paragraph 9A was inserted by S.R. 1989 No. 139 and paragraph 10 was amended by S.R. 1988 No. 146 and S.R. 1992 No. 147
(**9**) Paragraph 12 was amended by S.R. 1996 No. 503

(4) Paragraph (3) shall not have effect in the case of a person or his partner whose applicable amount includes a residential allowance while temporarily residing in accommodation to which—

(a) paragraph 9(*a*)(i) of (ii) of column (1) in Schedule 7 to the Income Support Regulations refers and that person's partner is a person to whom paragraph 9(*b*)(i) or (ii) applies;

(b) paragraph 5(*a*)(i) or (ii) of column (1) in Schedule 4 to the Jobseeker's Allowance Regulations refers and that person's partner is a person to whom paragraph 5(*b*)(i) or (ii) applies;

(c) paragraph 10(*a*) or (*b*) of column (1) in Schedule 7 to the Income Support Regulations refers or, as the case may be, paragraph 6(*a*) or (*b*) of column (1) in Schedule 4 to the Jobseeker's Allowance Regulations, applies.

(5) Except in the case of a person to whom paragraph (3) applies or is excluded by virtue of paragraph (7), the second category comprises persons who, in respect of any day falling within the qualifying week, are ordinarily resident in Northern Ireland and who fall within any of the classes of persons to which paragraph (6) refers.

(6) The classes of persons to which this paragraph refers are men aged 65 or over and women aged 60 or over to whom any of the following benefits or pensions is payable in respect of a period which includes a day in the qualifying week—

(a) attendance allowance, constant attendance allowance, disability living allowance, incapacity benefit(**10**), industrial death benefit, invalid care allowance or severe disablement allowance under the Contributions and Benefits Act;

(b) income-based jobseeker's allowance where the claimant's applicable amount is determined in accordance with paragraph 3 of Schedule 4 to the Jobseeker's Allowance Regulations;

(c) income support where the claimant's applicable amount is determined in accordance with paragraph 6 of Schedule 7 to the Income Support Regulations;

(d) retirement pension or graduated retirement benefit;

(e) unemployability supplement under Part I of Schedule 7 to the Contributions and Benefits Act;

(f) war disablement pension, war widow's pension or temporary allowance to widows of severely disabled war pensioners under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983(**11**) or payable by virtue of any Scheme made under—

(i) the Personal Injuries (Emergency Provisions) Act 1939(**12**);

(ii) the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939(**13**);

(iii) the Polish Resettlement Act 1947(**14**), or

(iv) the Reserve Forces Act 1980(**15**), and

(g) widowed mother's allowance or a widow's pension under section 37 or 38 of the Contributions and Benefits Act.

(7) Except in the case of persons to whom paragraph (8) refers, the persons excluded by this paragraph are—

(**10**) Incapacity benefit under section 30A of the Contributions and Benefits Act was inserted by the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12))
(**11**) S.I. 1983/883
(**12**) 1939 c. 82
(**13**) 1939 c. 83
(**14**) 1947 c. 19
(**15**) 1980 c. 9