Changes to legislation: *The Welfare Supplementary Payment (Loss of Disability Living Allowance) Regulations (Northern Ireland) 2016 is up to date with all changes known to be in force on or before 01 March 2022. There are changes that may be brought into force at a future date. Changes that have been made 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. 250

WELFARE

The Welfare Supplementary Payment (Loss of Disability Living Allowance) Regulations (Northern Ireland) 2016

Made - - - -	*29th June 2016*
Coming into operation	*20th July 2016*

The Department for Communities [F1] makes the following Regulations in exercise of the powers conferred on it by Article 137 of the Welfare Reform (Northern Ireland) Order 2015 [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 *See* section 1(7) of the Departments Act (Northern Ireland) 2016 (c. 5 (N.I.))
F2 S.I. 2015/2006 (N.I. 1)

PART 1

INTRODUCTION

Citation and commencement

1.—(1) These Regulations may be cited as the Welfare Supplementary Payment (Loss of Disability Living Allowance) 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];

"the 2015 Order" means the Welfare Reform (Northern Ireland) Order 2015;

"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;

"daily living activities" and " mobility activities" have the same meaning as in Part 5 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 [F4];

"disability living allowance" means disability living allowance under section 71 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 [F5];

"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 [F6] of a claim for personal independence payment made by a transfer claimant;

"the Transitional Provisions Regulations" means the Personal Independence Payment (Transitional Provisions) Regulations (Northern Ireland) 2016 [F7].

(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. 1999 No. 162; regulation 53(3) was amended by regulation 7(10)(a) of SR 2005 No. 46
F5 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))
F6 S.R. 2016 No. 217
F7 S.R. 2016 No. 227

Welfare supplementary payment

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

(2) Welfare supplementary payment is payable under either—

(a) Part 2 (pending appeal against refusal of personal independence payment),

(b) Part 3 (where personal independence payment is awarded at a lower rate than disability living allowance), or

(c) Part 4 (in conflict related injury cases where personal independence payment has been refused).

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

PART 2

WELFARE SUPPLEMENTARY PAYMENT PENDING APPEAL AGAINST PERSONAL INDEPENDENCE PAYMENT REFUSAL

Eligibility

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

(a) the disability living allowance entitlement condition;

(b) the personal independence payment refusal condition, and

(c) the appeal condition.

(2) The disability allowance entitlement condition is that the person is in receipt of disability living allowance on the transition date.

(3) The personal independence payment refusal condition is that following a transitional assessment determination, the person's claim for personal independence payment is refused.

(4) The appeal condition is that the person has appealed, under Article 13 of the 1998 Order [F8], against the decision refusing personal independence payment.

F8 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

Amount

5. The amount of welfare supplementary payment payable is equal to the amount which was payable to the person under the award of disability living allowance.

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 disability living allowance terminates in accordance with regulation 17(1) of the Transitional Provisions Regulations.

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

(a) after the first payment following the date on which the decision notice of the appeal tribunal is received by the Department; or

(b) on 31st March 2020,

whichever is first to occur.

(4) Where a person is granted leave to make an appeal from a decision of the appeal tribunal to refuse personal independence payment to the Commissioner, the period during which further welfare supplementary payment is payable is set out in paragraphs (5) and (6).

(5) The period during which further welfare supplementary payment is payable commences on the day following the day that leave to appeal to the Commissioner is granted.

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

(a) after the first payment following the date on which the decision of the Commissioner is received by the Department; or

(b) on 31st March 2020,

whichever is first to occur.

Effect of changes in personal independence payment following revision or supersession of previous decision

7.—(1) This regulation applies where—

(a) a person is receiving welfare supplementary payment, and

(b) following an event referred to in paragraph (3), the person is awarded personal independence payment.

[F9(2) Welfare supplementary payment must cease to be paid from the date the decision to award personal independence payment takes effect.**]**

(3) The events referred to in paragraph (1)(b) are—

(a) the decision to not award personal independence payment is revised under Article 10 of the 1998 Order,

(b) the decision to not award personal independence payment is superseded under Article 11 of the 1998 Order F10.

F9 Reg. 7(2) substituted (6.2.2017) by The Welfare Supplementary Payment (Amendment) Regulations (Northern Ireland) 2017 (S.R. 2017/28), regs. 1(2), **52(1)**

F10 Article 11 was amended by paragraph 17 of Schedule 6 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999

PART 3

WELFARE SUPPLEMENTARY PAYMENT WHERE PERSONAL INDEPENDENCE PAYMENT IS AWARDED AT LOWER RATE THAN DISABILITY LIVING ALLOWANCE

Eligibility

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

(a) the disability living allowance entitlement condition, and

(b) the lower personal independence payment threshold condition.

(2) The disability living allowance entitlement condition is that the person is in receipt of disability living allowance on the transition date.

(3) The lower personal independence payment threshold condition is that—

(a) following a transitional assessment determination an award of personal independence payment is made to the person,

(b) the award of personal independence payment is less than the award of disability living allowance payable to the person on the transition date, and

(c) the difference between these two awards is at least £10 per week.

Eligibility (following termination of welfare supplementary payment under Part 2)

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

(a) the Part 2 welfare supplementary payment termination condition, and

(b) the lower personal independence payment threshold on appeal, revision or supersession condition.

(2) The Part 2 welfare supplementary payment termination condition is that a person's entitlement to welfare supplementary payment under Part 2 terminates—

(a) following an appeal, in accordance with regulation 6(3)(a) or 6(6)(a), or

(b) following a revision or supersession, in accordance with regulation 7.

(3) The lower personal independence payment threshold on appeal, revision or supersession condition is that—

(a) on the appeal, revision or supersession, an award of personal independence payment is made to the person,

(b) the award of personal independence payment is less than the award of disability living allowance payable to the person on the transition date, and

(c) the difference between these two awards is at least £10 per week.

Amount

10.—(1) The amount of welfare supplementary payment payable is equal to 75% of the amount by which the award of disability living allowance exceeded the award of personal independence payment.

(2) Where the amount of welfare supplementary payment would, but for this paragraph, include a fraction of a penny, that fraction must be disregarded.

Period of payment

11.—(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—

(a) disability living allowance terminates in accordance with regulation 17(1) of the Transitional Provisions Regulations, (in the case of eligibility under regulation 8), or

(b) welfare supplementary payment under Part 2 terminates (in the case of eligibility under regulation 9).

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

(a) one year after the day on which—

(i) it commences (in the case of eligibility under regulation 8), or

(ii) welfare supplementary payment under Part 2 commences (in the case of eligibility under regulation 9); or

(b) on 31st March 2020,

whichever is first to occur.