

*Draft Regulations laid before the Assembly under Article 137(5) of the Welfare Reform (Northern Ireland) Order 2015 for approval*

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DRAFT STATUTORY RULES OF NORTHERN IRELAND

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**2016 No.0000**

**WELFARE**

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

*Made* - - - - 2016  
*Coming into operation* 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(1) and now vested in it(2).

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.

**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 July 2016.

**Interpretation**

2.—(1) In these Regulations—

“the 1998 Order” means the Social Security (Northern Ireland) Order 1998(3);

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

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

(2) *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.))

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

“the Transitional Provisions Regulations” means the Personal Independence Payment (Transitional Provisions) Regulations (Northern Ireland) 2016(4).

“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(5).

“disability living allowance” means disability living allowance under section 71 of the Contributions and Benefits Act(6);

“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(7) of a claim for personal independence payment made by a transfer claimant;

- (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.

### **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.

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(4) S.R. 2016 No. 277

(5) 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

(6) 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)

(7) S.R. 2016 No. 217

## 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>(8)</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.

#### 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,
- (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.

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<sup>(8)</sup> 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

(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.

## **PART 3**

### **Welfare Supplementary Payment for loss of Disability-Related Premium on transition from Disability Living Allowance to Personal Independence Payment (Jobseeker's Allowance claimants)**

#### **Eligibility**

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

- (a) the JSA 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 JSA entitlement condition is that the person is in receipt of jobseeker's allowance under the Jobseekers (Northern Ireland) Order 1995(9) 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 13,
  - (b) severe disability premium under paragraph 15, or
  - (c) enhanced disability premium under paragraph 15A,

of Schedule 1 to the Jobseeker's Allowance Regulations (Northern Ireland) 1996(10).

(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.

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

**12.**—(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 JSA entitlement condition,
- (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 JSA entitlement condition is that the person is in receipt of jobseeker's allowance under the Jobseekers (Northern Ireland) Order 1995 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 13(11), or
- (b) enhanced disability premium under paragraph 15A(12),

of Schedule 1 to the Jobseeker's Allowance Regulations (Northern Ireland) 1996, 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.

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(9) S.I. 1995/2705 (N.I. 15)

(10) S.R. 1996 No. 198; relevant amending instruments are S.R. 2000 No. 74, S.R. 2000 No. 367, S.R. 2002 No. 80, S.R. 2002 No. 323, S.R. 2007 No. 154, S.R. 2010 No. 103, S.R. 2011 No. 135, S.R. No. 291, S.R. 2011 No. 357, S.I. 2013/3021 and S.R. 2014 No. 275

(11) Paragraph 13 was amended by regulation 3(8)(c) of S.R. 2007 No. 154 and regulation 5(5)(c) of S.R. 2010 No. 103

(12) Paragraph 15A was amended by regulation 4(c)(ii) of S.R. 2000 No. 367, regulation 3(8)(e) of S.R. 2007 No. 54, regulation 7(7)(a) of S.R. 2011 No. 135, regulation 10(10) of S.R. 2011 No. 357 and regulation 17(7)(d) of S.I. 2013/3021

(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)**

**13.**—(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 JSA 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 JSA entitlement condition is that the person is in receipt of jobseeker’s allowance under the Jobseekers (Northern Ireland) Order 1995 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 15 of Schedule 1 to the Jobseeker’s Allowance Regulations (Northern Ireland) 1996(13) 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.

**Eligibility (joint-claim couples: disability premium and enhanced disability premium)**

**14.**—(1) A joint-claim couple are entitled to welfare supplementary payment under this Part if—

- (a) they meet the joint-claim JSA entitlement condition,
- (b) they meet the disability-related premium entitlement condition,
- (c) one of them meets the PIP refusal condition, and
- (d) they meet the termination of disability-related premium condition.

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(13) Paragraph 15 was amended by regulation 4(3)(a) of S.R. 2000 No. 74, regulation 3(8)(d) of S.R. 2000 No. 154, regulation 5(4) of S.R. 2002 No. No. 80, regulation 3 of S.R. 2002 No. 323, regulation 5(3)(a) of S.R. 2011 No. 291, regulation 17(7)(c) of S.I. 2013/3021 and regulation 3(2)(b) of S.R. 2014 No. 275

(2) The joint-claim JSA entitlement condition is that they are in receipt of jobseeker’s allowance as a joint-claim couple under the Jobseekers (Northern Ireland) Order 1995 on the transition date.

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

(4) In this Part and notwithstanding regulation 11(4), where eligibility for welfare supplementary payment is under this regulation, disability-related premium means—

- (a) disability premium under paragraph 20G(14),
- (b) enhanced disability premium under paragraph 20IA(15),

of Schedule 1 to the Jobseeker’s Allowance Regulations (Northern Ireland) 1996.

(5) The PIP refusal condition is that following a transitional assessment determination, a 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.

(7) Where a joint-claim couple are entitled to welfare supplementary payment under this regulation, payment must be to the person who is the nominated member in accordance with Article 5 of the Jobseekers (Northern Ireland) Order 1995(16).

(8) In this regulation “joint-claim couple” has the same meaning as in the Jobseekers (Northern Ireland) Order 1995.

#### **Eligibility (joint-claim couples: severe disability premium)**

**15.—**(1) A joint-claim couple are entitled to welfare supplementary payment under this Part if—

- (a) they meet the joint-claim JSA entitlement condition,
- (b) they meet the disability-related premium entitlement condition,
- (c) one of them meets the PIP refusal condition (but this is subject to paragraph (7)), and
- (d) they meet the termination of disability-related premium condition.

(2) The joint-claim JSA entitlement condition is that they are in receipt of jobseeker’s allowance as a joint-claim couple under the Jobseekers (Northern Ireland) Order 1995 on the transition date.

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

(4) In this Part and notwithstanding regulation 11(4), where eligibility for welfare supplementary payment is under this regulation, disability-related premium means severe disability premium under paragraph 20I of Schedule 1 to the Jobseeker’s Allowance Regulations (Northern Ireland)1996(17).

(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.

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(14) Paragraph 20G was amended by regulation 3(8) of S.R. 2007 No. 154 and regulation 5(5)(h) of S.R. 2010 No. 103  
(15) Paragraph 20IA was amended by regulation 4(c)(v) of S.R. 2000 No. 367, regulation 3(8)(k) of S.R. 2007 No. 154, regulation 5(5)(i) of S.R. 2010 No. 103, and regulation 17(7)(i) of S.I. 2013/3021  
(16) Article 5 was amended by paragraph 5(1) of Schedule 7 to S.I. 1999/3147 (N.I. 11), paragraph 132 of Schedule 24 to 2002 c.33, paragraph 25(b) of 2002 c.14 (N.I.) and paragraph 6(4) of Schedule 3 to 2007 c.2 (N.I.)  
(17) Paragraph 20I was amended by regulation 5(4)(b) of S.R. 2002 No. 80, regulation 3 of S.R. 2002 No. 323, regulation 3(8)(j) of S.R. 2007 No. 154, regulation 5(3)(b) of S.R. 2011 No. 291, regulation 17(7)(h) of 2013/3021 and regulation 3(2)(e) of S.R. 2014 No. 275



(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.

(7) Paragraph (9) applies where—

- (a) one member of the couple does not meet the PIP refusal condition,
- (b) the other member (B) meets the PIP refusal condition, and
- (c) B meets the blind condition on the transition date.

(8) The blind condition is that the person is certified as severely sight impaired or blind by a consultant ophthalmologist.

(9) Where this paragraph applies, the termination of disability-related premium condition is met if, in consequence of the matters set out in paragraph (7), 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.

(10) Where a joint-claim couple are entitled to welfare supplementary payment under this regulation, payment must be to the person who is the nominated member in accordance with Article 5 of the Jobseekers (Northern Ireland) Order 1995.

(11) In this regulation “joint-claim couple” has the same meaning as in the Jobseekers (Northern Ireland) Order 1995.

#### **Amount**

**16.—**(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 13(8) or 15(9) apply, 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**

**17.—**(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 jobseeker’s allowance**

**18.—**(1) Welfare supplementary payment must cease to be paid from the end of the week in which the conditions for payment of jobseeker’s allowance under the Jobseeker’s (Northern Ireland) Order 1995 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**

**19.**—(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.

## **PART 4**

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

#### **Eligibility**

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

- (a) the ESA 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 ESA entitlement condition is that the person is in receipt of employment and support allowance under the Welfare Reform Act (Northern Ireland) 2007(**18**) 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) severe disability premium under paragraph 6,
- (b) enhanced disability premium under paragraph 7,

of Schedule 4 to the Employment and Support Allowance Regulations (Northern Ireland) 2008(**19**).

(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.

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

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

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(18) 2007 c. 2 (N.I.)

(19) S.R. 2008 No. 280; paragraph 6 was amended by regulation 11(3) of S.R. 2011 No. 291 and regulation 21(14) of S.R. 2011 No. 357

- (a) A is a member of a couple with another person (B),
- (b) A meets the ESA entitlement condition,
- (c) A meets the disability-related premium entitlement condition in respect of 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 ESA entitlement condition is that the person is in receipt of employment and support allowance under the Welfare Reform Act (Northern Ireland) 2007 on the transition date.

(3) The disability-related premium entitlement condition in respect of enhanced disability premium is that the person is in receipt of enhanced disability premium under paragraph 7 of Schedule 4 to the Employment and Support Allowance Regulations (Northern Ireland) 2008 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)**

**22.**—(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 ESA 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 ESA entitlement condition is that the person is in receipt of employment and support allowance under the Welfare Reform Act (Northern Ireland) 2007 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 6 of Schedule 4 to the Employment and Support Allowance Regulations (Northern Ireland) 2008 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**

**23.**—(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 22(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**

**24.**—(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 employment and support allowance**

**25.**—(1) Welfare supplementary payment must cease to be paid from the end of the week in which the conditions for payment of employment and support allowance under the Welfare Reform Act (Northern Ireland) 2007 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**

**26.**—(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.

## PART 5

### Welfare Supplementary Payment for loss of Disability-Related Element on transition from Disability Living Allowance to Personal Independence Payment (Working Tax Credit claimants)

#### Eligibility

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

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

(2) The WTC entitlement condition is that the person is in receipt of working tax credit under the Tax Credit Act 2002(**20**) on the transition date.

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

(4) In this Part disability-related element means severe disability element under regulation 17 of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002(**21**).

(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 element.

(6) The termination of disability-related element condition is that, in consequence of the PIP refusal condition, the decision to award disability-related element is revised (within the meaning of section 16 or 18 of the Tax Credit Act 2002(**22**)) to a decision to not award disability-related element.

#### Eligibility (joint claims: couples)

**28.**—(1) A couple are entitled to welfare supplementary payment under this Part if—

- (a) they meet the joint claim WTC entitlement condition,
- (b) they meet the disability-related element entitlement condition,
- (c) one of them meets the PIP refusal condition, and
- (d) they meet the termination of disability-related element condition.

(2) The joint claim WTC entitlement condition is that they are in receipt of working tax credit under a joint claim under the Tax Credit Act 2002 on the transition date.

(3) The disability-related element entitlement condition is that they are in receipt of disability-related element on the transition date.

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

(5) The termination of disability-related element condition is that, in consequence of the PIP refusal condition, the decision is revised (within the meaning of section 16 or 18 of the Tax Credit Act 2002) to a decision to not award disability-related element.

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(20) 2002 c. 21

(21) S.I. 2002/2005; relevant amending regulations are S.I. 2013/388 and S.I. 2013/591

(22) Article 2(2) of S.I. 2014/886 amended section 18 of the Tax Credits Act 2002 (c. 21)

(6) Where a couple are entitled to welfare supplementary payment under this regulation, payment must be to the person who is the prescribed member in accordance with regulation 4(3) of the Tax Credits (Payments by the Board) Regulations 2002<sup>(23)</sup>.

(7) In this regulation “couple” has the same meaning as in section 3(5A) of the Tax Credit Act 2002<sup>(24)</sup>.

#### **Amount**

**29.** The amount of welfare supplementary payment payable is equal to the disability-related element which was payable to the person on the date entitlement to the element is lost.

#### **Period of payment**

**30.**—(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 element 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 working tax credit**

**31.**—(1) Welfare supplementary payment must cease to be paid from the end of the week in which the conditions for payment of working tax credit under the Tax Credit Act 2002 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 element**

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

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

- (a) a new award of disability-related element,
- (b) a revision under section 16 or 18 of the Tax Credit Act 2002, or
- (c) an appeal.

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<sup>(23)</sup> S.I. 2002/2173

<sup>(24)</sup> Section 3(5A) was substituted by paragraph 144(3) of Schedule 24 to the Civil Partnership Act 2004 (c. 33)

## PART 6

### Welfare Supplementary Payment for loss of severe disability component on transition from Disability Living Allowance to Personal Independence Payment (State Pension Credit claimants)

#### Eligibility

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

- (a) the SPC entitlement condition,
- (b) the severe disability component entitlement condition,
- (c) the PIP refusal condition, and
- (d) the termination of severe disability component condition.

(2) The SPC entitlement condition is that the person is in receipt of state pension credit under the State Pension Credit Act (Northern Ireland) 2002(**25**) on the transition date.

(3) The severe disability component entitlement condition is that the person is in receipt of severe disability component on the transition date.

(4) In this Part severe disability component means the additional amount (in respect of the appropriate minimum guarantee) prescribed under regulation 6(4) of the State Pension Credit Regulations (Northern Ireland) 2003(**26**) for persons treated as severely disabled persons.

(5) In paragraph (4) the appropriate minimum guarantee has the same meaning as in section 2(3) of the State Pension Credit Act (Northern Ireland) 2002.

(6) 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 severe disability component.

(7) The termination of severe disability component condition is that, in consequence of the PIP refusal condition, the decision of the Department to award severe disability component is superseded by a decision to not award severe disability component.

#### Eligibility (couples)

**34.**—(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 SPC entitlement condition,
- (c) A meets the severe disability component entitlement condition,
- (d) A or B meet the PIP refusal condition (but this is subject to paragraph (6)), and
- (e) A meets the termination of severe disability component condition.

(2) The SPC entitlement condition is that the person is in receipt of state pension credit under the State Pension Credit Act (Northern Ireland) 2002 on the transition date.

(3) The severe disability component entitlement condition is that the person is in receipt of severe disability component on the transition date.

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(25) 2002 c. 14 (N. I.)

(26) S.R. 2003 No. 28

(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 severe disability component.

(5) The termination of severe disability component condition is that, in consequence of the PIP refusal condition, the decision of the Department to award severe disability component is superseded by a decision to not award severe disability component.

(6) Paragraph (8) applies where—

- (a) one member of the couple does not meet the PIP refusal condition,
- (b) the other member meets the PIP refusal condition, and
- (c) the other member 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 severe disability component condition is met if, in consequence of the matters set out in paragraph (6), the decision of the Department to award severe disability component at a higher rate is superseded by a decision of the Department to award severe disability component at a lower rate.

#### **Amount**

**35.**—(1) The amount of welfare supplementary payment payable is equal to the severe disability component which was payable to the person on the date entitlement to the component is lost.

(2) Where regulation 34(8) applies, the amount of welfare supplementary payment payable is equal to the difference between the severe disability component payable at the higher rate and the severe disability component payable at the lower rate.

#### **Period of payment**

**36.**—(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 severe disability component 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 state pension credit**

**37.**—(1) Welfare supplementary payment must cease to be paid from the end of the week in which the conditions for payment of state pension credit under State Pension Credit Act (Northern Ireland) 2002 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 severe disability component**

**38.**—(1) Welfare supplementary payment must cease to be paid to a person from the date the person is entitled to severe disability component.

(2) The entitlement to severe disability component must arise out of—



- (a) a new award of severe disability component,
- (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.

## PART 7

### Miscellaneous

#### **Termination of welfare supplementary payment on determination of appeal against refusal of personal independence payment**

**39.**—(1) This regulation applies where a person appeals (within the meaning of Article 13 of the 1998 Order<sup>(27)</sup>) against the refusal of personal independence payment referred to in Parts 2, 3, 4, 5 or 6.

(2) Welfare supplementary payment under those Parts must cease to be paid from the day after the first payment of welfare supplementary payment following the date on which the decision notice of the appeal tribunal is received by the Department.

(3) 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, further welfare supplementary payment under those Parts is payable as set out in paragraphs (4) and (5).

(4) 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.

(5) The period during which 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.

#### **Termination of welfare supplementary payment on change in personal independence payment**

**40.**—(1) Welfare supplementary payment must cease to be paid to a person if there is a change in the entitlement to personal independence payment of—

- (a) the person, or
- (b) (subject to paragraph (2)), where the person is a member of a couple, the other member of that couple.

(2) Paragraph (1)(b) does not apply if the other member of the couple was not entitled to personal independence payment on the date welfare supplementary payment commenced.

(3) Payment must cease from the day after the first payment of welfare supplementary payment following that change.

(4) In this regulation, a change in entitlement to personal independence payment includes—

- (a) personal independence payment being awarded where it was not previously awarded, and
- (b) a change in the award of personal independence payment.

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(27) Article 13 was amended by paragraph 19 of Schedule 6 and Schedule 9 to [S.I. 1999/671](#) and Article 4(2) of [S.I. 2014/886](#)

### **Temporary cessation of the underlying benefit**

**41.**—(1) This regulation applies where—

- (a) welfare supplementary payment ceases to be paid to a person because an underlying benefit ceases to be paid,
- (b) the person makes a new claim for that underlying benefit,
- (c) that claim is made within 12 weeks of the original underlying benefit ceasing, and
- (d) that claim is successful.

(2) Welfare supplementary payment restarts from the date that entitlement to the underlying benefit restarts.

(3) The period between welfare supplementary payment ceasing and restarting counts towards the maximum 1 year period in which welfare supplementary payment is payable.

(4) Subject to paragraph (5), where a person is a member of a couple, paragraph (1)(b) is satisfied if either member of the couple makes the claim.

(5) Paragraph (4) does not apply if the other member of the couple was not entitled to personal independence payment on the date welfare supplementary payment commenced.

(6) In this regulation “underlying benefit” means income support, income-based jobseeker’s allowance (within the meaning of Article 3(4) of the Jobseekers (Northern Ireland) Order 1995), employment and support allowance (under section 1(2)(b) of the Welfare Reform Act (Northern Ireland) 2007), working tax credit or state pension credit.

### **Temporary cessation of an underlying benefit with equivalent disability-related premium**

**42.**—(1) This regulation applies where—

- (a) welfare supplementary payment ceases to be paid to a person because an underlying benefit (“the original underlying benefit”) ceases to be paid,
- (b) the person makes a new claim for a different underlying benefit,
- (c) the different underlying benefit has an equivalent disability-related premium to the premium, element or amount (as the case may be) in respect of which welfare supplementary payment was being paid,
- (d) that claim is made within 12 weeks of the original underlying benefit ceasing, and
- (e) that claim is successful.

(2) Welfare supplementary payment restarts from the date that entitlement to the different underlying benefit starts.

(3) The amount of welfare supplementary payment is equal to the welfare supplementary payment in respect of the premium, element or amount (as the case may be) associated with the original underlying benefit.

(4) The period between welfare supplementary payment ceasing and restarting counts towards the maximum 1 year period in which welfare supplementary payment is payable.

(5) Subject to paragraph (6), where a person is a member of a couple, paragraph (1)(b) is satisfied if either member of the couple makes the claim.

(6) Paragraph (5) does not apply if the other member of the couple was not entitled to personal independence payment on the date welfare supplementary payment commenced.

(7) In this regulation “underlying benefit” means income support, income-based jobseeker’s allowance (within the meaning of Article 3(4) of the Jobseekers (Northern Ireland) Order 1995), employment and support allowance (under section 1(2)(b) of the Welfare Reform Act (Northern Ireland) 2007), working tax credit or state pension credit.

- (8) For the purposes of this regulation, the following are equivalent disability-related premiums—
- (a) disability premium under paragraph 11 of Schedule 2 to the Income Support (General) Regulations (Northern Ireland) 1987**(28)**,
  - (b) disability premium under paragraph 13 of Schedule 1 to the Jobseeker’s Allowance Regulations (Northern Ireland) 1996**(29)**,
  - (c) disability premium under paragraph 20G of Schedule 1 to the Jobseeker’s Allowance Regulations (Northern Ireland) 1996**(30)**.
- (9) For the purposes of this regulation, the following are equivalent disability-related premiums—
- (a) severe disability premium under paragraph 13 of Schedule 2 to the Income Support (General) Regulations (Northern Ireland) 1987**(31)**,
  - (b) severe disability premium under paragraph 15 of Schedule 1 to the Jobseeker’s Allowance Regulations (Northern Ireland) 1996**(32)**,
  - (c) severe disability premium under paragraph 20I of Schedule 1 to the Jobseeker’s Allowance Regulations (Northern Ireland) 1996**(33)**,
  - (d) severe disability premium under paragraph 6 of Schedule 4 to the Employment and Support Allowance Regulations (Northern Ireland) 2008**(34)**,
  - (e) severe disability element under regulation 17 of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002**(35)**,
  - (f) the additional amount (in respect of the appropriate minimum guarantee) prescribed under regulation 6(4) of the State Pension Credit Regulations (Northern Ireland) 2003 for persons treated as severely disabled persons.
- (10) For the purposes of this regulation, the following are equivalent disability-related premiums—
- (a) enhanced disability premium under paragraph 13A of Schedule 2 to the Income Support (General) Regulations (Northern Ireland) 1987**(36)**,
  - (b) enhanced disability premium under paragraph 15A of Schedule 1 to the Jobseeker’s Allowance Regulations (Northern Ireland) 1996**(37)**,
  - (c) enhanced disability premium under paragraph 20IA of Schedule 1 to the Jobseeker’s Allowance Regulations (Northern Ireland) 1996**(38)**,
  - (d) enhanced disability premium under paragraph 7 of Schedule 4 to the Employment and Support Allowance Regulations (Northern Ireland) 2008.

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**(28)** Relevant amending regulations are S.R. 2003 No. 191, S.R. 2003 No. 413, S.R. 2007 No. 154 and S.R. 2010 No. 103

**(29)** Paragraph 13 was amended by regulation 3(8)(c) of S.R. 2007 No. 154 and regulation 5(5)(c) of S.R. 2010 No. 103

**(30)** Paragraph 20G was amended by regulation 3(8) of S.R. 2007 No. 154 and regulation 5(5)(h) of S.R. 2010 No. 103

**(31)** 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. 2002 No. 80, S.R. 2002 No. 323, S.R. 2011 No. 291, S.I. 2013/3021 and S.R. 2014 No. 275

**(32)** Paragraph 15 was amended by regulation 4(3)(a) of S.R. 2000 No. 74, regulation 3(8)(d) of S.R. 2000 No. 154, regulation 5(4) of S.R. 2002 No. 80, regulation 3 of S.R. 2002 No. 323, regulation 5(3)(a) of S.R. 2011 No. 291, regulation 17(7)(c) of S.I. 2013/3021 and regulation 3(2)(b) of S.R. 2014 No. 275

**(33)** Paragraph 20I was amended by regulation 5(4)(b) of S.R. 2002 No. 80, regulation 3 of S.R. 2002 No. 323, regulation 3(8)(j) of S.R. 2007 No. 154, regulation 5(3)(b) of S.R. 2011 No. 291, regulation 17(7)(h) of 2013/3021 and regulation 3(2)(e) of S.R. 2014 No. 27

**(34)** Paragraph 6 was amended by regulation 11(3) of S.R. 2011 No. 291 and regulation 21(14) of S.R. 2011 No. 357

**(35)** Paragraph 17 was amended by paragraph 28(6) of the Schedule to S.I. 2013/388 and paragraph 24(6) of the Schedule to S.I. 2013/591

**(36)** Relevant amending regulations are S.R. No. 367, S.R. 2003 No. 195, S.R. 2011 No. 135 and S.R. 2011 No. 357

**(37)** Paragraph 15A was amended by regulation 4(c)(ii) of S.R. 2000 No. 367, regulation 3(8)(e) of S.R. 2007 No. 54, regulation 7(7)(a) of S.R. 2011 No. 135, regulation 10(10) of S.R. 2011 No. 357 and regulation 17(7)(d) of S.I. 2013/3021

**(38)** Paragraph 20IA was amended by regulation 4(c)(v) of S.R. 2000 No. 367, regulation 3(8)(k) of S.R. 2007 No. 154, regulation 5(5)(i) of S.R. 2010 No. 103, and regulation 17(7)(i) of S.I. 2013/3021

### **Termination of welfare supplementary payment where couple becomes entitled to disability-related premium**

**43.**—(1) This regulation applies where—

- (a) a person (A) is entitled to welfare supplementary payment,
- (b) A forms a couple with another person (B) who is not entitled to welfare supplementary payment, and
- (c) A or B (or A and B in the case of a joint-claim couple as referred to in Part 3, or a joint claim as referred to in Part 5) are awarded—
  - (i) disability-related premium referred to in Part 2, 3 or 4
  - (ii) disability-related element referred to in Part 5, or
  - (iii) severe disability component referred to in Part 6.

(2) Welfare supplementary payment must cease to be paid from the date A or B (or A and B in the case of a joint-claim couple or a joint claim) are entitled to the disability-related premium, disability-related element or severe disability component (as the case may be).

### **Persons forming a couple where there are equivalent disability-related premiums**

**44.**—(1) This regulation applies where—

- (a) a person A is entitled to welfare supplementary payment,
- (b) a person B is entitled to welfare supplementary payment,
- (c) the welfare supplementary payments of A and B are in respect of equivalent disability-related premiums,
- (d) A and B form a couple, and
- (e) A or B (or A and B in the case of a joint-claim couple as referred to in Part 3, or a joint claim as referred to in Part 5) are awarded an underlying benefit.

(2) Where the underlying benefit has an equivalent disability-related premium to the premium, element or amount (as the case may be) A and B were originally entitled to, then—

- (a) A is entitled to welfare supplementary payment of an amount equal to 50% of that equivalent disability-related premium, and
- (b) B is entitled to welfare supplementary payment of an amount equal to 50% of that equivalent disability-related premium.

(3) Where the new underlying benefit does not have an equivalent disability-related premium to the premium, element or amount (as the case may be) A and B were originally entitled to, then there is no change in welfare supplementary payments to A and B.

(4) In this regulation “equivalent disability-related premiums” and “underlying benefit” have the same meaning as in regulation 42.

### **Review**

**45.**—(1) The Department must establish procedures for reviewing a person’s entitlement to welfare supplementary payment under these Regulations.

(2) The procedures established must—

- (a) provide for a review to be carried out on the application of any person,
- (b) provide for the manner of making the application.

(3) The procedures may, in particular, provide for—

- (a) the consideration of the applicant's entitlement to welfare supplementary payment by up to three persons nominated by the Department,
- (b) the preparation of a report by these persons setting out their conclusions in relation to the applicant's entitlement to welfare supplementary payment and their recommendation as to the manner in which the matter should be finally determined.

### **Disregards**

**46.** No account must be taken of entitlement to welfare supplementary payment in considering a person's entitlement to benefit under a statutory provision relating to social security (irrespective of the name or nature of the benefit).

### **Residency**

- 47.** A person is not entitled to welfare supplementary payment unless the person—
- (a) is ordinarily resident in Northern Ireland; and
  - (b) is present in Northern Ireland.

### **Temporary absence from Northern Ireland**

**48.—(1)** Subject to regulation 49, where a person is temporarily absent from Northern Ireland, the person is treated as present in Northern Ireland for the purpose of these Regulations for the first 4 weeks of absence.

(2) A person is temporarily absent from Northern Ireland if, at the beginning of the period of absence, the person's absence is unlikely to exceed 52 weeks.

### **Temporary absence from Northern Ireland to receive medical treatment**

**49.—(1)** Where a person is temporarily absent from Northern Ireland, the person is treated as present in Northern Ireland for the purposes of these Regulations for the first 13 weeks of that absence, where—

- (a) the person's absence is solely in connection with arrangements made for the medical treatment of the person for a disease or bodily or mental disablement which commenced before the person left Northern Ireland; and
- (b) the arrangements referred to in sub-paragraph (a) relate to medical treatment—
  - (i) outside Northern Ireland,
  - (ii) during the period whilst the person is temporarily absent from Northern Ireland, and
  - (iii) by, or under the supervision of, a person appropriately qualified to carry out that treatment.

(2) In this regulation "temporarily absent" has the same meaning as in regulation 48(2).

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**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Northern Ireland Statutory Rule:  
*The Welfare Supplementary Payment (Loss of Disability-Related Premiums) Regulations (Northern Ireland) 2016 No. 254*

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Sealed with the Official Seal of the Department for Communities on 2016

*Name*  
A senior officer of the Department for  
Communities

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations introduce welfare supplementary payments to mitigate impacts from implementation of the Welfare Reform (Northern Ireland) Order 2015 as defined in the document “A Fresh Start the Stormont Agreement and Implementation Plan”.

The Regulations provide for making mitigation payments for the loss of entitlement to additional amounts of benefit paid in respect of disability to people that are in receipt of Disability Living Allowance and are assessed for Personal Independence Payment.

Part 1 contains definitions and lists specific benefits for which mitigation payments will be made. It makes specific provision that a payment cannot be paid if a claimant is entitled to a mitigation payment for the loss of entitlement to disability premium(s) paid in respect of another benefit in these Regulations.

Part 2 contains provisions for the award of mitigation payments to Income Support claimants who lose entitlement to one or more of the prescribed disability premiums. In particular it establishes that to be eligible for a mitigation payment a claimant must be in receipt of Disability Living Allowance, Income Support any disability premium at the date they are assessed for Personal Independence Payment. The claimant must also lose entitlement to one or more disability premiums following the decision on entitlement to Personal Independence Payment. Specific provisions are also made for claims to Income Support by a couple where either or both partners are assessed for Personal Independence Payment. This Part also makes provision for the amount of the mitigation payment to be equal to the premium to which the claimant is no longer entitled, for payments to be made every four weeks in arrears for a period of up to one year and the circumstances in which payments will cease.

Part 3 contains provisions for the award of mitigation payments to Jobseeker’s Allowance claimants that lose entitlement to one or more of the prescribed disability premiums. It makes specific provisions for claims made from joint-claim couples. It also establishes the eligibility conditions for a mitigation payment, the provisions for calculating and making payment and the circumstances in which payments will cease.

Part 4 contains provisions for the award of mitigation payments to Employment and Support Allowance claimants that lose entitlement to one or more of the prescribed disability premiums. It also establishes the eligibility conditions for a mitigation payment, the provisions for calculating and making payments and the circumstances in which payments will cease.

Part 5 contains provisions for the award of mitigation payments to Working Tax Credit claimants that lose entitlement to the severe disability element. It also establishes the eligibility conditions for a mitigation payment, the provisions for calculating and making payments and the circumstances in which payments will cease.

Part 6 contains provisions for the award of mitigation payments to State Pension Credit claimants that lose entitlement to the additional amount for the severely disabled. It also establishes the eligibility conditions for a mitigation payment, the provisions for calculating and making payments and the circumstances in which payments will cease.

Part 7 makes provision for certain miscellaneous matters that will impact welfare supplementary payments under these Regulations. It contains provisions for the termination of mitigation payments including the outcome of an appeal not to award Personal Independence Payment, and a new or revised award of Personal Independence Payment. It also provides for the temporary cessation and

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Northern Ireland Statutory Rule:  
*The Welfare Supplementary Payment (Loss of Disability-Related Premiums) Regulations (Northern Ireland) 2016 No. 254*

re-instatement of mitigation payments in prescribed circumstances including couples. It also makes provisions that ensure entitlement to a welfare supplementary payment is to be disregarded in the consideration of entitlement to social security benefits and that requires the department to introduce procedures for reviewing entitlement decisions.