

2017 No. 338

INCOME TAX

**The Taxation of Northern Ireland Welfare Supplementary
Payments Regulations 2017**

<i>Made</i> - - - -	<i>9th March 2017</i>
<i>Laid before the House of Commons</i>	<i>10th March 2017</i>
<i>Coming into force</i> - -	<i>1st April 2017</i>

The Treasury in exercise of the powers conferred by section 44 of the Finance Act 2016(a), make the following Regulations.

Citation, commencement and effect

1. These Regulations may be cited as the Taxation of Northern Ireland Welfare Supplementary Payments Regulations 2017 and come into force on 1st April 2017.
2. These Regulations have effect for the tax year 2016-17 and subsequent tax years.

Amendments to the Income Tax (Earnings and Pensions) Act 2003

3. The Income Tax (Earnings and Pensions) Act 2003(b) is amended as follows.
4. In Section 658 (amount charged to tax)(c), in subsection (4), for “and income support” substitute “income support, welfare supplementary payments payable pursuant to the loss of contributory employment and support allowance and welfare supplementary payments payable pursuant to the loss of, or a reduction in the amount payable of, income support”.
5. In Section 660 (taxable benefits: UK benefits - Table A)(d), in subsection (1), at the appropriate place insert—

“Welfare supplementary payment payable pursuant to the loss of carer’s allowance	WSP(LCP)R(NI) 2016	Regulation 4
Welfare supplementary payment payable pursuant to the loss of contributory employment and support	WSPR(NI) 2016	Regulation 7

(a) 2016 c. 24.
(b) 2003 c. 1.
(c) Section 658 was amended by paragraph 24 of Schedule 3 to the Welfare Reform Act 2007 (c. 5) (“WRA 2007”).
(d) Section 660 was amended by paragraph 60 of Schedule 1 and paragraph 1 of Schedule 2 to the Work and Families Act 2006 (c. 18), paragraph 24 of Schedule 3 to WRA 2007, paragraph 62 of Schedule 7 to the Children and Families Act 2014 (c. 6) and regulation 16 of S.I. 2013/630.

allowance

Welfare supplementary payment payable pursuant to the loss of, or a reduction of the amount payable of, income support	WSP(LCP)R(NI) 2016	Regulation 8 (when the recipient is entitled to the payment by meeting the condition in regulation 8(2)(c)) or regulation 12
	WSP(LDRP)R(NI) 2016	Regulation 4, 5 or 6
Welfare supplementary payment payable pursuant to a reduction of the amount payable of jobseekers allowance	WSP(LCP)R(NI) 2016	Regulation 8 (when the recipient is entitled to the payment by meeting the condition in regulation 8(2)(a))
	WSP(LDRP)R(NI) 2016	Regulation 11, 12, 13, 14 or 15”.

6. In Section 661 (taxable social security income)(a), in subsection (1)—

(a) after “incapacity benefit” omit “and”, and

(b) after “income support” insert—

“welfare supplementary payments payable pursuant to the loss of contributory employment and support allowance, and

welfare supplementary payments payable pursuant to the loss of, or a reduction of the amount payable of, income support.”.

7. In the cross-heading before section 665 after “Income support” insert “and relevant welfare supplementary payments”.

8.—(1) Section 665 (exempt unless payable to member of couple involved in trade dispute)(b) is amended as follows.

(2) For the heading substitute “Exempt unless payable to a person involved in a trade dispute”.

(3) After subsection (2) insert—

“(3) No liability to income tax arises on a relevant welfare supplementary payment unless the whole or part of the payment relates to a period in which the claimant was prevented from being entitled to jobseeker’s allowance by—

(a) section 14 of the Jobseekers Act 1995 (trade disputes), or

(b) Article 16 of the Jobseekers (Northern Ireland) Order 1995 (trade disputes)

or would have been so prevented if otherwise entitled to that benefit.

(4) Where part of a relevant welfare supplementary payment relates to such a period no liability to income tax arises on the part that does not relate to such a period.”.

9.—(1) Section 667 (amounts in excess of taxable maximum) is amended as follows.

(2) In subsection (1) after “income support” insert “and relevant welfare supplementary payments”.

(3) For subsection (2) substitute—

“(2) The claimant’s taxable maximum for a period is determined—

(a) under section 668(1), (2) and (3) where the claimant is a member of a couple, and

(b) under section 668(2A) and (3) where the claimant is not a member of a couple.”.

10. In Section 668 (taxable maximum), after subsection (2) insert—

(a) Section 661 was amended by paragraph 24 of Schedule 3 to WRA 2007.

(b) Section 665 was amended by regulation 163 of S.I. 2005/3229.

“(2A) A claimant’s taxable maximum for a week is determined under this subsection if the claimant is not a member of a couple.

The taxable maximum is equal to the applicable amount.”.

11. In Section 669 (interpretation)(a), before subsection (1) insert—

“(A1) In sections 665 and 667 “relevant welfare supplementary payment” means a payment to which a person is entitled under—

- (a) regulation 8 (when the recipient is entitled to the payment by meeting the condition in regulation 8(2)(c)) or regulation 12 of WSP(LCP)R(NI) 2016, or
- (b) regulation 4 , 5 or 6 of WSP(LDRP)R(NI) 2016.”.

12. In the cross-heading before section 670 after “Jobseeker’s allowance” insert “and relevant welfare supplementary payments”.

13. In Section 671 (amounts in excess of taxable maximum), in subsection (1), after “jobseeker’s allowance” insert “and relevant welfare supplementary payments”.

14. In Section 675 (interpretation)(b), before subsection (1) insert—

“(A1) In section 671 “relevant welfare supplementary payments” means payments to which a person is entitled under—

- (a) regulation 8 (when the recipient is entitled to the payment by meeting the condition in regulation 8(2)(a)) of WSP(LCP)R(NI) 2016, or
- (b) regulation 11, 12, 13, 14 or 15 of WSP(LDRP)R(NI) 2016.”.

15. In Section 677 (UK social security benefits wholly exempt from tax: Table B)(c), in subsection (1)—

- (a) after “benefits payable under primary legislation” insert “and Northern Ireland welfare supplementary payments”, and
- (b) in Table B – Part 1 at the appropriate place insert—

“Welfare supplementary payment payable pursuant a reduction of the amount payable of housing benefit	HB(WSP)R(NI) 2017	Regulation 2
	WSPR(NI) 2016	Regulation 4
Welfare supplementary payment payable pursuant to a reduction of the amount payable of employment and support allowance	WSP(LCP)R(NI) 2016	Regulation 8 (when the recipient is entitled to the payment by meeting the condition in regulation 8(2)(b))
	WSP(LDRP)R(NI) 2016	Regulation 20, 21 or 22
Welfare supplementary payment payable pursuant to the loss of disability living allowance	WSP(LDLA)R(NI) 2016	Regulation 4, 8, 13 or 14

(a) Section 669 was amended by regulation 164 of S.I. 2005/3229.

(b) Section 675 was amended by regulation 167 of S.I. 2005/3229 and regulation 16 of S.I. 2013/630.

(c) Section 677 was amended by Schedule 42 to the Finance Act 2004 (c. 12), paragraph 24 of Schedule 3 to WRA 2007, section 46 of the Finance Act 2008 (c. 9) (“FA 2008”), section 138 of the Health and Social Care Act 2008 (c. 14), paragraph 49 of Schedule 9 to the Welfare Reform Act 2012 (c. 5) (“WRA 2012”), section 13 of the Finance Act 2013 (c. 29) and regulation 3 of S.I. 2014/606.

Welfare supplementary payment payable pursuant to a reduction in the amount payable of state pension credit	WSP(LCP)R(NI) 2016	Regulation 16
Welfare supplementary payment payable pursuant to a reduction in the amount payable of working tax credit	WSP(LDRP)R(NI) 2016	Regulation 27 or 28
Welfare supplementary payment payable pursuant to a reduction in the amount payable of state pension tax credit	WSP(LDRP)R(NI) 2016	Regulation 33 or 34”.

16. In Part 1 of Schedule 1 (abbreviation of Acts and Instruments)(a) at the appropriate places insert—

“HB(WSP)R(NI) 2017	The Housing Benefit (Welfare Supplementary Payment) Regulations (Northern Ireland) 2017 S.R. (N.I.) 2017 No. 35
WSPR(NI) 2016	The Welfare Supplementary Payments Regulations (Northern Ireland) 2016 S.R.(N.I.) 2016 No. 178
WSP(LDLA)R(NI) 2016	The Welfare Supplementary Payment (Loss of Disability Living Allowance) Regulations (Northern Ireland) 2016 S.R.(N.I.) 2016 No. 250
WSP(LCP)R(NI) 2016	The Welfare Supplementary Payment (Loss of Carer Payments) Regulations (Northern Ireland) 2016 S.R.(N.I.) 2016 No. 253
WSP(LDRP)R(NI) 2016	The Welfare Supplementary Payment (Loss of Disability-Related Premiums) Regulations (Northern Ireland) 2016 S.R.(N.I.) 2016 No. 254”.

*David Evennett
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9th March 2017

Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend Part 10 and Part 1 of Schedule 1 of the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (“ITEPA 2003”) in order to make provision for welfare supplementary payments (“WSPs”) which are paid by the Northern Ireland Executive, subsequent to changes in Northern Ireland welfare legislation. Northern Ireland legislation provides that one of the criteria

(a) Part 1 of Schedule 1 was amended by paragraph 616 of Schedule 1 to the Income Tax (Trading and Other Income) Act 2005(c. 5), paragraph 445 of Schedule 1 to the Income Tax Act 2007 (c. 3), paragraph 24 of Schedule 3 to WRA 2007, section 46 of FA 2008, paragraph 556 of Schedule 1 to the Corporation Tax Act 2009 (c. 4), section 126 of the Finance Act 2009 (c. 10), paragraph 395 of Schedule 1 to the Corporation Tax Act 2010 (c. 4), paragraph 323 of Schedule 8 to the Taxation (International and Other Provisions) Act 2010 (c. 8) and paragraph 50 of Schedule 9 to WRA 2012.

for eligibility to each of the WSPs is an eligibility to an existing benefit at the time at which a person becomes eligible for a WSP. The amendments made in these Regulations ensure that the taxation rules relating to the WSPs are the same as the rules relating to the benefit from which eligibility is derived. All the amendments referred to below are to ITEPA 2003.

Regulation 2 provides that amendments made in these Regulations have effect for the 2016-2017 tax year and subsequent tax years pursuant to the power contained in section 44(5) Finance Act 2016 (c. 24).

Regulation 4 amends section 658(4) to provide that the amount of taxable income for WSPs, where eligibility is derived from eligibility to income support and contribution based employment and support allowance, is determined in accordance with section 661.

Regulation 5 amends Table A in section 660 to include in that table as taxable WSPs to which a person is entitled under the following provisions:

- Regulation 7 of the Welfare Supplementary Payments Regulations (Northern Ireland) 2016 S.R.(N.I.) 2016 No. 178 (“the WSPR(NI) 2016”) due to the loss of contributory employment and support allowance,
- regulation 4 of the Welfare Supplementary Payment (Loss of Carer Payments) Regulations (Northern Ireland) 2016 S.R.(N.I.) 2016 No. 253 (“the WSP(LCP)R(NI) 2016”) due to the loss of carer’s allowance,
- regulation 8 when the entitlement is due to meeting the condition in regulation 8(2)(a) and 8(2)(c) of the WSP(LCP)R(NI) 2017 due to the loss of carer premium when claiming either income support or jobseeker’s allowance,
- regulation 12 of the WSP(LCP)R(NI) 2016 due to the loss of income support,
- regulation 4, 5 or 6 of the Welfare Supplementary Payment (Loss of Disability Related Premiums) Regulations (Northern Ireland) 2016 S.R.(N.I.)2016 No. 254 (“the WSP(LDRP)R(NI) 2016”) due to the loss of disability related premium when claiming income support, and
- regulation 11, 12 ,13 14 or 15 of the WSP(LDRP)R(NI) 2016 due to the loss of disability related premium when claiming jobseeker’s allowance.

Regulation 6 amends section 661 to include the WSPs to which entitlement derives from one of the benefits currently listed in section 661 and ensure that the WSPs added are taxed on the same basis as those benefits (that the amount taxable is the amount of the payment accruing in a tax year regardless of when it is paid).

Regulation 8 amends section 665 to provide that when a person receives a WSP to which that person is entitled due to the receipt of Income Support, that WSP is exempt from income tax except when that person is involved in a trade dispute – as defined in section 14 of the Jobseekers Act 1995 (trade disputes) or Article 16 of the Jobseekers (Northern Ireland) Order 1995 (trade disputes).

Regulations 9 to 11 amend sections 667 to 669 to include in the “taxable maximums” provisions (which relate to income support), WSPs to which a person is entitled due to the receipt of income support. Those provisions provide an upper limit to the amount of tax payable on receipt of income support. This ensures that any payment of such a WSP is included in the taxable maximum calculations relating to income support.

Regulations 13 and 14 amend sections 671 and 675 to include in the taxable maximums provisions (which relate to jobseeker’s allowance) WSPs to which a person is entitled due to the receipt of jobseeker’s allowance. Those provisions provide an upper limit to the amount of tax payable on receipt of jobseekers allowance. This ensures that any payment of such a WSP is included in the taxable maximum calculations relating to jobseeker’s allowance.

Regulation 15 amends Table B in section 677 to include in that table as exempt from tax WSPs to which a person is entitled under the following provisions:

- Regulation 2 of the Housing Benefit (Welfare Supplementary Payment) Regulations 2017 S.R. (N.I.) 2017 No. 35 due to loss of housing benefit,
- regulation 4 of the WSPR(NI) 2016 due to loss of housing benefit,
- regulation 4, 8, 13 or 14 of the Welfare Supplementary Payment (Loss of Disability Living Allowance) Regulations (Northern Ireland) 2016 S.R.(N.I.) 2016 No. 250 due to the loss of disability living allowance,
- regulation 8 – when the entitlement is due to meeting the condition in regulation 8 (2)(b) of the WSP(LCP)R(NI) 2017 due to the loss of carer premium when claiming employment and support allowance,
- regulation 16 of the WSP(LCP)R(NI) 2017 due to the loss of the additional amount (carer) of state pension credit,
- regulation 20,21 or 22 of the WSP(LDRP)R(NI) 2016 due to the loss of disability related premium when claiming employment and support allowance,
- regulation 27 or 28 of the WSP(LDRP)R(NI) 2016 due to the loss of the disability related element when claiming working tax credits, and
- regulation 33 or 34 of the WSP(LDRP)R(NI) 2016 due to the loss of the severe disability component when claiming state pension tax credits.

Regulation 16 amends the table of abbreviations of Acts and Instruments in Part 1 of Schedule 1 to include abbreviations for the names of the Instruments inserted into Part 10.

A Tax Information and Impact Notice covering the changes made by this instrument was published on 9 July 2016 alongside New Clause 9 of the Finance Bill 2016 and is available on the website at <https://www.gov.uk/government/publications/finance-bill-2016-report-stage> It remains an accurate summary of the impacts that apply to this instrument.

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