

FIRST LETTER FROM DWP
& MY REPLY



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Dear Mr Boaden

Thank you for your recent correspondence about Winter Fuel Payments. Government Ministers receive a large volume of correspondence and they are unable to reply personally on every occasion. I have been asked to respond.

Winter Fuel Payments were originally introduced to give older people in the UK the reassurance they can keep warm during cold weather. Following a European Court judgment, the Payments are also made to eligible people living outside the UK in another European Economic Area (EEA) Member State or Switzerland.

In the 2013 spending review statement, the Chancellor announced the intention to bring in an eligibility criterion based on country of residence, with Winter Fuel Payments going only to eligible people living in EEA countries with colder climates.

Winter Fuel Payments would no longer be payable to individuals in countries where the average winter temperature is warmer than the warmest region of the UK (South West England). Entitlement in the EEA would be based on the average temperature of that whole country. It would be unnecessarily complex and costly to administer the Winter Fuel Payment scheme on a regional basis within the EEA. A simple rule has been proposed, based on the average winter air temperatures for the country involved.

Regulations will need to be agreed by Parliament to introduce the temperature criterion, but it is planned to introduce the change with effect from winter 2015/16. Countries where Winter Fuel Payments would no longer be payable are Portugal, Spain, Greece, France, Gibraltar, Malta and Cyprus.

Yours sincerely

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13 September 2013

Dear Mr Daft

Thank you for your letter. I assure you I fully understand the large volume of correspondence received by the Secretary of State - I have worked with several Secretaries of State. But of course, I was pleasantly surprised to find my letter ended up in the 'considered reply' tray!

However, I must take issue with your penultimate paragraph. I am aware that Article 73 of the French Constitution clearly defines the status of the DOM-TOMs - Département et région d'outre-mer. French Guiana, Guadeloupe, Martinique, and Réunion are four French overseas departments which under French law are, for the most part, treated as integral parts of the Republic. Each also forms a French overseas region. The euro is legal tender and they are part of the European Union Customs Union. However they are outside the Schengen Area and the VAT area. A fifth French Overseas Department, Mayotte, was created on 31 March 2011 when its status was changed from being an overseas collectivity. While Mayotte is currently an overseas country or territory, it is due to become an overseas region and thus part of the EU on 1 January 2014.

The Treaties of the European Union have very clear definitions and clauses covering *le territoire européen de la France*. The EU overseas countries and territories (OCT), and outermost regions (OMR) are frequently listed within EU legal frameworks. So, it should not prove to be any difficulty to frame a simple clause in any legislation which differentiates between Metropolitan France and the DOM-TOMs, and exclude anyone living in the DOM-TOMs. Furthermore, when it comes to defining the administrative aspects, a very simple tweak to the programming of the Department's databases will exclude any eligible pensioners living for example, in '971 Gaudeloupe' - in fact excluding 971, 972, 973 etc., is at worst very easy as each overseas French department has its own postcode or zip code. I've spent a large part of working life designing, managing and operating databases, and so I assure you I do actually know how simple it would be.

So to claim that: 'it would be unnecessarily complex and costly', is frankly complete nonsense. The European Union does it all the time from the Treaty of Rome to the Treaty of Lisbon, and within the frameworks of the CAP and the CFP, so there are plenty of legal precedents within a great deal of legislation within the EEA countries.

Finally, I cannot comprehend why Italy will be excluded, when the average winter temperatures there are actually higher than they are in Metropolitan France! This has only been achieved by the inclusion of the 'tropical' zones of the French DOM-TOMs, as against all other EEA countries which are within a 'temperate' zone.

Yours sincerely,

Roger Boaden