EXPLANATORY MEMORANDUM TO THE DEPARTMENT FOR SOCIAL DEVELOPMENT COMMITTEE

The Social Security (Deemed Income from Capital) Regulations (Northern Ireland) 2009

S.R. 2009 No. 262

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Social Development to accompany the Social Security (Deemed Income from Capital) Regulations (Northern Ireland) 2009 which is laid before the Northern Ireland Assembly.

1.2 The Statutory Rule is made under powers conferred by the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) and the State Pension Credit Act (Northern Ireland) 2002 (c. 14) and is subject to the negative resolution procedure.

1.3 The rule is due to come into operation on 2nd November 2009.

2. Purpose

2.1 This Statutory Rule amends the State Pension Credit Regulations (Northern Ireland) 2003 and the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006.

2.2 The amendments are required to increase the lower capital threshold at which income from capital is assumed in Pension Credit and Housing Benefit for those who have attained the qualifying age for Pension Credit from the existing £6,000 to £10,000. This will mean that customers will have more of their capital ignored before it is taken into consideration, for the purposes of calculating entitlement to benefit. The change was announced by the Chancellor as part of the 2009 Budget in response to the effect of the economic downturn on pensioners on income-related benefits with savings.

2.3 The effect of the changes is to raise the capital threshold, irrespective of whether the customer is permanently residing in a residential care home or nursing home (care home), to £10,000, benefiting customers who have savings in excess of £6,000. Customers would only be treated as possessing a prescribed amount of income where their capital exceeds £10,000.

2.4 The method of calculating the amount of income taken into account where capital exceeds the threshold will remain unchanged at £1 for each £500 or part thereof, above the threshold.

2.5 The rules for those living in care homes will remain unchanged meaning that the capital thresholds will be aligned for all customers at £10,000.

3. Background

3.1 At present the first £6,000 of a customer's capital in Pension Credit and Housing Benefit for those who have attained the qualifying age for Pension Credit is ignored when calculating entitlement and the first £10,000 is ignored for customers residing permanently in a care home or other specified accommodation. There is no upper capital limit in Pension Credit, however, where a customer's capital exceeds the £6,000 threshold, a weekly income is assumed at the rate of £1.00 for each £500, or part thereof.

3.2 The Chancellor announced in the 2009 Budget that from November 2009 the threshold for assessing capital/savings will rise from £6000 to £10,000 in Pension Credit and pension age Housing Benefit. The threshold of £10,000 for those living permanently in care homes will not change.

3.3 The effect of raising the threshold will mean that the vast majority of pensioners in receipt of Pension Credit and/or Housing Benefit will have all of their capital ignored in the calculation of their benefit.

3.4 Currently there are around 31,880 eligible Pension Credit customers who have capital below the current threshold (£1 to £6,000), with an introduction of an increase in the threshold to £10,000 this figure should increase to around 35,780. Consequently more customers will have capital fully ignored in the calculation of their benefit and around 8,800 customers already claiming would see an increase in their entitlement to Pension Credit.

3.5 Figures are not available on the number of Housing Benefit recipients who may benefit from this change as the statistics held do not distinguish between recipients of Housing Benefit and those recipients who are in receipt of both Housing Benefit and Pension Credit.

3.6 As a result of the change in the capital threshold to £10,000 there will also be an increase of new customers entitled to both Pension Credit and Housing Benefit.

3.7 The changes to the capital threshold will not affect any customers whose savings are below £6,000. Those in receipt of the Guarantee Credit element only of Pension Credit with savings above £6,000 and not residing in a care home will see an increase in entitlement on a pound for pound basis as the amount of income deemed from their capital would reduce. Those customers receiving both guarantee and savings credit will also see an increase, but not on a pound for pound basis, as although their guarantee credit will increase, there will be a reduction in their savings credit.

3.8 Whilst the majority of existing customers will benefit from this change, there is a possibility that a very small number could lose out. There may be some Pension Credit customers who are receiving Savings Credit only, with income that doesn't qualify for the Savings Credit such as spousal maintenance payments or certain social security benefits, who also have capital above £6000, who could see a small reduction in their Pension Credit entitlement as a result of this change. However, we cannot predict if there will be anyone in this position and if anyone will in fact lose out. Whilst any loss experienced may be offset by a consequential increase in Housing Benefit, we cannot estimate how many will also be in this position.

3.9 Any such losses would be between 20p and £1.60 per week. To compensate people for any loss in Pension Credit, anyone who does lose some benefit will be given a £40 one-off extra-statutory payment, regardless of the actual level of loss. This one-off payment has been set at £40 as this more than covers the amount that a person could lose in benefit between the introduction of the change and the uprating of the benefits from April 2010. This payment is in lieu of Pension Credit and as such is non-taxable and will not be taken into account in Pension Credit or Housing Benefit. Payments of this kind are disregarded for 12 months for benefit purposes so it is not expected that anyone will see their entitlement affected from this compensation.

3.10 The change to the capital interest threshold allows a disregard of higher levels whilst enabling us to continue to target help to the poorest pensioners.

4. Consultation

The equivalent Great Britain proposals have been subject to consultation with Local Authority Associations. The Social Security Advisory Committee considered and cleared the Great Britain proposals at their meeting on 6 May 2009. These proposals were agreed by them on 8 June 2009.

5. Equality Impact

In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on these legislative proposals and has concluded that the proposals do not have significant implications for equality of opportunity. In light of this, the Department considers that an equality impact assessment is not necessary.

6. Regulatory Impact

These Regulations do not require a Regulatory Impact Assessment as they do not impose any additional costs or savings on business, charities or voluntary bodies.

7. Financial Implications

Not applicable

8. **Section 24 of the Northern Ireland Act 1998**

The Department has also considered its obligations under section 24 of the Northern Ireland Act 1998. It is the Department's judgement that the Social Security (Deemed Income from Capital) Regulations (Northern Ireland) 2009 are not incompatible with the Convention rights, are not incompatible with Community law, do not discriminate against any person or class of person on the ground of religious belief or political opinion and do not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. **E.U. Implications**

Not applicable.

10. **Parity or Replicatory Measure**

The Regulations mirror the Great Britain Regulations and are in keeping with the principal of parity between Northern Ireland and Great Britain in social security matters. It is proposed that the Regulations come into operation on 2nd November 2009.

11. **Additional Information**

Not applicable