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## EXPLANATORY NOTE

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

These Regulations, which are made under articles 135 & 136 (5) of the Welfare Reform (Northern Ireland) Order 2015, provide for the establishment of a discretionary support fund to be administered by the Department, to provide emergency loans and grants to claimants who find themselves in extreme, exceptional or crisis circumstances which present a significant risk to the health, safety or well-being of the claimant or a member of the claimant's family.

Part 1 sets out the commencement, citation and interpretation relevant to the Regulations.

Part 2 details the manner in which a claim can be made. Claims can be made by telephone or in such other manner as the Department may accept as sufficient to a particular case (regulation 4(1)). Claims can also be made in writing 4(2); claims must be communicated, sent or delivered to an appropriate office 4(3). Regulation 5 specifies the date on which a claim has been received by the Department. Regulation 6 sets out the information types the Department may request a claimant to provide. Regulation 7 sets out the rules that apply when a person is unable to act on their own behalf. Regulation 8 provides the discretionary support officer with a discretionary power to decide whether a claim for discretionary support should proceed as a loan or a grant application. It also makes the discretionary support officer liable to take into account any guidance issued by the Department in relation to any matter concerning discretionary support. Regulation 9 permits the claimant to withdraw a claim.

Part 3 deals with eligibility. Regulation 10 sets out the general eligibility criteria that must be satisfied, including in 10(1)(a) that there should be significant risk to the claimant or the claimant's family. 10(1)(b) specifies the need must arise in Northern Ireland. Regulation 10(1)(c) ensures the claimant's income cannot exceed a set income threshold, 10(1)(d) sets out the age restrictions – over 18, unless their parents are in receipt of child benefit, or a minimum of 16 if the young person has no parental support, and 10(1)(e) that the need must be satisfied in Northern Ireland. Regulation 10(2) sets out that the claimant must be a resident of Northern Ireland and present in Northern Ireland. Regulation 10(3) specifies when a discretionary support officer should not make a determination and the exceptions to those circumstances. 11 & 12 set out the criteria for eligibility for a loan or a grant, including reference to Schedules 1 and 2 which sets out excluded items. Regulation 13 sets out those persons who are excluded from applying for discretionary support and Regulation 14 sets out those who are ordinarily excluded, but may be eligible to make a claim for discretionary support, but only where that is a loan for living expenses arising as a consequence of a disaster.

Part 4 explains the conditions around income and earnings, regulation 15 sets an annual income threshold with reference to the national living wage paid to those over 25 assuming a working pattern of 40 hours per week 52 weeks per year. Anyone whose earnings exceed this may not be eligible. Income taken into account will be gross income. By regulation 15(4) certain disregards specified in Schedule 3 apply to the calculation of income. The income of a child or young person will not be regarded as income of the claimant, but that of a member of a couple will be treated as income of the claimant. Regulation 16 deals with circumstances where some capital is regarded as income and regulation 17 covers circumstances where it appears the claimant may have intentionally deprived themselves of income to ensure they are eligible. So called notional income will be taken into account as if the claimant was in possession of that income.

Part 5 details the rules around capital held by a claimant and regulation 18 deals with the calculation of capital, and includes provision that any capital held by the claimant or the other member of a couple will be regarded as capital of the claimant. As with income, a number of disregards will apply

**Status:** This is the original version (as it was originally made).

and these are specified in Schedule 4. Regulation 19 details that any capital deliberately disposed of for the purposes of securing discretionary support will be treated as capital they actually possess. Regulation 20 deals with capital that is jointly held.

Part 6 covers awards and payments. Regulations 21 to 23 set out the principles for determining an award, dependent on existing levels of debt; the conditions a claimant must satisfy before an award can be paid; and how a payment should be made once conditions are satisfied.

Part 7 deals with recovery. All loans will be repayable, and grants may be recoverable. Regulation 24 sets out the ways in, and circumstances under which a loan or overpayment can be recovered.

Part 8 outlines reviews of a determination. Regulation 25 provides the Department with power to establish review procedures and the manner in which they can be conducted.

Schedule 1 sets out items and services that are excluded from the loan process.

Schedule 2 sets out items and services that are excluded from the grant process.

Schedule 3 sets out the disregards in respect of income calculations.

Schedule 4 sets out the disregards in respect of capital calculations.