

EXPLANATORY MEMORANDUM TO

The Social Security (Infected Blood and Thalidomide) Regulations (Northern Ireland) 2017

S.R. 2017 No. 219

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department for Communities to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under sections 122(1)(a) and (d), 132(3) and (4), 132A(3) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992, and section 165(4) and (6) of the Social Security Administration (Northern Ireland) Act 1992, Articles 14(1) and (4) and 36(2) of the Jobseekers (Northern Ireland) Order 1995, Article 29(1) and paragraph 8 of Schedule 1 to the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997, sections 2(3)(b), 15(3) and (6)(b) and 19(1) to (3) of the State Pension Credit Act (Northern Ireland) 2002, and sections 17(1) and (3) and 25(2) of the Welfare Reform Act (Northern Ireland) 2007 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. This Statutory Rule amends a variety of social security legislation relating to certain income-related benefits to provide for an income and capital disregard in respect of payments made by the new Scottish Infected Blood support Scheme, the Infected Blood Payment Scheme for Northern Ireland, the Thalidomide Scheme and any other Scheme which is approved by the Secretary of State, in the same way as payments to those infected with contaminated blood by existing UK-wide schemes are currently disregarded.
- 2.2. The Rule also exempts payments from the new Scottish Infected Blood Support Scheme, the Infected Blood Payment Scheme for Northern Ireland, The Thalidomide Scheme and any other Scheme approved by the Secretary of State from the Department's compensation recovery scheme.

3. Background

- 3.1. Since 1988, government has voluntarily provided support for people affected by HIV and/or hepatitis C through treatment with NHS-supplied blood or blood products.
- 3.2. The Department of Health in Great Britain consulted on reform of the schemes in January 2016 setting out proposals on how these schemes might be reformed to provide a more accessible and equitable system of care and support, that focuses on the welfare of infected individuals.
- 3.3. The UK currently has five payment schemes which provide financial support to people infected with HIV and/or hepatitis C as a result of NHS treatment which they received during the 1970-1980s and which involved

the use of contaminated blood. These schemes are run by the following organisations: The Eileen Trust, The Macfarlane Trust, MFET Ltd, The Skipton Fund and The Caxton Foundation. These Schemes will be replaced by one scheme in each of the UK jurisdictions.

- 3.4. In March 2016 the Scottish Government undertook a financial review of the existing UK-wide support schemes for infected individuals and as a result, these services have been consolidated and rationalised into a single scheme for Scotland. The new Scottish Infected Blood Support Scheme is operational from 1st April 2017 and is administered by NHS National Services Scotland, legally known as the Common Services Agency. It has been recognised that payments from this Scheme need to be disregarded for the purposes the calculation of eligibility for income-related benefits. The Department of Health advise that the equivalent Northern Ireland scheme will be known as “The Infected Blood Payment Scheme for Northern Ireland” and this will be administered by the Regional Business Services Organisation.
- 3.5. Similarly, a Heath Grant is payable to those people who find themselves physically impacted by the fact that during pregnancy their mothers had taken the drug known as Thalidomide, manufactured by The Distillers Company (Biochemical) Limited, which at the time was approved by the Secretary of State. This is in recognition of the complex and highly specialised needs that people so impacted continue to live with. As in the case for the Infected Blood Support Scheme it has been recognised that a disregard should be applied to the Thalidomide Health Grant in the calculation of income-related benefit entitlement and indeed to any other scheme of this nature established or approved by the Secretary of State. This generalisation of provision will ensure that financial support provided to those infected with contaminated blood products from any future schemes established in the other UK regions will automatically enable those payments to be disregarded in the calculation of benefit entitlement.

4. Consultation

- 4.1. This Statutory Rule has not been subject to public consultation.

5. Equality Impact

- 5.1. In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department conducted a screening exercise and concluded that the changes did not have any significant implications for equality of opportunity. In light of this, the Department considered that an equality impact assessment was not necessary.

6. Regulatory Impact

- 6.1. These Regulations do not require a Regulatory Impact Assessment as they do not impose a cost on business, charities, social enterprises or voluntary bodies.

7. Financial Implications

- 7.1. A breach of parity in this matter may incur financial costs, both in the loss of benefit savings and in administration costs, which would have to be met by the Northern Ireland Executive from the Northern Ireland block grant..

8. Section 24 of the Northern Ireland Act 1998

8.1. The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied the Rule—

- (a) is not incompatible with any of the Convention rights,
- (b) is not incompatible with Community law,
- (c) does not discriminate against a person or class of person on the ground of religious belief or political opinion, and
- (d) does not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

9.1. Not applicable.

10. Parity or Replicatory Measure

10.1. This Statutory Rule mirrors the provisions of the Social Security (Scottish Infected Blood Support Scheme) Regulations 2017 (S.I. 2017/329) for Great Britain, which were made on 8 March 2017 and came into force on 3 April 2017, and the Social Security (Infected Blood and Thalidomide) Regulations 2017 (S.I. 2017/870) which were made on 5 September 2017 and come into force on 30 October 2017, and are in keeping with the principle of parity between Northern Ireland and Great Britain in social security matters.

11. Additional Information

11.1. Not applicable.