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STATUTORY RULES OF NORTHERN IRELAND

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**2018 No. 150**

**SOCIAL SECURITY**

**The Social Security (Treatment of Arrears of Benefit) Regulations (Northern Ireland) 2018**

*Made - - - - 22nd August 2018*

*Coming into operation 11th September 2018*

The Department for Communities makes the following Regulations in exercise of the powers conferred by sections 122(1)(a) and (d), 132(3) and (4)(b), 132A(3) and 171(1) and (3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992<sup>(1)</sup>, Article 14(1) and (4)(b) of the Jobseekers (Northern Ireland) Order 1995<sup>(2)</sup>, and now vested in it<sup>(3)</sup>, sections 15(3) and (6)(b) and 19(1) to (3) of the State Pension Credit Act (Northern Ireland) 2002<sup>(4)</sup> and section 17(1) and (3)(b) of the Welfare Reform Act (Northern Ireland) 2007<sup>(5)</sup>.

Regulations 5 and 6 are made with the consent of the Department of Finance<sup>(6)</sup>.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Social Security (Treatment of Arrears of Benefit) Regulations (Northern Ireland) 2018 and come into operation on 11th September 2018.

(2) The Interpretation Act (Northern Ireland) 1954<sup>(7)</sup> shall apply to these Regulations as it applies to an Act of the Assembly.

**Amendment of the Income Support (General) Regulations**

2. In paragraph 7(2) of Schedule 10 to the Income Support (General) Regulations (Northern Ireland) 1987<sup>(8)</sup> (capital to be disregarded), for head (a) substitute—

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- (1) 1992 c. 7; section 132A was inserted by paragraph 3 of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002 (c.14 (N.I.)) and section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)
- (2) S.I. 1995/2705 (N.I. 15); Article 36(2) was amended by paragraph 55 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)
- (3) See Article 8(b) of S.R. 1999 No. 481 and section 1(7) of the Departments Act (Northern Ireland) 2016 (c.5 (N.I.))
- (4) 2002 c.14 (N.I.)
- (5) 2007 c. 2 (N.I.)
- (6) See section 171(6A) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 as inserted by Article 3(3) of the Social Security (Amendment) (Northern Ireland) Order 1993 (S.I. 1993/1579 (N.I. 8)); see also Article 6(b) of S.R. 1999 No. 481 and section 1(4) of the Departments Act (Northern Ireland) 2016 (c.5 (N.I.))
- (7) 1954 c. 33 (N.I.)
- (8) S.R. 1987 No. 459; paragraph 7(2) was added by regulation 2(b) of S.R. 2002 No. 295

- “(a) paid in order to rectify, or to compensate for—
  - (i) an official error as defined in regulation 1(2) of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999<sup>(9)</sup>, or
  - (ii) an error on a point of law; and”.

#### **Amendment of the Jobseeker’s Allowance Regulations**

3. In paragraph 12(2) of Schedule 7 to the Jobseeker’s Allowance Regulations (Northern Ireland) 1996<sup>(10)</sup> (capital to be disregarded), for head (a) substitute—

- “(a) paid in order to rectify, or to compensate for—
  - (i) an official error as defined in regulation 1(2) of the Decisions and Appeals Regulations, or
  - (ii) an error on a point of law; and”.

#### **Amendment of the State Pension Credit Regulations**

4. In paragraph 20A(1) of Schedule 5 to the State Pension Credit Regulations (Northern Ireland) 2003<sup>(11)</sup> (capital disregarded for the purpose of calculating income), after “error” insert “or an error on a point of law”.

#### **Amendment of the Housing Benefit Regulations**

5. In paragraph 9(2) of Schedule 7 to the Housing Benefit Regulations (Northern Ireland) 2006<sup>(12)</sup> (capital to be disregarded), for head (a) substitute—

- “(a) paid in order to rectify, or to compensate for—
  - (i) an official error as defined in regulation 1(2) of the Decisions and Appeals Regulations, or
  - (ii) an error on a point of law; and”.

#### **Amendment of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations**

6. In paragraph 22(1) of Schedule 7 to the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006<sup>(13)</sup> (capital to be disregarded), after “error” insert “or an error on a point of law”.

#### **Amendment of the Employment and Support Allowance Regulations**

7.—(1) The Employment and Support Allowance Regulations (Northern Ireland) 2008<sup>(14)</sup> are amended in accordance with paragraphs (2) and (3).

(2) In paragraph 11(2) of Schedule 9 (capital to be disregarded), for head (a) substitute—

- “(a) paid in order to rectify, or to compensate for—
  - (i) an official error as defined in regulation 1(2) of the Decisions and Appeals Regulations, or

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<sup>(9)</sup> S.R. 1999 No. 162

<sup>(10)</sup> S.R. 1996 No. 198; paragraph 12(2) was added by regulation 4 of S.R. 2002 No. 295

<sup>(11)</sup> S.R. 2003 No. 28; paragraph 20A was substituted by regulation 2(11)(f) of S.R. 2003 No. 421

<sup>(12)</sup> S.R. 2006 No. 405

<sup>(13)</sup> S.R. 2006 No. 406

<sup>(14)</sup> S.R. 2008 No. 280; relevant amending Regulation is S.R. 2016 No. 228

(ii) an error on a point of law; and”.

Sealed with the Official Seal of the Department for Communities on 22nd August 2018

(L.S.)

*Anne McCleary*  
A senior officer of the Department for  
Communities

The Department of Finance hereby consents to the foregoing regulations.

Sealed with the Official Seal of the Department of Finance on 22nd August 2018

(L.S.)

*Stuart Stevenson*  
A senior officer of the Department of Finance

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

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

These Regulations amend the Income Support (General) Regulations (Northern Ireland) 1987 (the “IS Regulations”), the Jobseeker’s Allowance Regulations (Northern Ireland) 1996 (the “JSA Regulations”), the State Pension Credit Regulations (Northern Ireland) 2003 (the “SPC Regulations”), the Housing Benefit Regulations (Northern Ireland) 2006 (the “HB Regulations”), the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006 (the “HB (SPC) Regulations”) and the Employment and Support Allowance Regulations (Northern Ireland) 2008 (the “ESA Regulations”).

The Regulations set out above, currently provide for arrears, or a payment to compensate for arrears, to be disregarded when determining entitlement to an award of benefit for 52 weeks from the date of receipt. In the case of payments of £5000 or more that are paid as a result of official error, these are disregarded for longer. In the case of the IS, JSA, HB and ESA Regulations, the payment is disregarded for 52 weeks or for the remainder of the award, whichever is the longer. In the case of the SPC and HB (SPC) Regulations, the payment is disregarded until the award comes to an end.

The amendments made by these Regulations provide for the longer disregard to apply also to arrears or a payment to compensate for arrears, of £5,000 or more paid as a result of an error of law.

These Regulations make in relation to Northern Ireland only provision corresponding to provision contained in Regulations made by the Secretary of State for Work and Pensions in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992, are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.