

*Draft Regulations laid before Parliament under paragraph 1 of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.*

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DRAFT STATUTORY INSTRUMENTS

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**2018 No. \*\*\***

**EXITING THE EUROPEAN  
UNION, NORTHERN IRELAND  
SOCIAL SECURITY, NORTHERN IRELAND**

The Social Security (Amendment) (Northern  
Ireland) (EU Exit) Regulations 2018

*Made* - - - - **\*\*\***

*Coming into force in accordance with regulation 1(2)*

The Secretary of State, in exercise of the powers conferred by sections 8(1) and 23(1) of the European Union (Withdrawal) Act 2018(1), makes the following Regulations.

In accordance with paragraph 1 of Schedule 7 to the European Union (Withdrawal) Act 2018 a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

**Citation and commencement**

1.—(1) These Regulations may be cited as the Social Security (Amendment) (Northern Ireland) (EU Exit) Regulations 2018.

(2) These Regulations come into force on exit day.

**Amendment of the Social Security Contributions and Benefits (Northern Ireland) Act 1992**

2. In section 144 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(2) (entitlement of pensioners to Christmas bonus), in subsection (1)(a), for “any other” substitute “a”.

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(1) 2018 c. 16.

(2) 1992 c. 7, to which there are amendments not relevant to these Regulations.

### Amendment of the Social Security Administration (Northern Ireland) Act 1992

3.—(1) The Social Security Administration (Northern Ireland) Act 1992(3) is amended in accordance with this regulation.

(2) In section 71 (overlapping benefits – general), in subsection (5), for “member State other than the United Kingdom” substitute “member State”.

(3) In section 72 (income support and other payments) in subsection (2)(a), for “other member State” substitute “member State”.

(4) In section 76 (child benefit – overlap with benefits under legislation of other member States)—

(a) in the heading, omit “other”;

(b) for “member State other than the United Kingdom” substitute “member State”.

(5) In section 155 (reciprocal agreements with countries outside the United Kingdom)—

(a) in subsection (1)—

(i) in paragraph (a), after “United Kingdom” insert “or an international organisation”;

(ii) in paragraph (b), after “other government” insert “or international organisation”;

(b) in subsection (3)—

(i) in paragraph (a)—

(aa) for “law of the country” substitute “law in force in the country”;

(bb) after “agreement is made” insert “or has effect”;

(ii) in paragraph (b), for “law of that country” substitute “law in force in that country”;

(c) in subsection (4), after paragraph (ah) insert—

“(ai) to Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, as it forms part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018;

(aj) to Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004, as it forms part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018;

(ak) to Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, as it forms part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018;

(al) to Council Regulation (EEC) No 574/72 of 21 March 1972 laying down the procedure for implementing Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, as it forms part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018;

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(3) 1992 c. 8; section 71(5) was amended by section 254(1) of, and paragraph 111 of Schedule 24 to, the Civil Partnership Act 2004 (c. 33) and section 2(3) of, and paragraph 47 of Schedule 1 to, the Child Benefit Act 2005 (c. 6); section 72 was amended by section 14 of, and paragraph 11 of Schedule 2 to, the State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.)) and section 28(1) of, and paragraph 4(8) of Schedule 3 to, the Welfare Reform Act (Northern Ireland) 2007 (c. 2 (N.I.)); section 76 was amended by section 2(3) of, and paragraphs 27 and 48 of Schedule 1 to, the Child Benefit Act 2005; section 155(4)(ah) was inserted by section 30(5) of, and paragraph 31(3) of Schedule 16 to, the Pensions Act (Northern Ireland) 2015 (c. 5 (N.I.)) and there are other amendments that are not relevant to these Regulations.

- (am) to Council Regulation (EC) No 859/2003 of 14 May 2003 extending the provisions of Regulation (EEC) No 1408/71 and Regulation (EEC) No 574/72 to nationals of third countries who are not already covered by those provisions solely on the ground of their nationality, as it forms part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018;”;
- (d) after subsection (5) add—
  - “(6) In this section, “international organisation” means an organisation of which—
    - (a) two or more sovereign powers are members; or
    - (b) the governments of two or more sovereign powers are members.”.

#### **Amendments of secondary legislation**

4. The Schedule contains amendments of secondary legislation.

Signed by authority of the Secretary of State for Work and Pensions

Date

*Name*  
Minister of State for Employment  
Department for Work and Pensions

## SCHEDULE

Regulation 4

## Amendments of secondary legislation

**The Social Security (Invalid Care Allowance) Regulations (Northern Ireland) 1976**

5.—(1) The Social Security (Invalid Care Allowance) Regulations (Northern Ireland) 1976(4) are amended in accordance with this paragraph.

(2) In regulation 9B(5) (persons residing in an EEA state other than the United Kingdom or in Switzerland to whom a relevant EU Regulation applies)—

- (a) in the heading, omit “other than the United Kingdom”;
- (b) in paragraph (a)(i), omit “other than the United Kingdom”.

**The Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978**

6.—(1) The Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978(6) are amended in accordance with this paragraph.

(2) In regulation 12A(7) (modification of Parts 2 and 3 of the Act in relation to accidents happening or prescribed diseases contracted outside Northern Ireland)—

- (a) in paragraph (1), in the definition of “prescribed area”, omit “(other than the United Kingdom)”;
- (b) in paragraph (2)—
  - (i) in sub-paragraph (a), for “or a Member State (including the United Kingdom)” substitute “, a Member State or the United Kingdom”;
  - (ii) in sub-paragraph (b), omit “(other than the United Kingdom)”.

**The Statutory Sick Pay (Mariners, Airmen and Persons Abroad) Regulations (Northern Ireland) 1982**

7.—(1) The Statutory Sick Pay (Mariners, Airmen and Persons Abroad) Regulations (Northern Ireland) 1982(8) are amended in accordance with this paragraph.

- (2) In regulation 4 (persons in other member States – meaning of “employee”)—
- (a) in the heading, omit “other”;
  - (b) in paragraph (a), omit “other than the United Kingdom”.

**The Statutory Maternity Pay (Persons Abroad and Mariners) Regulations (Northern Ireland) 1987**

8.—(1) The Statutory Maternity Pay (Persons Abroad and Mariners) Regulations (Northern Ireland) 1987(9) are amended in accordance with this paragraph.

- (2) In regulation 2 (persons in other member States – meaning of “employee”)—
- (a) in the heading, omit “other”;
  - (b) in paragraph (a), omit “other than the United Kingdom”.

(4) S.R. 1976 No. 99, amended by S.R. 2016 No. 229; there are other amendments but none is relevant.

(5) Regulation 9B was inserted by regulation 2(3) of S.R. 2016 No. 229.

(6) S.R. 1978 No. 114, amended by S.R. 1979 No. 131; there are other amendments but none is relevant.

(7) Regulation 12A was inserted by regulation 2 of S.R. 1979 No. 131.

(8) S.R. 1982 No. 306, to which there are amendments not relevant to these Regulations.

(9) S.R. 1987 No. 171, amended by S.R. 1996 No. 108.

(3) In regulation 5 (women who worked in the European Community) in paragraph (1)(b), omit “other than the United Kingdom”.

### **The Social Security (Payments on account, Overpayments and Recovery) Regulations (Northern Ireland) 1988**

**9.**—(1) The Social Security (Payments on account, Overpayments and Recovery) Regulations (Northern Ireland) 1988(**10**) are amended in accordance with this paragraph.

(2) In regulation 8 (duplication and prescribed payments), in paragraph (1)(g), omit “other than the United Kingdom”.

(3) The amendment made by sub-paragraph (2) also has effect in relation to regulation 8 as that regulation relates to child benefit and guardian’s allowance by virtue of the transitional provision in regulation 44 of the Child Benefit and Guardian’s Allowance (Administration) Regulations 2003(**11**).

### **The Social Security (Attendance Allowance) Regulations (Northern Ireland) 1992**

**10.**—(1) The Social Security (Attendance Allowance) Regulations (Northern Ireland) 1992(**12**) are amended in accordance with this paragraph.

(2) In regulation 2B(**13**) (persons residing in an EEA state other than the United Kingdom or in Switzerland to whom a relevant EU Regulation applies)—

- (a) in the heading, omit “other than the United Kingdom”;
- (b) in paragraph (a)(i), omit “other than the United Kingdom”.

### **The Social Security (Disability Living Allowance) Regulations (Northern Ireland) 1992**

**11.**—(1) The Social Security (Disability Living Allowance) Regulations (Northern Ireland) 1992(**14**) are amended in accordance with this paragraph.

(2) In regulation 2B(**15**) (persons residing in an EEA state other than the United Kingdom or in Switzerland to whom a relevant EU Regulation applies)—

- (a) in the heading, omit “other than the United Kingdom”;
- (b) in paragraph (a)(i), omit “other than the United Kingdom”.

### **The Housing Benefit Regulations (Northern Ireland) 2006**

**12.**—(1) The Housing Benefit Regulations (Northern Ireland) 2006(**16**) are amended in accordance with this paragraph.

(2) In regulation 7 (circumstances in which a person is or is not to be treated as occupying a dwelling as his home), in paragraph (18), in the definition of “prescribed area”(**17**), omit “(other than the United Kingdom)”.

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(10) [S.R. 1988 No. 142](#), the Regulations are revoked in so far as they relate to child benefit or guardian’s allowance by regulation 43 of, and Part 2 of Schedule 3 to, [S.I. 2003/492](#); regulation 44 of those Regulations sets out transitional provisions; there are other amending instruments but none is relevant.

(11) [S.I. 2003/492](#), to which there are amendments not relevant to these Regulations.

(12) [S.R. 1992 No. 20](#), amended by [S.R. 2016 No. 229](#); there are other amendments but none is relevant.

(13) Regulation 2B was inserted by regulation 3(3) of [S.R. 2016 No. 229](#).

(14) [S.R. 1992 No. 32](#), amended by [S.R. 2016 No. 229](#); there are other amendments but none is relevant.

(15) Regulation 2B was inserted by regulation 4(4) of [S.R. 2016 No. 229](#).

(16) [S.R. 2006 No. 405](#), amended by [S.R. 2008 No. 504](#) and [S.R. 2017 No. 1](#); there are other amendments but none is relevant.

(17) The definition of “prescribed area” was inserted by regulation 2(2)(h)(iii) of [S.R. 2017 No. 1](#).

(3) In regulation 102 (recovery of overpayments from prescribed benefits), in paragraph (1)(c), omit “other than the United Kingdom”.

#### **The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006**

13.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006(18) are amended in accordance with this paragraph.

(2) In regulation 7 (circumstances in which a person is or is not to be treated as occupying a dwelling as his home), in paragraph (18), in the definition of “prescribed area”(19), omit “(other than the United Kingdom)”.

(3) In regulation 83 (recovery of overpayments from prescribed benefits), in paragraph (1)(c), omit “other than the United Kingdom”.

#### **The Universal Credit Regulations (Northern Ireland) 2016**

14. In regulation 11 (temporary absence from Northern Ireland) of the Universal Credit Regulations (Northern Ireland) 2016(20), in paragraph (5), in the definition of “prescribed area”, omit “(other than the United Kingdom)”.

#### **The Personal Independence Payment Regulations (Northern Ireland) 2016**

15.—(1) The Personal Independence Payment Regulations (Northern Ireland) 2016(21) are amended in accordance with this paragraph.

(2) In regulation 23 (persons residing in an EEA state other than the United Kingdom or in Switzerland to whom a relevant EU Regulation applies)—

- (a) in the heading, omit “other than the United Kingdom”;
- (b) in paragraph (a)(i), omit “other than the United Kingdom”.

#### **The Housing Benefit and State Pension Credit (Temporary Absence) (Amendment) Regulations (Northern Ireland) 2017**

16. In regulation 5 (transitional provision) of the Housing Benefit and State Pension Credit (Temporary Absence) (Amendment) Regulations (Northern Ireland) 2017(22), in paragraph (4), in the definition of “prescribed area”, omit “(other than the United Kingdom)”.

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(18) S.R. 2006 No. 406, amended by S.R. 2008 No. 504 and S.R. 2017 No. 1; there are other amendments but none is relevant.

(19) The definition of “prescribed area” was inserted by regulation 3(2)(h)(iii) of S.R. 2017 No. 1.

(20) S.R. 2016 No. 216, to which there are amendments not relevant to these Regulations.

(21) S.R. 2016 No. 217, to which there are amendments not relevant to these Regulations.

(22) S.R. 2017 No. 1.

## EXPLANATORY NOTE

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

These Regulations are made in exercise of the powers in sections 8 and 23 of the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union and to make consequential provision.

These Regulations make amendments to domestic legislation in the field of social security in Northern Ireland, to reflect that the United Kingdom will no longer be a Member State of the European Union and to amend section 155 of the Social Security Administration (Northern Ireland) Act 1992 (c. 8) to allow for the implementation of reciprocal agreements with the European Union or individual Member States following the United Kingdom's exit from the European Union.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.