

**2017 No. 66**

**SOCIAL SECURITY**

**The Pensions (2015 Act) (Consequential, Supplementary and Incidental Amendments) Order (Northern Ireland) 2017**

*Made* - - - - *20th March 2017*

*Coming into operation in accordance with Article 1*

The Department for Communities<sup>(a)</sup> makes the following Order in exercise of the powers conferred by section 50 of the Pensions Act (Northern Ireland) 2015<sup>(b)</sup>.

**Citation and commencement**

**1.**—(1) This Order may be cited as the Pensions (2015 Act) (Consequential, Supplementary and Incidental Amendments) Order (Northern Ireland) 2017.

(2) Subject to Articles 2 and 3, this Order shall come into operation—

- (a) for the purposes of Article 23 immediately after the coming into operation of Article 27 of the Pensions Act 2014 (Consequential, Supplementary and Incidental Amendments) Order 2017<sup>(c)</sup>;
- (b) for the purposes of Article 28 immediately after the coming into operation of the Universal Credit Regulations (Northern Ireland) 2016<sup>(d)</sup>;
- (c) for all other purposes on 6th April 2017.

**Later commencement for abolition of bereavement payment and bereavement allowance**

**2.**—(1) Subject to Article 3, this Order shall not come into operation in accordance with Article 1(2) for a person to whom this Article applies.

(2) This Article applies to a person who, on 5th April 2017—

- (a) was entitled to—
  - (i) a bereavement payment under section 36 of the Contributions and Benefits Act (bereavement payment)<sup>(e)</sup>; or
  - (ii) a bereavement allowance under section 39B (bereavement allowance where no dependent children)<sup>(f)</sup> of that Act; or

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(a) See section 1(7) of the Departments Act (Northern Ireland) 2016 (c. 5 (N.I.))  
(b) 2015 c. 5 (N.I.)  
(c) S.I. 2017/422  
(d) S. R. 2016 No. 216  
(e) 1992 c. 7; section 36 was substituted by Article 51(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) and amended by paragraph 70 of Schedule 24 to the Civil Partnership Act 2004 (c. 33); see also Article 2 of S.R. 2016 No. 195  
(f) Section 39B was inserted by Article 52(2) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 and amended by paragraph 75 of Schedule 24, and Schedule 30, to the Civil Partnership Act 2004

- (b) would have been entitled to such a benefit if the person made a claim for it.
- (3) But this Article ceases to apply to a person if—
  - (a) the person was entitled to a benefit in accordance with paragraph (2)(a) and the person is no longer entitled to that benefit; or
  - (b) the person would have been entitled to a benefit in accordance with paragraph (2)(b) and the person would no longer be entitled to that benefit if the person made a claim for it.
- (4) On the date this Article ceases to apply to a person, this Order shall come into operation for that person.

### **Commencement for entitlement to bereavement payment and bereavement support payment**

**3.—**(1) This Order shall not come into operation in accordance with Article 1(2) for a person to whom this Article applies.

- (2) This Article applies to a person—
  - (a) whose spouse or civil partner died in the 12 months before 6th April 2017;
  - (b) who would have been entitled to a bereavement payment under section 36 of the Contributions and Benefits Act (bereavement payment) if the person had made a claim for it;
  - (c) who formed a new marriage or civil partnership; and
  - (d) whose new spouse or civil partner dies—
    - (i) on or after 6th April 2017, and
    - (ii) within 12 months of the death referred to in sub-paragraph (a).
- (3) This Order shall come into operation for a person to whom this Article applies—
  - (a) at the end of the period of 12 months starting on the day on which the death referred to in paragraph (2)(a) occurred, for the purposes of entitlement to a bereavement payment for the death referred to in paragraph (2)(a); and
  - (b) on 6th April 2017, for the purposes of entitlement to bereavement support payment for the death referred to in paragraph (2)(d).

### **Amendment of the Social Security (Credits) Regulations**

**4.—**(1) The Social Security (Credits) Regulations (Northern Ireland) 1975(a) are amended in accordance with paragraphs (2) to (9).

- (2) In regulation 2(1) (interpretation)—
  - (a) omit the definitions of “bereavement allowance” and “bereavement benefit”(b); and
  - (b) in the definition of “reckonable year(c)”, in paragraph (a) omit “bereavement benefits.”.
- (3) In regulation 3(1)(ab)(d) (general provisions relating to the crediting of contributions and earnings) omit head (iii) except for the “and” immediately after it.
- (4) In regulation 4(1)(e) and in the heading to regulation 4 (starting credits for the purposes of a retirement pension, a widowed mother’s allowance, a bereavement allowance and a widow’s pension) omit “, a bereavement allowance”.

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(a) S.R. 1975 No. 113; relevant amending Rules are S.R. No. 1976 No. 99; S.R. 1987 No. 153; S.R. 1988 No. 326; S.R. 1995 No. 479; S.R. 1996 No. 430; S.R. 1988 No. 326; S.R. 2001 No. 108; S.R. 2002 Nos. 80 and 323; S.R. 2003 No. 195; S.R. 2005 No. 536; S.R. 2007 Nos. 306 and 395; S.R. 2008 No. 286; S.R. 2010 No. 56; S.R. 2011 Nos. 107 and 291

(b) The definitions of “bereavement allowance” and “bereavement benefit” were inserted by regulation 3(2)(a) of S.R. 2001 No. 108

(c) The definition of “reckonable year” was substituted by regulation 2(2)(d) of S.R. 1996 No. 430 and amended by regulation 2(2) of S.R. 2007 No. 306 and regulation 7(2)(e) of S.R. 2008 No. 286

(d) Sub-paragraph (ab) was substituted by regulation 5(2) of S.R. 2010 No. 56

(e) Regulation 4(1) was amended by regulation 2(5)(a) of S.R. 1988 No. 326 and regulation 2(2)(a) of S.R. 2011 No. 107; paragraph (1) and the heading to regulation 4 were amended by regulation 3(4) of S.R. 2001 No. 108

(5) In regulation 7A(1)(a) (credits for carer’s allowance) for “bereavement benefit” substitute “widowed parent’s allowance”.

(6) In regulation 7C(1)(b) (credits for working tax credits) omit “, a bereavement allowance”.

(7) In regulation 8C(c) (credits on termination of bereavement benefits) after paragraph (2) insert—

“(3) In this regulation, “bereavement benefit” means—

(a) a bereavement payment referred to in section 36 of the Contributions and Benefits Act as in operation immediately before it was repealed by paragraph 8 of Schedule 16 to the Pensions Act (Northern Ireland) 2015;

(b) a bereavement allowance referred to in section 39B of the Contributions and Benefits Act as in operation immediately before it was repealed by paragraph 13 of Schedule 16 to the Pensions Act (Northern Ireland) 2015; and

(c) widowed parent’s allowance.”.

(8) In regulation 8E(3)(d) (credits for the purposes of entitlement to retirement pension following official error) after “bereavement allowance” insert “referred to in section 39B of the Contributions and Benefits Act as in operation immediately before it was repealed by paragraph 13 of Schedule 16 to the Pensions Act (Northern Ireland) 2015”.

(9) In regulation 9F(e) (credits for persons providing care for a child under the age of 12)—

(a) in paragraph (2)(b) omit “or bereavement allowance”; and

(b) omit paragraph (3)(e).

#### **Amendment of the Social Security Benefit (Persons Abroad) Regulations**

**5.—**(1) The Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978(f) are amended in accordance with paragraphs (2) to (6).

(2) In regulation 1(2)(g) (citation, commencement and interpretation) omit the definitions of “bereavement allowance”, “bereavement benefit” and “bereavement payment”.

(3) In regulation 4(1) (modification of the Contributions and Benefits Act) and in the heading to regulation 4, for “bereavement benefit” substitute “widowed parent’s allowance”.

(4) Omit regulation 4(2B)(h).

(5) In regulation 5(3)(d)(i) (application of disqualification in respect of up-rating of benefit) for “bereavement benefit” substitute “widowed parent’s allowance”.

(6) In regulation 5A(j) (rate of guaranteed minimum pension) omit “, bereavement allowance”.

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(a) Regulation 7A was inserted by regulation 19 of S.R. 1976 No. 99 and paragraph (1) was amended by regulation 6(a) of S.R. 1987 No. 153; regulation 2(5)(c) of S.R. 1988 No. 326; regulation 3(5)(b) of S.R. 2001 No. 108; regulation 2(3) of S.R. 2002 No. 80; paragraph 1 of the Schedule to S.R. 2002 No. 323; regulation 4(2) of S.R. 2005 No. 536 and regulation 3(2) of S.R. 2011 No. 291

(b) Regulation 7C was inserted by regulation 2 of S.R. 1995 No. 479 and paragraph (1) was amended by regulation 3(6) of S.R. 2001 No. 108 and paragraph 1(e)(i) and (ii) of Schedule 4 to S.R. 2003 No. 195

(c) Regulation 8C was inserted by regulation 3(7) of S.R. 2001 No. 108 and paragraph (2) was amended by regulation 4(4) of S.R. 2005 No. 536 and regulation 7(7) of S.R. 2008 No. 286

(d) Regulation 8E was inserted by regulation 2 of S.R. 2007 No. 395

(e) Regulation 9F was inserted by regulation 2(3) of S.R. 2011 No. 107

(f) S.R. 1978 No. 114; relevant amending Rules are S.R. 1989 No. 373; S.R. 1990 No. 123; S.R. 1994 No. 269; S.R. 2001 Nos. 108 and 287 and S.R. 2005 No. 536

(g) The definitions of “bereavement allowance” and “bereavement benefit” were inserted by regulation 6(2)(a) of S.R. 2001 No. 108 and the definition of “bereavement payment” was inserted by regulation 2 of S.R. 2001 No. 287

(h) Regulation 4(2B) was inserted by regulation 6(3)(b) of S.R. 2001 No. 108

(i) Regulation 5(3)(d) was amended by regulation 6(3)(a)(iii) of S.R. 1989 No. 373, regulation 6(4) of S.R. 2001 No. 108 and paragraph 8(4)(a)(ii) of Schedule 3 to S.R. 2005 No. 536

(j) Regulation 5A was inserted by regulation 2(3) of S.R. 1990 No.123 and amended by regulation 6(5) of S.R. 2001 No. 108

### **Amendment of the Social Security (Overlapping Benefits) Regulations**

**6.**—(1) The Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1979(a) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 2(1) (interpretation) omit the definition of “bereavement allowance”.

(3) In Schedule 1 (personal benefits which are required to be adjusted by certain benefits) in paragraph 3 of column (1)(b) omit “, bereavement allowance”.

### **Amendment of the Social Security (Widow’s Benefit and Retirement Pensions) Regulations**

**7.**—(1) The Social Security (Widow’s Benefit and Retirement Pensions) Regulations (Northern Ireland) 1979(c) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 1(2) (interpretation) in the definition of “bereavement allowance”(d) after “Benefits Act” insert “(as in operation immediately before it was repealed by paragraph 13 of Schedule 16 to the Pensions Act (Northern Ireland) 2015(e))”.

(3) In regulation 6(1) (rate of benefit where the second contribution condition in paragraph 5 of Schedule 3 to the Contributions and Benefits Act is not satisfied) omit sub-paragraph (ab)(f).

(4) After regulation 7A(g) (Category B retirement pension for surviving spouses and surviving civil partners by virtue of deceased spouse’s or deceased civil partner’s contributions) insert—

#### **“Notional entitlement to Category B retirement pension for new State Pension purposes**

**7B.**—(1) This regulation applies for the purposes of determining whether, in accordance with paragraph 3(1)(d) of Schedule 3 to the Pensions Act (Northern Ireland) 2015 (survivor’s pension under section 7: inherited amount: dead spouse or civil partner in old state pension scheme etc.)(h), a person (“the pensioner”) would have been entitled to a Category B retirement pension.

(2) The pensioner shall be treated as being entitled to bereavement support payment if the pensioner would have been so entitled but for one or both of the circumstances specified in paragraph (3).

(3) The circumstances referred to in paragraph (2) are—

- (a) the pensioner’s failure to make, or the pensioner’s delay in making, a claim for that bereavement support payment;
- (b) the operation of section 31 of the Pensions Act (Northern Ireland) 2015 (bereavement support payment: prisoners) or any regulations made under that section.”.

### **Amendment of the Social Security (General Benefit) Regulations**

**8.**—(1) The Social Security (General Benefit) Regulations (Northern Ireland) 1984(i) are amended in accordance with paragraphs (2) and (3).

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- (a) S.R. 1979 No. 242; relevant amending Regulations are S.R. 1983 No. 36 and S.R. 2001 No. 108
  - (b) Paragraph 3 was amended by regulation 12(3)(a) of S.R. 1983 No. 36 and regulation 7(3) of S.R. 2001 No. 108
  - (c) S.R. 1979 No. 243; relevant amending Regulations are S.R. 1990 No. 452; S.R. 2001 No. 108; S.R. 2005 No. 536; S.R. 2010 No. 56 and S.R. 2001 No. 108
  - (d) The definition of “bereavement allowance” was inserted by regulation 8(2)(b) of S.R. 2001 No. 108
  - (e) 2015 (c. 5 (N.I.))
  - (f) Regulation 6(1) was substituted by regulation 2(2) of S.R. 1990 No. 452 and amended by regulation 3(7)(a) of S.R. 2010 No. 56; sub-paragraph (ab) was inserted by regulation 8(3)(a) of S.R. 2001 No. 108
  - (g) Regulation 7A was inserted by regulation 8(4) of S.R. 2001 No. 108 and amended by paragraph 10(2) of S.R. 2005 No. 536
  - (h) See S.R. 2016 No. 195 for transitional provisions relating to paragraph 3 of Schedule 3
  - (i) S.R. 1984 No. 92; relevant amending Regulations are S.R. 2001 No. 108

(2) In regulation 1(2) (citation, commencement and interpretation) omit the definition of “bereavement benefit”(a).

(3) In regulation 2(2) (exceptions from disqualification for imprisonment etc.) for “bereavement benefit”(b) substitute “widowed parent’s allowance”.

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

**9.**—(1) The Income Support (General) Regulations (Northern Ireland) 1987(c) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 2(1) (interpretation) in the definition of “the benefits Acts”(d) for “Part 1 of the Pensions Act (Northern Ireland) 2015” substitute “Parts 1 and 5 of the Pensions Act (Northern Ireland) 2015”.

(3) In Schedule 9 (sums to be disregarded in the calculation of income other than earnings) after paragraph 72A(e) insert—

“**72B.** Any bereavement support payment under section 29 of the Pensions Act (Northern Ireland) 2015 (bereavement support payment) except any such payment which is disregarded as capital under paragraph 7(1)(ba) or 65 of Schedule 10.”.

(4) In Schedule 10 (capital to be disregarded)—

(a) in paragraph 7(1)(f) after sub-paragraph (b) insert—

“(ba) bereavement support payment under section 29 of the Pension Act (Northern Ireland) 2015,”; and

(b) after paragraph 64A(g) insert—

“**65.** Any bereavement support payment in respect of the rate set out in regulation 3(2) or (5) (rate of bereavement support payment) of the Bereavement Support Payment Regulations (Northern Ireland) 2017(h), but only for a period of 52 weeks from the date of receipt of the payment.”.

### **Amendment of the Social Security (Claims and Payments) Regulations**

**10.**—(1) The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(i) are amended in accordance with paragraphs (2) to (14).

(2) In regulation 2(1) (interpretation)—

(a) in the definition of “benefit”(j) after “shared additional pension” insert “, bereavement support payment”;

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- (a) The definition of “bereavement benefit” was inserted by regulation 9(2) of S.R. 2001 No. 108
- (b) Regulation 2(2) was amended by regulation 9(3) of S.R. 2001 No. 108; there are other amendments to regulation 2 which are not relevant to this Order
- (c) S.R. 1987 No. 459; relevant amending instruments are S.R. 1992 No. 6; S.R. 2001 No. 261; S.R. 2002 No. 295; S.R. 2004 No. 389; S.R. 2008 Nos. 112 and 286; S.I. 2013/3021; S.R. 2015 No. 411 and S.R. 2016 Nos. 228 and 236
- (d) The definition of “the benefits Act” was inserted by regulation 12(2)(a) of S.R. 2008 No. 286 and amended by Article 8(2) of S.R. 2015 No. 411 and regulation 11(2)(b) of S.R. 2016 No. 228
- (e) Paragraph 72A was inserted by regulation 14(7) of S.I. 2013/3021
- (f) Paragraph 7(1) was amended by regulation 10(7) of S.R. 1992 No. 6, regulation 2(2)(b) of S.R. 2001 No. 261, regulation 2 of S.R. 2002 No. 295, regulation 2(17)(a) of S.R. 2008 No. 112 and regulation 12(15)(a) of S.R. 2008 No. 286 and is amended by regulation 26(10) of S.R. 2016 No. 236
- (g) Paragraph 64A was inserted by regulation 3(3) of S.R. 2004 No. 389
- (h) S.R. 2017 No. 65
- (i) S.R. 1987 No. 465; relevant amending instruments are S.R. 1988 No. 141; S.I. 1988/594 (N.I. 2); S.R. 1994 No. 456; S.R. 1998 No. 369; S.R. 2001 No. 108; S.R. 2002 No. 327; S.R. 2003 No. 317; S.R. 2005 Nos. 14, 139 and 299; S.R. 2006 No. 203; S.R. 2007 Nos. 392 and 467; S.R. 2008 No. 417; S.R. 2009 Nos. 107 and 409 ; S.R. 2010 No. 337; S.R. 2011 No. 298; S.R. 2014 No. 105 and S.R. 2015 No. 411
- (j) The definition of “benefit” was amended by regulation 3(2)(a) of S.R. 1988 No. 369; regulation 7(2)(a)(i) of S.R. 1992 No. 83; regulation 2(2)(b) of S.R. 1996 No. 354; regulation 3(a)(ii) of S.R. 2003 No. 191; regulation 13(2) of S.R. 2008 No. 286 and Article 9(2) of S.R. 2015 No. 411

- (b) for the definitions of “bereavement allowance” and “bereavement benefit”(a) substitute—  
 ““bereavement benefit” means—
- (i) a bereavement payment referred to in section 36 of the Contributions and Benefits Act as in operation immediately before it was repealed by paragraph 8 of Schedule 16 to the Pensions Act (Northern Ireland) 2015,
  - (ii) a bereavement allowance referred to in section 39B of the Contributions and Benefits Act as in operation immediately before it was repealed by paragraph 13 of Schedule 16 to the Pensions Act (Northern Ireland) 2015, and
  - (iii) widowed parent’s allowance;
- “bereavement support payment” means bereavement support payment under section 29 of the Pensions Act (Northern Ireland) 2015;”;
- (c) in the definition of “long term benefits”(b) omit “bereavement allowance,”; and
- (d) in the definition of “working age benefit”(c) omit paragraph (a).
- (3) In regulation 3(1) (claims not required for entitlement to benefit in certain cases)—
- (a) for sub-paragraph (a)(iv)(d) substitute—  
 “(iv) widowed parent’s allowance;”;
  - (b) in sub-paragraph (d)(ii)(e) omit “or bereavement allowance”; and
  - (c) omit sub-paragraph (da)(f).
- (4) In regulation 4 (making a claim for benefit)—
- (a) in paragraph (6A)(a)(i)(g) for “a bereavement benefit” substitute “widowed parent’s allowance”; and
  - (b) in paragraph (11)(h) for “a bereavement benefit” substitute “a widowed parent’s allowance, a bereavement support payment”.
- (5) In regulation 4ZC(2)(i) (electronic claims for benefit) after “attendance allowance,” insert “bereavement support payment,”.
- (6) In regulation 16 (date of entitlement under an award for the purpose of determining the day from which benefit is to be payable and effective date of change of rate)—
- (a) in paragraph (2A)(j) omit “bereavement allowance,”;
  - (b) in paragraph (3)(c)(i)(k) omit “bereavement allowance”; and
  - (c) in paragraph (4), for “bereavement allowance” substitute “bereavement support payment”.
- (7) In regulation 19 (time for claiming benefit)—
- (a) for paragraph (3)(ga)(l) substitute—  
 “(ga) subject to paragraph (3B), widowed parent’s allowance;  
 (gb) subject to paragraph (3BA), bereavement support payment;”;

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- (a) The definitions of “bereavement allowance” and “bereavement benefit” were inserted by regulation 10(2)(a) of S.R. 2001 No. 108
  - (b) In the definition of “long term benefits”, the relevant amending regulation is regulation 10(2)(b) of S.R. 2001 No. 108
  - (c) The definition of “working age benefit” was added by regulation 2(2) of S.R. 2009 No. 409
  - (d) Sub-paragraph (a)(iv) was inserted by regulation 10(3)(a) of S.R. 2001 No. 108
  - (e) Sub-paragraph (d)(ii) was amended by regulation 10(3)(b)(ii) of S.R. 2001 No. 108
  - (f) Sub-paragraph (da) was inserted by regulation 2(2)(b) of S.R. 2007 No. 392 and substituted by regulation 2(2) of S.R. 2008 No. 417
  - (g) Paragraph (6A) was inserted by regulation 2(2)(b) of S.R. 2003 No. 317
  - (h) Paragraph (11) was added by regulation 2(2)(b) of S.R. 2005 No. 14 and amended by regulation 2(4)(b) of S.R. 2005 No. 299; regulation 2(4) of S.R. 2010 No. 337; regulation 3 of S.R. 2014 No. 105 and regulation 9(4)(c) of S.R. 2016 No. 411
  - (i) Regulation 4ZC was inserted by Article 2(3) of S.R. 2006 No. 203
  - (j) Paragraph (2A) was inserted by regulation 2(2)(b) of S.R. 2009 No. 107
  - (k) Paragraph (3)(c) was substituted by regulation 2(2)(c) of S.R. 2009 No. 107
  - (l) Sub-paragraph (ga) was inserted by regulation 10(4) of S.R. 2001 No. 108 and substituted by regulation 2(2)(a) of S.R. 2005 No. 139

- (b) omit paragraph (3A)(a);
- (c) in paragraph (3B)(b) for “bereavement benefit”, in the first place it appears, substitute “widowed parent’s allowance”; and
- (d) after paragraph (3B) insert—
  - “(3BA) The prescribed time for claiming bereavement support payment in respect of—
    - (a) the rate set out in regulation 3(2) or (5) of the Bereavement Support Payment Regulations (Northern Ireland) 2017 (rate of bereavement support payment); and
    - (b) the date on which the claimant’s spouse or civil partner died,
 is 12 months beginning with that date of death.”.

(8) In regulation 22A(1)(c) and in the heading to regulation 22A (bereavement allowance, widowed mother’s allowance, widowed parent’s allowance and widow’s pension) omit “bereavement allowance.”.

(9) In regulation 22B(d) (payment of bereavement allowance, widowed mother’s allowance, widowed parent’s allowance and widow’s pension at a daily rate)—

- (a) in the heading omit “bereavement allowance.”;
- (b) in paragraph (1) omit “bereavement allowance or”; and
- (c) in paragraph (5) omit sub-paragraph (a).

(10) In regulation 32ZA(2)(e) (information given electronically) after sub-paragraph (a) insert—  
 “(aa) bereavement support payment;”.

(11) In regulation 32A(3)(f) (information relating to awards of benefit) omit sub-paragraphs (b) and (c).

(12) In Part I of Schedule 1(g) (benefit claimed and other benefit which may be treated as if claimed in addition or in the alternative) at the end of the table insert the following entries—

“Bereavement benefit	Bereavement support payment
Bereavement support payment	Bereavement benefit”

(13) In Schedule 7 (time of payment and commencement of entitlement in income support cases) for “bereavement benefit” substitute “widowed parent’s allowance” in the following places—

- (a) paragraph 2(c);
- (b) paragraph 2ZA(h); and
- (c) paragraph 4, in the definition of “relevant social security benefit”.

(14) In paragraph 2(1) of Schedule 8D(i) (electronic communication) after “attendance allowance,” insert “bereavement support payment.”.

### **Amendment of the Social Fund (Recovery by Deductions from Benefits) Regulations**

**11.** In regulation 2 of the Social Fund (Recovery by Deductions from Benefits) Regulations (Northern Ireland) 1988(j) (benefits from which an award may be recovered) omit paragraph (ee).

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(a) Paragraph (3A) was inserted by regulation 2(2)(b) of S.R. 2002 No. 327  
 (b) Paragraph (3B) was inserted by regulation 2(2)(c) of S.R. 2005 No. 139  
 (c) Regulation 22A was inserted by regulation 2(4) of S.R. 2009 No. 107  
 (d) Regulation 22B was inserted by regulation 2(4) of S.R. 2009 No. 107  
 (e) Regulation 32ZA was inserted by Article 2(3) of S.R. 2011 No. 298  
 (f) Regulation 32A was inserted by regulation 6(5) of S.R. 2007 No. 467  
 (g) The Table in Schedule 1 was substituted by regulation 2(11) of S.R. 1994 No. 456; the relevant amending provision is Article 9(17) of S.R. 2015 No. 411  
 (h) Paragraph 2ZA was inserted by regulation 2(7)(b) of S.R. 2009 No. 107  
 (i) Schedule 8D was inserted by Article 2(4) of S.R. 2006 No. 203  
 (j) S.R. 1988 No. 21; sub-paragraph (ee) of regulation 2 was inserted by regulation 2 of S.R. 2001 No. 52

## **Amendment of the Social Security (Payments on account, Overpayments and Recovery) Regulations**

**12.**—(1) The Social Security (Payments on account, Overpayments and Recovery) Regulations (Northern Ireland) 1988(a) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) (citation, commencement and interpretation) omit the definitions of “bereavement benefit” and “bereavement payment”(b).

(3) In regulation 8(1) (duplication and prescribed payments) for sub-paragraph (h)(c) substitute—

“(h) any widowed parent’s allowance under section 39A(d) of the Contributions and Benefits Act;”.

## **Amendment of the Child Support (Maintenance Assessments and Special Cases) Regulations**

**13.** In Schedule 2 to the Child Support (Maintenance Assessments and Special Cases) Regulations (Northern Ireland) 1992(e) (amounts to be disregarded when calculating or estimating N and M) after paragraph 7A(f) insert—

“(7B) Any payment of bereavement support payment under section 29 of the Pensions Act (Northern Ireland) 2015(g).”.

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

**14.**—(1) The Jobseeker’s Allowance Regulations (Northern Ireland) 1996(h) are amended in accordance with paragraphs (2) and (3).

(2) In Schedule 6 (sums to be disregarded in the calculation of income other than earnings) after paragraph 68A(i) insert—

“**68B.** Any bereavement support payment under section 29 of the Pensions Act (Northern Ireland) 2015 (bereavement support payment) except any such payment which is disregarded as capital under paragraph 12(1)(e) or 57B of Schedule 7.”.

(3) In Schedule 7 (capital to be disregarded)—

(a) in paragraph 12(j) after sub-paragraph (1)(d) insert—

“(e) bereavement support payment under section 29 of the Pensions Act (Northern Ireland) 2015,” and

(b) after paragraph 57A(k) insert—

“**57B.** Any bereavement support payment in respect of the rate set out in regulation 3(2) or (5) of the Bereavement Support Payment Regulations (Northern Ireland) 2017 (rate of

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(a) S.R.1988 No. 142; relevant amending Regulations are S.R. 2001 No. 108

(b) The definitions of “bereavement benefit” and “bereavement payment” were inserted by regulation 11(2) of S.R. 2001 No. 108

(c) Sub-paragraph (h) was added by regulation 11(3) of S.R. 2001 No. 108

(d) Section 39A was inserted by Article 52(2) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) and amended by paragraph 74 of Schedule 24, and Schedule 30, to the Civil Partnership Act 2004 (c. 33); paragraph 29(2) and (3) of Schedule 1 to the Child Benefit Act 2005 (c. 6) and section 47 of the Welfare Reform Act (Northern Ireland) 2007 (c. 2 (N.I.))

(e) S.R. 1992 No. 341 is revoked by S.R. 2012 No. 438 but the revocation is not yet fully in operation; relevant amending Regulations are S.R. 2016 No. 236

(f) Paragraph 7A was inserted by regulation 38(4) of S.R. 2016 No. 236

(g) 2015 c. 5 (N. I.)

(h) S.R. 1996 No 198; relevant amending instruments are S.R. 2001 No. 261, S.R. 2002 No. 295, S.R. 2003 No. 195, S.R. 2004 No. 389, S.R. 2005 No. 98, S.R. 2008 Nos. 112 and 498, S.R. 2009 No. 92 and S.I. 2013/3021

(i) Paragraph 68A was inserted by regulation 17(9) of S.I. 2013/3021

(j) Paragraph 12(1) was amended by regulation 2(2)(c) of S.R. 2001 No. 261, regulation 4 of S.R. 2002 No. 295, paragraph 24(a) of Schedule 2 to S.R. 2003 No. 195, regulation 5(6) of S.R. 2005 No. 98, regulation 4(16)(a) of S.R. 2008 No. 112, regulation 3(7)(a) of S.R. 2008 No. 498 and regulation 4(11)(a) of S.R. 2009 No. 92

(k) Paragraph 57A was inserted by regulation 3(5) of S.R. 2004 No. 389



bereavement support payment), but only for a period of 52 weeks from the date of receipt of the payment.”.

### **Amendment of the Social Security and Child Support (Decisions and Appeals) Regulations**

**15.**—(1) The Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(a) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) (interpretation)—

- (a) omit the definitions of “bereavement allowance”(b) and “bereavement payment”(c); and
- (b) in the definition of “bereavement benefit”(d), for paragraphs (a) and (b) substitute—  
“(a) bereavement support payment under section 29 of the Pensions Act (Northern Ireland) 2015; or”.

(3) In regulation 3 (revision of decisions)—

- (a) in paragraph (5ZB)(e) after sub-paragraph (a) insert—  
“(aa) bereavement support payment under section 29 of the Pensions Act (Northern Ireland) 2015;”;
- (b) in paragraph (8F)(f)—
  - (i) in column 1 of the table, for “Bereavement allowance” substitute “Bereavement support payment under section 29 of the Pensions Act (Northern Ireland) 2015”;
  - (ii) in column 2 of the table, for the corresponding entry to “Bereavement support payment under section 29 of the Pensions Act (Northern Ireland) 2015” (as inserted by head (i)) substitute “The contribution conditions set out in section 30 (bereavement support payment: contributions condition and amendments) of the Pensions Act (Northern Ireland) 2015.”; and
  - (iii) omit the row with “Bereavement payment” in column 1.

### **Amendment of the Child Support (Maintenance Calculations and Special Cases) Regulations**

**16.** In regulation 4(1) (flat rate) of the Child Support (Maintenance Calculations and Special Cases) Regulations (Northern Ireland) 2001(g) omit sub-paragraph (a)(i).

### **Amendment of the Social Security (Inherited SERPS) Regulations**

**17.** In regulation 2(3)(a) of the Social Security (Inherited SERPS) Regulations (Northern Ireland) 2001(h) (modification of Part II of the Contributions and Benefits Act) omit—

- (a) “and bereavement allowance”;
- (b) “except in so far as that section relates to the rate of bereavement allowance”.

### **Amendment of the Social Security (Loss of Benefit) Regulations**

**18.** In regulation 19 (social security benefits not to be sanctionable benefits) of the Social Security (Loss of Benefit) Regulations (Northern Ireland) 2002(i) for paragraph (b) substitute—

“(b) bereavement support payment payable under section 29 of the Pensions Act (Northern Ireland) 2015.”.

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(a) S.R. 1999 No. 162; relevant amending Regulations are S.R. 2001 No. 108, S.R. 2007 No. 395 and S.R. 2016 No. 409  
(b) The definition of “bereavement allowance” was inserted by regulation 12(2)(a) of S.R. 2001 No.108  
(c) The definition of “bereavement payment” was inserted by regulation 4(2)(a) of S.R. 2016 No. 409  
(d) The definition of “bereavement benefit” was inserted by regulation 4(2)(a) of S.R. 2016 No. 409  
(e) Paragraph (5ZB) was inserted by regulation 3(b) of S.R. 2007 No. 395  
(f) Paragraph (8F) was inserted by regulation 4(3)(a) of S.R. 2016 No. 409  
(g) S.R. 2001 No. 18; revoked with savings by S.R. 2012 No. 438; relevant amending instrument is S.I 1999/3147 (N.I. 11)  
(h) S.R. 2001 No. 441  
(i) S.R. 2002 No. 79

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

**19.**—(1) The State Pension Credit Regulations (Northern Ireland) 2003(a) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 15(1) (income for the purposes of the Act) for sub-paragraph (m) substitute—

“(m) bereavement support payment under section 29 of the Pensions Act (Northern Ireland) 2015;”.

(3) In Part 1 of Schedule 5 (income from capital: capital disregarded for the purpose of calculating income)—

(a) in paragraph 20(2) after sub-paragraph (n) insert—

“(na) bereavement support payment under section 29 of the Pensions Act (Northern Ireland) 2015.”; and

(b) after paragraph 23C(b) insert—

“**23D.** A payment of bereavement support payment in respect of the rate set out in regulation 3(2) or (5) (rate of bereavement support payment) of the Bereavement Support Payment Regulations (Northern Ireland) 2017, but only for a period of 52 weeks from the date of receipt of the payment.”.

### **Amendment of the Social Fund Maternity and Funeral Expenses (General) Regulations**

**20.** In regulation 10(1A) (deductions from an award of a funeral payment) of the Social Fund Maternity and Funeral Expenses (General) Regulations (Northern Ireland) 2005(c) for sub-paragraph (b) substitute—

“(b) bereavement support payment under section 29 of the Pensions Act (Northern Ireland) 2015;”.

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

**21.**—(1) The Housing Benefit Regulations (Northern Ireland) 2006(d) are amended in accordance with paragraphs (2) and (3).

(2) In Schedule 6 (sums to be disregarded in the calculation of income other than earnings) after paragraph 64(e) insert—

“(65) Any bereavement support payment under section 29 of the Pensions Act (Northern Ireland) 2015 (bereavement support payment) except any such payment which is disregarded as capital under paragraph 9(1)(h) or 59 of Schedule 7.”.

(3) In Schedule 7 (capital to be disregarded)—

(a) in paragraph 9(1)(f) after paragraph (g) insert—

“(h) bereavement support payment under section 29 of the Pensions Act (Northern Ireland) 2015;”; and

(b) after paragraph 58 insert—

“(59) Any bereavement support payment in respect of the rate set out in regulation 3(2) or (5) (rate of bereavement support payment) of the Bereavement Support Payment Regulations (Northern Ireland) 2017(g), but only for a period of 52 weeks from the date of receipt of the payment.”.

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(a) S.R. 2003 No. 28; relevant amending Regulations are S.R. 2008 No. 286 and S.R. 2011 No. 357

(b) Paragraph 23C was inserted by regulation 14(6)(b) of S.R. 2011 No. 357

(c) S.R. 2005 No. 506; regulation 10(1A) was inserted by regulation 2(3)(b) of S.R. 2013 No. 58

(d) S.R. 2006 No. 405; relevant amending Regulations are S.R. 2009 No. 276 and S.R. 2016 No. 236

(e) Paragraph 64 was added by regulation 3 of S.R. 2009 No. 276

(f) Paragraph 9(1)(g) was inserted by regulation 34(13) of S.R. 2016 No. 236

(g) S.R. 2017 No. 65

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

**22.**—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006(a) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 27(1)(h)(b) (meaning of income) for head (xi) substitute—

“(xi)bereavement support payment under section 29 of the Pensions Act (Northern Ireland) 2015;”.

(3) In paragraph 21(2) of Part 1 of Schedule 7 (capital to be disregarded generally) after sub-paragraph (k)(c) insert—

“(ka) bereavement support payment under section 29 of the Pensions Act (Northern Ireland) 2015.”.

(4) After paragraph 28C(d) insert—

“(28D) A payment of bereavement support payment in respect of the rate set out in regulation 3(2) or (5) (rate of bereavement support payment) of the Bereavement Support Payment Regulations (Northern Ireland) 2017, but only for a period of 52 weeks from the date of receipt of the payment.”.

### **Amendment of the Gender Recognition (Application Fees) Order**

**23.** In the Schedule to the Gender Recognition (Application Fees) Order 2006(e) (remissions and part remissions)—

(a) in paragraph 1(1), in paragraph (i)(f) of the definition of “excluded benefits” after “Act 2014” insert “or section 29 of the Pensions Act (Northern Ireland) 2015”; and

(b) in sub-paragraph (n)(g) of paragraph 10 after “Regulations 2017” insert “or regulation 3(2) or (5) of the Bereavement Support Payment Regulations (Northern Ireland) 2017.”

### **Amendment of the Social Security (Claims and Information) Regulations**

**24.** In regulation 1(3) (interpretation) of the Social Security (Claims and Information) Regulations (Northern Ireland) 2007(h) in the definition of “specified benefit”, for paragraphs (b) and (c) substitute—

“(b) bereavement support payment under section 29 of the Pensions Act (Northern Ireland) 2015;”.

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

**25.**—(1) The Employment and Support Allowance Regulations (Northern Ireland) 2008(i) are amended in accordance with paragraphs (2) to (5).

(2) In regulation 165(3) (entitlement for less than a week – amount of an employment and support allowance payable) in the definition of “Y” for “bereavement allowance” substitute “bereavement support payment under section 29 of the Pensions Act (Northern Ireland) 2015 (bereavement support payment)”.

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(a) S.R. 2006 No. 406; relevant amending Regulations are S.R. 2011 No. 357 and S.R. 2008 No. 378

(b) Regulation 27(1)(h) has amendments which are not relevant to this Order

(c) Sub-paragraph (k) was amended by regulation 4(13)(a)(ii) of S.R. 2008 No. 378

(d) Paragraph 28C was inserted by regulation 20(9)(a) of S.R. 2011 No. 357

(e) S.I. 2006/758; the Schedule was inserted by Article 4(7) of, and the Schedule to, S.I. 2013/2302 (L. 21) and amended by Article 6 of S.I. 2014/590 (L. 6), regulation 33 of S.R. 2016 No. 228 and paragraph 1(1) and 10(n) were amended by Article 27 of S.I. 2017/422

(f) Paragraph (i) was substituted by Article 27 of S.I. 2017/422

(g) Sub-paragraph (n) was substituted by Article 27 of S.I. 2017/422

(h) S.R. 2007 No. 467

(i) S.R. 2008 No. 280; relevant amending instrument is S.I. 2013/3021

(3) In regulation 167(d) (modification in the calculation of income) for “bereavement allowance” substitute “bereavement support payment under section 29 of the Pensions Act (Northern Ireland) 2015”.

(4) In Schedule 8 (sums to be disregarded in the calculation of income other than earnings) after paragraph 62(a) insert—

“(63) Any bereavement support payment under section 29 of the Pensions Act (Northern Ireland) 2015 except any such payment which is disregarded as capital under paragraph 11(1)(d) or 56 of Schedule 9.”.

(5) In Schedule 9 (capital to be disregarded)—

(a) in paragraph 11(1) after paragraph (c) insert—

“(d) bereavement support payment under section 29 of the Pensions Act (Northern Ireland) 2015,”; and

(b) after paragraph 55 insert—

“(56) Any bereavement support payment in respect of the rate set out in regulation 3(2) or (5) (rate of bereavement support payment) of the Bereavement Support Payment Regulations (Northern Ireland) 2017, but only for a period of 52 weeks from the date of receipt of the payment.”.

#### **Amendment of the Rate of Bereavement Benefits Regulations**

**26.** In regulation 3 and in the heading (rate of widowed parent’s allowance and bereavement allowance) of the Rate of Bereavement Benefits Regulations (Northern Ireland) 2010(b) omit “and bereavement allowance”.

#### **Amendment of the Child Support Maintenance Calculation Regulations**

**27.** In regulation 43(1) (flat rate) of the Child Support Maintenance Calculation Regulations (Northern Ireland) 2012(c) omit sub-paragraph (a)(i).

#### **Amendment of the Universal Credit Regulations**

**28.—**(1) The Universal Credit Regulations (Northern Ireland) 2016(d) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 2 (interpretation) omit the definition of “bereavement allowance”.

(3) In regulation 66(1)(b) (what is included in unearned income) omit head (iv).

(4) In Schedule 10 (capital to be disregarded) after paragraph 19 add—

“(20) A payment made within the past 12 months of bereavement support payment in respect of the rate set out in regulation 3(2) or (5) (rate of bereavement support payment) of the Bereavement Support Payment Regulations (Northern Ireland) 2017.”.

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(a) Paragraph 62 was inserted by Article 28(7) of S.I. 2013/3021

(b) S.R. 2010 No. 407

(c) S.R. 2012 No. 427

(d) S.R. 2016 No. 216

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

**29.** In regulation 100(b) (modification in the calculation of income) of the Employment and Support Allowance Regulations (Northern Ireland) 2016(a) for “bereavement allowance” substitute “bereavement support payment under section 29 of the Pensions Act (Northern Ireland) 2015”.

**Amendment of the Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations**

**30.** In regulation 51(6) (amendment of the Social Security Credits Regulations) of the Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations (Northern Ireland) 2016(b), in the inserted regulation 8G, omit paragraph (2)(d).

Sealed with the Official Seal of the Department for Communities on 20th March 2017

(L.S.)

*Thomas O'Reilly*  
A senior officer of the Department for Communities

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(a) S.R. 2016 No. 219  
(b) S.R. 2016 No. 236

## EXPLANATORY NOTE

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

This Order makes consequential, supplementary and incidental amendments in relation to the provisions of Part 5 of the Pensions Act (Northern Ireland) 2015, which creates a new bereavement support payment for persons whose spouse or civil partner dies on or after 6 April 2017. Bereavement support payment replaces the existing social security benefits for the bereaved (bereavement allowance, widowed parent's allowance and bereavement payment).

Articles 2 and 3 enable bereavement allowance and bereavement payment to remain in payment. Those benefits will only remain in payment for people whose spouse or civil partner dies before 6th April 2017. When the award of those benefits comes to an end, the amendments made by this Order will come into operation for that person.

The amendments in this Order are all to secondary legislation. The majority of these amendments add a reference to bereavement support payment and/or remove a reference to bereavement allowance and bereavement payment. The amendments therefore mainly (1) enable existing secondary legislation to work in the same or similar way for bereavement support payment as it does for existing benefits for the bereaved or (2) remove references to existing benefits for the bereaved where the secondary legislation does not need to apply to bereavement support payment.

In particular, the following amendments are made.

Articles 9, 14, 19, 21, 22, 25, 28 and 29 make amendments which provide for how bereavement support payment is to be taken into account in income-related social security benefits. These are benefits which determine a claimant's entitlement by reference to their income and capital. The amendments provide that bereavement support payment will be ignored when calculating a claimant's income. The amendments also provide that any initial lump sum amount of bereavement support payment and any payment of arrears for 12 months will be ignored when calculating a claimant's capital.

Articles 13, 16 and 27 make similar amendments to child support regulations so that bereavement support payment is not taken into account as income under those regulations.

Article 10 amends the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987. Those Regulations contain the rules on when a claim to a benefit has to be made, how claims are made, how payments of benefit are made, the dates on which payments are made etc. The amendments apply those rules to bereavement support payment. For example, the amendment made by Article 10(7)(d) provides that a claimant must claim the initial lump sum amount of bereavement support payment within 12 months of the death of their spouse or civil partner.

Article 15 amends the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999. Those Regulations contain the rules on how decisions relating to benefits should be made, when decisions can be changed, how appeals can be made against the decisions etc. The amendments apply those rules to bereavement support payment.

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