

**EXPLANATORY MEMORANDUM TO**  
**THE SOCIAL SECURITY (INFECTED BLOOD CAPITAL DISREGARD)**  
**(AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2023**

**S.R. 2023 No. 118**

**1. Introduction**

- 1.1 This Explanatory Memorandum has been prepared by the Department for Communities (DfC) 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)(b), 132A(3) and 171(1) and (3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992, Articles 14(1) and (4)(b) and 36(2) of the Jobseekers (Northern Ireland) Order 1995, sections 15(3) and (6)(b) and 19(1), (2)(a) and (3) of the State Pension Credit Act (Northern Ireland) 2002, sections 17(1) and (3)(b) and 25(2)(a) of the Welfare Reform Act (Northern Ireland) 2007, and Article 48(1) and (2)(a) of, and paragraph 4(1)(a) and (3)(a) of Schedule 1 to, the Welfare Reform (Northern Ireland) Order 2015, and is subject to the negative resolution procedure.

**2. Purpose**

- 2.1 The purpose of this Rule is to create a new capital disregard to allow a son, daughter, step-son or step-daughter to receive interim infected blood compensation payments from their deceased parent's estate without it affecting their means tested benefit entitlement. This Statutory Rule supports the agreed UK Government response to the Infected Blood Inquiry's first interim report published on 29th July 2022.
- 2.2 These Regulations also clarify the disregards that apply in Universal Credit where a payment is made by a scheme or trust to provide compensation in respect of a person having been diagnosed with variant Creutzfeldt-Jacob disease<sup>1</sup> or infected from contaminated blood products. A payment to a person other than the diagnosed or infected person from such a scheme or trust, or which is derived from such a payment, is disregarded in any of the circumstances it would be disregarded in relation to an award of State Pension Credit.

**3. Background**

*What is being done and why?*

- 3.1 In the UK, it is a longstanding policy to disregard payments made to individuals via infected blood support schemes in the calculation of entitlement to means-tested benefits. This is because they do not supplement income in the way ordinary benefits do but are intended to compensate 'infected persons' and certain relatives, for example, their spouses or partners in recognition that the physical, mental and other health impacts for those infected can lead to additional costs which cannot be met

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<sup>1</sup> <https://www.nhs.uk/conditions/creutzfeldt-jakob-disease-cjd/>

through the benefits system. Since 2017, the following four UK infected blood support schemes make these payments: the England Infected Blood Support Scheme, the Wales Infected Blood Support Scheme, the Scotland Infected Blood Support Scheme and the Infected Blood Payment Scheme for Northern Ireland.

- 3.2 The current disregard framework provides that infected blood payments made by the four schemes listed above are fully disregarded when assessing individuals' entitlement to means-tested benefits. To this end, income and capital disregards exist across the means-tested benefits.
- 3.3 In July 2017 the UK Government set up the Infected Blood Inquiry under the Inquiries Act 2005, with Sir Brian Langstaff appointed as its Chair in 2018. Sir Robert Francis KC was commissioned to undertake a compensation framework study and his report was published on 7th June 2022.
- 3.4 On 29th July 2022, the Inquiry published its first interim report, and on 17th August the UK Government accepted in full Sir Brian Langstaff's recommendations made therein. The report recommended that interim compensation payments of £100,000 be made to infected persons and bereaved partners. The UK Government agreed to this, and payments were made to the vast majority of eligible infected persons and bereaved partners in October 2022.
- 3.5 Additionally, where an infected person registered with an Infected Blood Support Scheme died after 29th July but before the interim payment could be made and they had no bereaved partner eligible to register with an Infected Blood Support Scheme or their partner had also died before the interim payment could be made, the UK Government agreed that the interim payment of £100,000 could be claimed by the executor or the authorised representative of the deceased infected person's estate.
- 3.6 Following impacting of the recommendations, a gap was identified in the existing means-tested benefits disregard framework which means that there is no existing disregard for adult children claiming a means-tested benefit who receive an interim infected blood compensation payment from their deceased parent's estate. Not closing this gap creates a risk that adult child beneficiaries of a deceased parent's estate could receive an interim payment which would reduce or remove their means-tested benefits, due to the existing capital limits in those benefits, where income from capital is assumed for capital of over £6,000, and entitlement ceases completely where capital is over £16,000<sup>2</sup>.
- 3.7 This Rule therefore makes amendments to the Income Support (General) Regulations (Northern Ireland) 1987 (S.R. 1987 No. 459), the Jobseeker's Allowance Regulations (Northern Ireland) 1996 (S.R. 1996 No. 198), the State Pension Credit Regulations (Northern Ireland) 2003 (S.R. 2003 No. 28), the Housing Benefit Regulations (Northern Ireland) 2006 (S.R. 2006 No. 405), the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006 (S.R. 2006 No. 406), the Employment and Support Allowance Regulations (Northern Ireland) 2008 (S.R. 2008 No. 280) and the Universal Credit Regulations (Northern Ireland) 2016 (S.R. 2016 No. 216).
- 3.8 These amendments will enable an infected blood compensation payment from the estate of a person who has been infected from contaminated blood products to be

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<sup>2</sup> The rules are slightly different for State Pension Credit (SPC) and pension age Housing Benefit if the guarantee credit element of SPC is also in payment, where there is no upper limit on capital, but income from capital over £10,000 is assumed.

disregarded when calculating the amount of that person's means tested benefit award, where the infected person was compensated after their death and, at the date of their death, had no partner, or children under 18, and a payment derived from that compensation is made to that person's adult child.

- 3.9 These amendments also clarify that, in relation to a claim to Universal Credit from a person other than a person infected from contaminated blood products, a payment derived from compensation for being infected from contaminated blood products is disregarded in any of the circumstances it would be disregarded in relation to the award of State Pension Credit.
- 3.10 Once these Regulations come into operation, arrangements can be made by the relevant UK infected blood support schemes to pay the remaining interim payments as soon as possible.

### *Numbers affected*

- 3.11 The Department anticipates that there are approximately 8 estates affected. Nevertheless, this Rule will ensure alignment with the current approach, whereby payments received from an 'approved blood scheme' are disregarded for the purposes of determining an individual's means-tested benefit entitlement.

## **4. Consultation**

- 4.1 The Department for Work and Pensions presented the proposed capital disregard amendments to the Social Security Advisory Committee (SSAC) on 19 July 2023. The Committee did not take the regulations on formal reference.

## **5. Equality Impact**

- 5.1 In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on the legislative proposals for these Regulations and has concluded that they do not have significant implications for equality of opportunity. In light of this, the Department considers that an Equality Impact Assessment is not necessary.

## **6. Regulatory Impact**

- 6.1 These Regulations do not require a Regulatory Impact Assessment as there is no significant impact on costs on business, charities or voluntary bodies.

## **7. Financial Implications**

- 7.1 None for the Department.

## **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 that the Rule is in compliance with it.

## **9. EU Implications**

- 9.1 Not applicable.

## **10. Parity or Replicatory Measure**

- 10.1 The corresponding Great Britain provisions are the Social Security (Infected Blood Capital Disregard) (Amendment) Regulations 2023 (S.I. 2023/894) which were laid on 9th August 2023 and come into force on 30th August 2023.

## **11. Additional Information**

- 11.1 Internal guidance for staff at the Department for Communities will be updated to take account of these changes.