

EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (INCOME AND CAPITAL DISREGARDS) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2023

S.R. 2023 No. 97

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 This Statutory Rule is made under sections 122(1)(a) and (d), 129A(2), 131(1), 132(3) and (4), 132A(3) and 171(3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992, Articles 6(5) and 14(1) and (4) of the Jobseekers (Northern Ireland) Order 1995, paragraph 8 of Schedule 1 to the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997, sections 15(3) and (6) and 19(1), (2)(a) and (3) of the State Pension Credit Act (Northern Ireland) 2002, sections 4(2) and 17(1) and (3) of the Welfare Reform Act (Northern Ireland) 2007 and Article 48(1) of, and paragraph 4(1) and (3) 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 amend regulations to ensure that Post Office Horizon-related compensation payments, Grenfell Tower-related compensation and damages payments, and Vaccine Damage Scheme payments made to the surviving partner of the deceased are disregarded indefinitely as capital and income for the purposes of calculating entitlement to benefit.
- 2.2 In the case of Post Office Horizon-related compensation payments and Grenfell Tower-related compensation and damages payments, these amendments also provide for a simpler process, whereby amendments to regulations will not be required to reflect comparable future compensation payments or damages payments which relate to either Post Office Horizon or Grenfell Tower.

3. Legislative Context

- 3.1 This Rule makes amendments to the Income Support (General) Regulations (Northern Ireland) 1987, the Jobseeker's Allowance Regulations (Northern Ireland) 1996, the State Pension Credit Regulations (Northern Ireland) 2003, the Housing Benefit Regulations (Northern Ireland) 2006, the Housing Benefit (Persons who have attained

the qualifying age for state pension credit) Regulations (Northern Ireland) 2006, the Employment and Support Allowance Regulations (Northern Ireland) 2008 and the Universal Credit Regulations (Northern Ireland) 2016 to enable certain payments made to benefit recipients to be disregarded when calculating the amount of that person's benefit award.

- 3.2 Amendments are also made to the Social Security (Recovery of Benefits) Regulations (Northern Ireland) 1997 and the Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations (Northern Ireland) 2008 to exempt Post Office Horizon-related compensation, Grenfell-related compensation and damages payments and Vaccine Damage Scheme payments made to a bereaved partner from the Department's compensation recovery process.

4. Background

Post Office Horizon Compensation Payments

- 4.1 The Post Office Horizon IT system was introduced in 1999/2000 as a point-of-sale accounting system. The system recorded shortfalls in cash in branches, which Post Office Ltd (POL) sought to reclaim. Some postmasters were consequently convicted of theft, fraud, or false accounting, based on what turned out to be flawed Horizon evidence. Over the last two years, the courts have overturned 81 convictions which were based on flawed Horizon evidence. A judgment by the Court of Appeal pointed out the significant failings of the Post Office.
- 4.2 In June of 2022 the Government announced funding to ensure that postmasters with overturned Horizon-related convictions, or who were prosecuted but not convicted, are compensated fairly.

Grenfell Tower Compensation and Damages Payments

- 4.3 The Grenfell Fire occurred on 14 June 2017 leading to the loss of 72 lives. The Department for Work and Pensions (DWP) provided personalised support to residents of Grenfell Tower through teams of dedicated benefit case workers, including the sensitive handling of those cases where individuals have unfortunately died, and the on-going support for their dependent partners. DWP also administered the Grenfell Tower Residents' Discretionary Fund scheme to help people with their immediate needs.
- 4.4 In 2020 DWP and the Department introduced legislation to disregard payments from the following when assessing entitlement to means-tested benefits:
 - Grenfell Tower Residents' Discretionary Fund:
 - Charities: and
 - Compensation payments from the Royal Borough of Kensington and Chelsea to replace personal contents.
- 4.5 Since then, however, additional sources of compensation and damages payments have come to light. In particular, settlement payments resulting from the ongoing Grenfell Tower-related civil litigation, which has been brought against the government and various other private and public sector defendants. It is principally these settlements

which has motivated DWP to extend the existing Grenfell Tower-related disregard provisions within the means-tested benefits.

Vaccine Damage Payment Scheme

- 4.6 The Vaccine Damage Payment Scheme (VDPS) is a no-fault scheme that provides a one-off, tax-free payment of £120,000 to claimants who have been found, on the balance of probabilities, to have been seriously disabled by a vaccine administered to treat a disease listed in the Vaccine Damage Payment Act 1979.
- 4.7 The VDPS incorporated COVID-19 from December 2020, and the scheme is now processing these claims and providing outcomes to claimants in a timely manner.
- 4.8 The majority of VDPS awards are already disregarded under existing social security legislation. However, this legislation does not currently apply to the partners of deceased persons. The amendments in this Rule remedy this.

Explanations

- 4.9 Existing provisions in means-tested benefits relating to treatment of personal injury compensation payment (for example regulation 76 of the Universal Credit Regulations (Northern Ireland) 2016 (S.R. No. 216)) provide for the payment to be disregarded for 12 months after the payment is made, unless the payment is put into a trust, in which case it is disregarded indefinitely. The rules in Pension Credit and pension age Housing Benefit are different, as an indefinite disregard applies to personal injury payments, irrespective of whether they are in a trust.
- 4.10 These provisions are however not sufficient to capture all payments referred to in this memorandum. This means that without the amendments, receipt of payments referred to would reduce or remove some recipients' entitlement to means-tested benefits. That is due to the 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.

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 and has concluded that the proposals do not have any significant implications for equality of opportunity or good relations. 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 they do not impose a cost on business, charities, social enterprises 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 complies with that provision.

9. EU Implications

9.1 Not applicable

10. Parity or Replicatory measure

10.1 The corresponding Great Britain Regulations are the Social Security (Income and Capital Disregards) (Amendment) Regulations 2023 which come into force on 9th July 2023.

11. Additional Information

11.1 Not applicable.