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DRAFT STATUTORY RULES OF NORTHERN IRELAND

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**2016 No.**

The Discretionary Support Regulations (Northern Ireland) 2016

PART 5

Capital

**Calculation of capital**

**18.**—(1) For the purposes of these Regulations the capital of a claimant to be taken into account shall, subject to paragraph (2), be the whole of the claimant’s capital calculated in accordance with this Part.

(2) The capital of a claimant includes the capital of the other member of the couple, and any reference to the “claimant” shall, except where the context otherwise requires, be construed, for the purposes of this Part, as if it were a reference to the claimant’s partner.

(3) There shall be disregarded from the calculation of a claimant’s capital under paragraph (1) any capital, where applicable, specified in Schedule 4.

**Notional capital**

**19.**—(1) A claimant shall be treated as possessing capital of which they have deprived themselves for the purpose of securing entitlement to discretionary support.

(2) Except in the case of—

(a) a discretionary trust; or

(b) a trust derived from a payment made in consequence of a personal injury,

any capital which would become available to the claimant upon claim being made but which has not been acquired by them shall be treated as possessed by them but only from the date on which it would be so acquired.

(3) Where a claimant is treated as possessing capital under paragraphs (1) and (2), the foregoing provisions of this Part shall apply for the purposes of calculating its amount as if it was actual capital which they do possess.

**Capital jointly held**

**20.** Where the claimant and one or more persons are beneficially entitled in possession to any capital asset they shall be treated as if each of them were entitled in possession to the whole beneficial interest therein in an equal share.