

EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (TREATMENT OF ARREARS OF BENEFIT)
REGULATIONS (NORTHERN IRELAND) 2018
S.R. 2018 No. 150

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. 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, Article 14(1) and (4)(b) of the Jobseekers (Northern Ireland) Order 1995, sections 15(3) and (6)(b) and 19(1) to (3) of the State Pension Credit Act (Northern Ireland) 2002 and section 17(1) and (3)(b) of the Welfare Reform Act (Northern Ireland) 2007, and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The purpose of these Regulations is to expand the existing capital disregards in legacy income-related benefits that currently apply to benefit arrears amounting to £5,000 or more which are paid as a result of official error, to apply equally where the arrears are paid as a result of an error on a point of law. This would mean that the arrears in question could be disregarded for the life of the benefit award rather than for the current maximum of 52 weeks.
- The Proposed Regulations amend the Income Support (General) Regulations (Northern Ireland) 1987 (“the IS Regulations”), the Jobseeker’s Allowance Regulations (Northern Ireland) 1996 (“the JSA Regulations”), the State Pension Credit Regulations (Northern Ireland) 2003 (“the SPC Regulations”), the Housing Benefit Regulations (Northern Ireland) 2006 (“the HB Regulations”), the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006 (“the HB

(SPC) Regulations”) and the Employment and Support Allowance Regulations (Northern Ireland) 2008 (“the ESA Regulations”).

3. Background

- 3.1. Currently there is an inconsistency in the way that the Department treats arrears of benefit which, when paid, amount to a substantial sum that could otherwise affect entitlement to income-related benefits. These Regulations will provide consistent treatment of arrears of benefit paid due to an error on a point of law, with those paid due to an official error in legacy income-related benefits. Where arrears result from an official error, the amount is disregarded as capital until the end of the award of benefit. However, where arrears result from an error on a point of law, some of the arrears can be treated as capital.
- 3.2. These Regulations will ensure equal treatment for people who receive arrears of £5,000 or more arising from an error on a point of law.
- 3.3. Arrears amounting to £5,000 or more, which are paid as the result of an error on a point of law, will be disregarded until the termination of the current award.

4. Consultation

- 4.1. There is no requirement to consult in relation to these Regulations.

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 proposals for these Regulations and concluded that they do not have significant implications for equality of opportunity or good relations. In light of this, the Department considered 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 any additional costs or savings on business, charities or voluntary bodies.

7. Financial Implications

7.1. A breach of parity in this matter may incur financial costs, both in the loss of benefit savings and in administration costs, which would have to be met by the Northern Ireland Executive from the Northern Ireland block grant.

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 –

- (a) is not incompatible with any of the Convention rights;
- (b) is not incompatible with Community law;
- (c) does not discriminate against a person or class of person on the ground of religious belief or political opinion; and
- (d) does not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

9.1. Not applicable.

10. Parity or Replicatory Measure

10.1. These Regulations are equivalent, in part, to the Social Security (Treatment of Arrears of Benefit) Regulations 2018 (S.I. 2018/932), and are due to come into force on 11th September 2018.

11. Additional Information

11.1. Not applicable.