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STATUTORY RULES OF NORTHERN IRELAND

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**2023 No. 184**

**SOCIAL SECURITY**

**The Social Security (Habitual Residence  
and Past Presence, and Capital Disregards)  
(Amendment) Regulations (Northern Ireland) 2023**

*Made* - - - - *27th October 2023*

*Coming into operation* *28th October 2023*

The Department for Communities<sup>(1)</sup> makes the following Regulations in exercise of the powers conferred by sections 64(1), 70(4), 71(6), 122(1)(a) and (d), 129A(2), 131(1), 132(3) and (4), 132A(3), 133(2)(a) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992<sup>(2)</sup>, Articles 6(5), 14(1) and (4) of, and paragraph 11(2) of Schedule 1 to, the Jobseekers (Northern Ireland) Order 1995<sup>(3)</sup>, and now vested in it<sup>(4)</sup>, sections 1(5)(a), 15(3) and (6) and 19(1) to (3) of the State Pension Credit Act (Northern Ireland) 2002<sup>(5)</sup>, section 17(1) and (3) of, and paragraph 5 of Schedule 2 to, the Welfare Reform Act (Northern Ireland) 2007<sup>(6)</sup> and Articles 9(5)(a), 48(1) and (2), 82(3), 97(1), 99(1)(a) of, and paragraphs 4(1) and (3) of Schedule 1 to, the Welfare Reform (Northern Ireland) Order 2015<sup>(7)</sup>.

Regulations 2(2)(d) and (e), 6 and 7 are made with the consent of the Department of Finance<sup>(8)</sup>.

**Citation, commencement and interpretation** **N.I.**

1.—(1) These Regulations may be cited as the Social Security (Habitual Residence and Past Presence, and Capital Disregards) (Amendment) Regulations (Northern Ireland) 2023 and shall come into operation on 28th October 2023.

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- (1) See section 1(7) of the Departments Act (Northern Ireland) 2016 (c. 5 (N.I.))
- (2) 1992 c. 7; section 64(1) was amended by paragraph 38 of Schedule 1 to the Pensions Act (Northern Ireland) 2008 (c. 1) and paragraph 4(2) of Schedule 9 to the Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006 (N.I. 1)); section 122(1) was amended by Schedule 6 to the Tax Credits Act 2002 (c. 21); section 129A was inserted by section 36(2) of the Welfare Reform Act (Northern Ireland) 2007 (c. 2); section 132A was inserted by paragraph 3 of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002 (c. 14)
- (3) S.I. 1995/2705 (N.I. 15)
- (4) See Article 8(b) of S.R. 1999 No. 481
- (5) 2002 c. 14 (N.I.)
- (6) 2007 c. 2 (N.I.)
- (7) S.I. 2015/2006 (N.I. 1)
- (8) See section 171(6A) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 as inserted by Article 3(3) of the Social Security (Amendment) (Northern Ireland) Order 1993 (S.I. 1993/1579 (N.I. 8)); see also Article 6(b) of S.R. 1999 No. 481 and section 1(4) of the Departments Act (Northern Ireland) 2016 (c. 5 (N.I.))

**Status:** Point in time view as at 28/10/2023.

**Changes to legislation:** There are currently no known outstanding effects for the The Social Security (Habitual Residence and Past Presence, and Capital Disregards) (Amendment) Regulations (Northern Ireland) 2023. (See end of Document for details)

(2) The Interpretation Act (Northern Ireland) 1954(9) shall apply to these Regulations as it applies to an Act of the Assembly.

#### Commencement Information

**11** Reg. 1 in operation at 28.10.2023, see [reg. 1\(1\)](#)

### Amendment of the habitual residence test in income-related benefit legislation **N.I.**

2.—(1) In the provisions specified in paragraph (2) after sub-paragraph (zzd)(10) insert—

“(zze) a person who was residing in Israel, the West Bank, the Gaza Strip, East Jerusalem, the Golan Heights or Lebanon immediately before 7th October 2023, who left Israel, the West Bank, the Gaza Strip, East Jerusalem, the Golan Heights or Lebanon in connection with the Hamas terrorist attack in Israel on 7th October 2023 or the violence which rapidly escalated in the region following the attack and—

(i) has been granted leave in accordance with immigration rules made under section 3(2) of the Immigration Act 1971(11);

(ii) has a right of abode in the United Kingdom within the meaning given in section 2 of that Act(12); or

(iii) does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act(13);”.

(2) Those provisions are—

(a) regulation 21AA(4) of the Income Support (General) Regulations (Northern Ireland) 1987(14) (special cases: supplemental—persons from abroad);

(b) regulation 85A(4) of the Jobseeker’s Allowance Regulations (Northern Ireland) 1996(15) (special cases: supplemental—persons from abroad);

(c) regulation 2(4) of the State Pension Credit Regulations (Northern Ireland) 2003(16) (persons not in Northern Ireland);

(d) regulation 10(5) of the Housing Benefit Regulations (Northern Ireland) 2006(17) (persons from abroad);

(e) regulation 10(5) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006(18) (persons from abroad);

(f) regulation 70(4) of the Employment and Support Allowance Regulations (Northern Ireland) 2008(19) (special cases: supplemental – persons from abroad).

(9) 1954 c. 33 (N.I.)

(10) Sub-paragraph (zzd) was inserted by regulation 2(1) of S.R. 2023 No. 80

(11) 1971 c. 77

(12) Section 2 was substituted by section 39(2) of the British Nationality Act 1981 (c. 61) and amended by regulation 4(2) of S.I. 2019/745

(13) Section 3ZA was inserted by section 2(2) of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (c. 20)

(14) S.R. 1987 No. 459; regulation 21AA was inserted by regulation 2(3) of S.R. 2006 No. 178; relevant amending Regulations are S.R. 2021 No. 269, S.R. 2022 Nos. 149 and 230 and S.R. 2023 No. 80

(15) S.R. 1996 No. 198; regulation 85A was inserted by regulation 4(3) of S.R. 2006 No. 178; relevant amending Regulations are S.R. 2021 No. 269, S.R. 2022 Nos. 149 and 230 and S.R. 2023 No. 80

(16) S.R. 2003 No. 28; regulation 2 was substituted by regulation 5 of S.R. 2006 No. 178; relevant amending Regulations are S.R. 2021 No. 269, S.R. 2022 Nos. 149 and 230 and S.R. 2023 No. 80

(17) S.R. 2006 No. 405; relevant amending Regulations are S.R. 2021 No. 269, S.R. 2022 Nos. 149 and 230 and S.R. 2023 No. 80

(18) S.R. 2006 No. 406; relevant amending Regulations are S.R. 2021 No. 269, S.R. 2022 Nos. 149 and 230 and S.R. 2023 No. 80

(19) S.R. 2008 No. 280; relevant amending Regulations are S.R. 2021 No. 269, S.R. 2022 Nos. 149 and 230 and S.R. 2023 No. 80

(3) In regulation 9(4) of the Universal Credit Regulations (Northern Ireland) 2016<sup>(20)</sup> (persons treated as not being in Northern Ireland), after sub-paragraph (zd)<sup>(21)</sup> insert—

“(ze) a person who was residing in Israel, the West Bank, the Gaza Strip, East Jerusalem, the Golan Heights or Lebanon immediately before 7th October 2023, who left Israel, the West Bank, the Gaza Strip, East Jerusalem, the Golan Heights or Lebanon in connection with the Hamas terrorist attack in Israel on 7th October 2023 or the violence which rapidly escalated in the region following the attack and—

(i) has been granted leave in accordance with the immigration rules made under section 3(2) of the Immigration Act 1971,

(ii) has a right of abode in the United Kingdom within the meaning given in section 2 of that Act, or

(iii) does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act.”.

#### Commencement Information

**I2** Reg. 2 in operation at 28.10.2023, see [reg. 1\(1\)](#)

### Amendment of the Income Support Regulations **N.I.**

**3.—(1)** The Income Support (General) Regulations (Northern Ireland) 1987<sup>(22)</sup> are amended in accordance with paragraphs (2) and (3).

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

(a) in the definition of “qualifying person”<sup>(23)</sup> after “the National Emergencies Trust” insert “, the Victims of Overseas Terrorism Compensation Scheme”;

(b) after the definition of “vaccine damage payment”<sup>(24)</sup> insert—

““the Victims of Overseas Terrorism Compensation Scheme” means the scheme of that name established by the Ministry of Justice in 2012 under section 47 of the Crime and Security Act 2010<sup>(25)</sup>.”.

(3) In the provisions specified in sub-paragraphs (a) to (c), after the “National Emergencies Trust” insert “, the Victims of Overseas Terrorism Compensation Scheme”—

(a) regulation 48(10)(c)<sup>(26)</sup> (income treated as capital);

(b) regulation 51(3A)(a)<sup>(27)</sup> (notional capital);

<sup>(20)</sup> S.R. 2016 No. 216; relevant amending Regulations are S.R. 2021 No. 269, S.R. 2022 Nos. 149 and 230 and S.R. 2023 No. 80

<sup>(21)</sup> Sub-paragraph (zd) was inserted by regulation 3 of S.R. 2023 No. 80

<sup>(22)</sup> Relevant amending Regulations are S.R. 1988 No. 146, S.R. 1990 No. 33, S.R. 1991 No. 204, S.R. 1992 No. 201, S.R. 1993 Nos. 195 and 233, S.R. 1998 No. 326, S.R. 2004 Nos. 213 and 389, S.R. 2005 No. 550, S.R. 2008 No. 428, S.R. 2010 No. 69, S.R. 2011 No. 357, S.R. 2017 Nos. 205 and 219, S.R. 2020 No. 108, S.R. 2021 No. 345 and S.R. 2023 No. 97

<sup>(23)</sup> The definition of “qualifying person” was inserted by regulation 5(2)(b) of S.R. 1992 No. 201 and amended by regulation 2(a) of S.R. 2004 No. 213, regulation 2(2)(b) of S.R. 2005 No. 550, regulation 2(3)(a) of S.R. 2010 No. 69, regulation 7(2)(b) of S.R. 2011 No. 357, regulation 2(2)(b) of S.R. 2017 No. 205, regulation 2(2)(c) of S.R. 2017 No. 219, regulation 2(b) of S.R. 2020 No. 108, regulation 2(2)(b) of S.R. 2021 No. 345 and regulation 2(2)(e) of S.R. 2023 No. 97

<sup>(24)</sup> The definition of “vaccine damage payment” was inserted by regulation 2(2)(d) of S.R. 2023 No. 97

<sup>(25)</sup> 2010 c. 17

<sup>(26)</sup> Regulation 48(10)(c) was amended by regulation 4(3)(b) of S.R. 1990 No. 33, regulation 4(4) of S.R. 1991 No. 204, regulation 5(4) of S.R. 1992 No. 201, regulation 5(3)(b) of S.R. 1993 Nos. 195 and 233 respectively, regulation 2(5)(b) of S.R. 2008 No. 428, regulation 2(3)(c) and (7)(b) of S.R. 2010 No. 69, regulation 7(5)(b) of S.R. 2011 No. 357, regulation 2(3)(b) of S.R. 2017 Nos. 205 and 219 respectively and regulation 2(4)(b) of S.R. 2020 No. 108

<sup>(27)</sup> Regulation 51(3A) was inserted by regulation 3(2)(b) of SR 1998 No. 326; sub-paragraph (a) was amended by regulation 2(1) and (2)(b) of S.R. 2004 No. 389, regulation 2(3) of S.R. 2005 No. 550, regulation 2(5)(c) of S.R. 2008 No. 428, regulation 2(3)(d) and (7)(c) of S.R. 2010 No. 69, regulation 7(6)(a) of S.R. 2011 No. 357, regulation 2(3)(c) of S.R. 2017 Nos. 205 and 219 respectively and regulation 2(5)(b) of S.R. 2020 No. 108

**Status:** Point in time view as at 28/10/2023.

**Changes to legislation:** There are currently no known outstanding effects for the The Social Security (Habitual Residence and Past Presence, and Capital Disregards) (Amendment) Regulations (Northern Ireland) 2023. (See end of Document for details)

(c) paragraphs 22(1)(28) and (7)(29) of Schedule 10 (capital to be disregarded).

#### Commencement Information

**I3** Reg. 3 in operation at 28.10.2023, see [reg. 1\(1\)](#)

### Amendment of the Jobseeker's Allowance Regulations **N.I.**

**4.—(1)** The Jobseeker's Allowance Regulations (Northern Ireland) 1996(30) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) (citation, commencement, interpretation and application(31))—

(a) in the definition of “qualifying person”(32) after “the National Emergencies Trust” insert “, the Victims of Overseas Terrorism Compensation Scheme”;

(b) after the definition of “vaccine damage payment”(33) insert—

““the Victims of Overseas Terrorism Compensation Scheme” means the scheme of that name established by the Ministry of Justice in 2012 under section 47 of the Crime and Security Act 2010;”.

(3) In the provisions specified in sub-paragraphs (a) to (c), after “the National Emergencies Trust” insert “, the Victims of Overseas Terrorism Compensation Scheme”—

(a) regulation 110(10)(c)(34) (income treated as capital);

(b) regulation 113(3A)(a)(35) (notional capital);

(c) paragraph 27(1)(36) of Schedule 7 (capital to be disregarded).

#### Commencement Information

**I4** Reg. 4 in operation at 28.10.2023, see [reg. 1\(1\)](#)

- (28) Paragraph 22 was added by regulation 37(e) of S.R. 1988 No. 146 and substituted by regulation 4(8)(a) of S.R. 1991 No. 204; sub-paragraph (1) was amended by regulation 5(8)(a)(i) of S.R. 1992 No. 201, regulation 5(5)(a) of S.R. 1993 No. 233, regulation 3(2)(b) of S.R. 2004 No. 213, regulation 2(5)(a)(i) of S.R. 2005 No. 550, regulation 2(5)(f) of S.R. 2008 No. 428, regulation 2(3)(g) and (7)(f) of S.R. 2010 No. 69, regulation 2(3)(f) of S.R. 2017 No. 205, regulation 2(3)(f) and (6)(f) of S.R. 2017 No. 219 and regulation 2(12)(a)(i) of S.R. 2020 No. 108
- (29) Sub-paragraph (7) was added by regulation 5(8)(a)(vi) of S.R. 1992 No. 201 and amended by regulation 3(4)(b) of S.R. 2004 No. 213, regulation 2(5)(a)(ii) of S.R. 2005 No. 550, regulation 2(3)(g) of S.R. 2010 No. 69, regulation 7(6)(c) of S.R. 2011 No. 357, regulation 2(3)(f) of S.R. 2017 Nos. 205 and 219 respectively and regulation 2(12)(a)(v) of S.R. 2020 No. 108
- (30) Relevant amending Regulations are S.R. 1998 No. 326, S.R. 2004 Nos. 213 and 389, S.R. 2005 No. 550, S.R. 2008 No. 428, S.R. 2010 No. 69, S.R. 2011 No. 357, S.R. 2016 No. 236, S.R. 2017 Nos. 205 and 219, S.R. 2020 No. 108, S.R. 2021 No. 345 and S.R. 2023 No. 97
- (31) The heading to regulation 1 was substituted by regulation 28(2)(a) of S.R. 2016 No. 236
- (32) The definition of “qualifying person” was amended by regulation 2(a) of S.R. 2004 No. 213, regulation 4(2)(b) of S.R. 2005 No. 550, regulation 4(3)(a) of S.R. 2010 No. 69, regulation 10(2)(b) of S.R. 2011 No. 357, regulation 3(2)(b) of S.R. 2017 No. 205, regulation 3(2)(c) of S.R. 2017 No. 219, regulation 3(2)(b) of S.R. 2020 No. 108, regulation 3(2)(b) of S.R. 2021 No. 345 and regulation 3(2)(c) of S.R. 2023 No. 97
- (33) The definition of “vaccine damage payment” was inserted by regulation 3(2)(b) of S.R. 2023 No. 97
- (34) Regulation 110(10)(c) was amended by regulation 4(5)(b) of S.R. 2008 No. 428, regulation 4(3)(c) and (8)(b) of S.R. 2010 No. 69, regulation 10(7)(b) of S.R. 2011 No. 357, regulation 3(3)(b) of S.R. 2017 Nos. 205 and 219 respectively and regulation 3(4)(b) of S.R. 2020 No. 108
- (35) Regulation 113(3A) was inserted by regulation 3(1)(b) of S.R. 1998 No. 326; sub-paragraph (a) was amended by regulation 2(1) and (2)(c) of S.R. 2004 No. 389, regulation 4(3) of S.R. 2005 No. 550, regulation 4(5)(c) of S.R. 2008 No. 428, regulation 4(3)(d) and (8)(c) of S.R. 2010 No. 69, regulation 10(8)(a) of S.R. 2011 No. 357, regulation 3(3)(c) of S.R. 2017 Nos. 205 and 219 respectively and regulation 3(5)(b) of S.R. 2020 No. 108
- (36) Paragraph 27(1) was amended by regulation 3(5) and (6)(b) of S.R. 2004 No. 213, regulation 4(5)(a) of S.R. 2005 No. 550, regulation 4(5)(g) of S.R. 2008 No. 428, regulation 4(3)(g) and (8)(f) of S.R. 2010 No. 69, regulation 10(8)(c) of S.R. 2011 No. 357, regulation 3(3)(f) of S.R. 2017 Nos. 205 and 219 respectively and regulation 3(12)(a)(i) of S.R. 2020 No. 108

## Amendment of the State Pension Credit Regulations **N.I.**

5.—(1) The State Pension Credit Regulations (Northern Ireland) 2003(37) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) (citation, commencement and interpretation)—

(a) in the definition of “qualifying person”(38) after “the National Emergencies Trust” insert “, the Victims of Overseas Terrorism Compensation Scheme”;

(b) after the definition of “vaccine damage payment”(39) insert—

““the Victims of Overseas Terrorism Compensation Scheme” means the scheme of that name established by the Ministry of Justice in 2012 under section 47 of the Crime and Security Act 2010;”.

(3) In the provisions specified in sub-paragraphs (a) and (b), after “the National Emergencies Trust” insert “, the Victims of Overseas Terrorism Compensation Scheme”—

(a) paragraph 14(8)(b)(40) of Schedule 2 (housing costs);

(b) paragraph 15(1)(41) and (7)(42) of Schedule 5 (income from capital).

### Commencement Information

**I5** Reg. 5 in operation at 28.10.2023, see [reg. 1\(1\)](#)

## Amendment of the Housing Benefit Regulations **N.I.**

6.—(1) The Housing Benefit Regulations (Northern Ireland) 2006(43) are amended in accordance with paragraphs (2) and (3).

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

(a) in the definition of “qualifying person”(44) after “the National Emergencies Trust” insert “, the Victims of Overseas Terrorism Compensation Scheme”;

(b) after the definition of “vaccine damage payment”(45) insert—

““the Victims of Overseas Terrorism Compensation Scheme” means the scheme of that name established by the Ministry of Justice in 2012 under section 47 of the Crime and Security Act 2010;”.

(37) Relevant amending Regulations are S.R. 2004 No. 213, S.R. 2005 No. 550, S.R. 2008 No. 428, S.R. 2010 No. 69, S.R. 2011 No. 357, S.R. 2017 Nos. 205 and 219, S.R. 2020 No. 108, S.R. 2021 No. 345 and S.R. 2023 No. 97

(38) The definition of “qualifying person” was amended by regulation 2(a) of S.R. 2004 No. 213, regulation 6(2)(b) of S.R. 2005 No. 550, regulation 6(3)(a) of S.R. 2010 No. 69, regulation 14(2)(b) of S.R. 2011 No. 357, regulation 4(2)(b) of S.R. 2017 No. 205, regulation 5(2)(c) of S.R. 2017 No. 219, regulation 4(2)(b) of S.R. 2020 No. 108 and S.R. 2021 No. 345 respectively and regulation 4(2)(c) of S.R. 2023 No. 97

(39) The definition of “vaccine damage payment” was inserted by regulation 4(2)(b) of S.R. 2023 No. 97

(40) Paragraph 14(8)(b) was amended by regulation 5(3)(c) of S.R. 2008 No. 428, regulation 6(3)(b) of S.R. 2010 No. 69, regulation 14(5) of S.R. 2011 No. 357, regulation 4(3)(a) of S.R. 2017 No. 205, regulation 5(3)(a) of S.R. 2017 No. 219 and regulation 4(3)(a) of S.R. 2020 No. 108

(41) Paragraph 15(1) was amended by regulation 3(1) and (2)(c) of S.R. 2004 No. 213, regulation 6(3)(a)(i) of S.R. 2005 No. 550, regulation 5(4) of S.R. 2008 No. 428, regulation 6(3)(c) and (7) of S.R. 2010 No. 69, regulation 14(6)(a) of S.R. 2011 No. 357, regulation 4(3)(b) of S.R. 2017 No. 205, regulation 5(3)(b) of S.R. 2017 No. 219 and regulation 4(4)(a)(i) of S.R. 2020 No. 108

(42) Paragraph 15(7) was amended by regulation (3)(4)(c) of S.R. 2004 No. 213, regulation 6(3)(a)(ii) of S.R. 2005 No. 550, regulation 6(3)(c) of S.R. 2010 No. 69, regulation 14(6)(a) of S.R. 2011 No. 357, regulation 4(3)(b) of S.R. 2017 No. 205, regulation 5(3)(b) of S.R. 2017 No. 219 and regulation 4(4)(a)(v) of S.R. 2020 No. 108

(43) Relevant amending Regulations are S.R. 2008 No. 428, S.R. 2010 No. 69, S.R. 2011 No. 357, S.R. 2017 Nos. 205 and 219, S.R. 2020 No. 108, S.R. 2021 No. 345 and S.R. 2023 No. 97

(44) The definition of “qualifying person” was amended by regulation 8(3)(a) of S.R. 2010 No. 69, regulation 19(2)(b) of S.R. 2011 No. 357, regulation 6(2)(b) of S.R. 2017 No. 205, regulation 6(2)(c) of S.R. 2017 No. 219, regulation 5(2)(b) of S.R. 2020 No. 108 and S.R. 2021 No. 345 respectively and regulation 5(2)(c) of S.R. 2023 No. 97

(45) The definition of “vaccine damage payment” was inserted by regulation 5(2)(b) of S.R. 2023 No. 97



**Status:** Point in time view as at 28/10/2023.

**Changes to legislation:** There are currently no known outstanding effects for the The Social Security (Habitual Residence and Past Presence, and Capital Disregards) (Amendment) Regulations (Northern Ireland) 2023. (See end of Document for details)

(3) In the provisions specified in sub-paragraphs (a) to (d), after “the National Emergencies Trust” insert “, the Victims of Overseas Terrorism Compensation Scheme”—

- (a) regulation 43(6)(46) (income treated as capital);
- (b) regulation 46(4)(a)(47) (notional capital);
- (c) regulation 72(9)(b)(48) (non-dependant deductions);
- (d) paragraph 25(1)(49) and (7)(50) of Schedule 7 (capital to be disregarded).

#### Commencement Information

**I6** Reg. 6 in operation at 28.10.2023, see [reg. 1\(1\)](#)

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

7.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006(51) are amended in accordance with paragraphs (2) and (3).

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

- (a) in the definition of “qualifying person”(52) after “the National Emergencies Trust” insert “, the Victims of Overseas Terrorism Compensation Scheme”;
- (b) after the definition of “vaccine damage payment”(53) insert—

““the Victims of Overseas Terrorism Compensation Scheme” means the scheme of that name established by the Ministry of Justice in 2012 under section 47 of the Crime and Security Act 2010;”.

(3) In the provisions specified in sub-paragraphs (a) and (b), after “the National Emergencies Trust” insert “, the Victims of Overseas Terrorism Compensation Scheme”—

- (a) regulation 53(10)(b)(54) (non-dependant deductions);
- (b) paragraph 16(1)(a)(55) of Schedule 7 (capital to be disregarded).

(46) Regulation 43(6) was amended by regulation 6(3)(b) of S.R. 2008 No. 428, regulation 8(3)(c) and (5)(b) of S.R. 2010 No. 69, regulation 19(5)(b) of S.R. 2011 No. 357, regulation 6(3)(b) of S.R. 2017 Nos. 205 and 219 respectively and regulation 5(4) of S.R. 2020 No. 108, S.R. 2021 No. 345 and S.R. 2023 No. 97 respectively

(47) Regulation 46(4)(a) was amended by regulation 6(3)(c) of S.R. 2008 No. 428, regulation 8(3)(d) and (5)(c) of S.R. 2010 No. 69, regulation 19(6)(a) of S.R. 2011 No. 357, regulation 6(3)(c) of S.R. 2017 Nos. 205 and 219 respectively and regulation 5(5)(b) of S.R. 2020 No. 108

(48) Regulation 72(9)(b) was amended by regulation 6(3)(d) of S.R. 2008 No. 428, regulation 8(3)(e) and (5)(d) of S.R. 2010 No. 69, regulation 19(5)(c) of S.R. 2011 No. 357, regulation 6(3)(d) of S.R. 2017 Nos. 205 and 219 respectively and regulation 5(10)(a) of S.R. 2020 No. 108

(49) Paragraph 25(1) was amended by regulation 6(3)(g) of S.R. 2008 No. 428, regulation 8(3)(h) and (5)(g) of S.R. 2010 No. 69, regulation 19(6)(d) of S.R. 2011 No. 357, regulation 6(3)(g) of S.R. 2017 No. 205, regulation 6(3)(f) of S.R. 2017 No. 219 and regulation 5(12)(b)(i) of S.R. 2020 No. 108

(50) Paragraph 25(7) was amended by regulation 8(3)(h) of S.R. 2010 No. 69, regulation 19(6)(d) of S.R. 2011 No. 357, regulation 6(3)(g) of S.R. 2017 No. 205, regulation 6(3)(f) of S.R. 2017 No. 219 and regulation 5(12)(b)(v) of S.R. 2020 No. 108

(51) Relevant amending Regulations are S.R. 2008 No. 428, S.R. 2010 No. 69, S.R. 2011 No. 357, S.R. 2017 Nos. 205 and 219, S.R. 2020 No. 108, S.R. 2021 No. 345 and S.R. 2023 No. 97

(52) The definition of “qualifying person” was amended by regulation 9(3)(a) of S.R. 2010 No. 69, regulation 20(2)(b) of S.R. 2011 No. 357, regulation 7(2)(b) of S.R. 2017 No. 205, regulation 7(2)(c) of S.R. 2017 No. 219, regulation 6(2)(b) of S.R. 2020 No. 108 and S.R. 2021 No. 345 respectively and regulation 6(2)(c) of S.R. 2023 No. 97

(53) The definition of “vaccine damage payment” was inserted by regulation 6(2)(b) of S.R. 2023 No. 97

(54) Regulation 53(10)(b) was amended by regulation 7(3)(b) of S.R. 2008 No. 428, regulation 9(3)(b) and (5)(a) of S.R. 2010 No. 69, regulation 20(6) of S.R. 2011 No. 357, regulation 7(3)(a) of S.R. 2017 Nos. 205 and 219 respectively and regulation 6(3)(a) of S.R. 2020 No. 108

(55) Paragraph 16(1)(a) was amended by regulation 9(3)(d) of S.R. 2010 No. 69, regulation 20(7)(b) of S.R. 2011 No. 357, regulation 7(3)(c) of S.R. 2017 No. 205, regulation 7(3)(b) of S.R. 2017 No. 205 and regulation 6(4)(a)(i) of S.R. 2020 No. 108

#### Commencement Information

**17** Reg. 7 in operation at 28.10.2023, see [reg. 1\(1\)](#)

### Amendment of the Employment and Support Allowance Regulations **N.I.**

**8.**—(1) The Employment and Support Allowance Regulations (Northern Ireland) 2008(**56**) are amended in accordance with paragraphs (2) and (3).

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

(a) in the definition of “qualifying person”(**57**) after “the National Emergencies Trust” insert “, the Victims of Overseas Terrorism Compensation Scheme”;

(b) after the definition of “vaccine damage payment”(**58**) insert—

““the Victims of Overseas Terrorism Compensation Scheme” means the scheme of that name established by the Ministry of Justice in 2012 under section 47 of the Crime and Security Act 2010;”.

(3) In the provisions specified in sub-paragraphs (a) to (c), after “the National Emergencies Trust” insert “, the Victims of Overseas Terrorism Compensation Scheme”—

(a) regulation 112(8)(a)(**59**) (income treated as capital);

(b) regulation 115(5)(a)(**60**) (notional capital);

(c) paragraph 27(1)(**61**) and (7)(**62**) of Schedule 9 (capital to be disregarded).

#### Commencement Information

**18** Reg. 8 in operation at 28.10.2023, see [reg. 1\(1\)](#)

### Amendment of the Universal Credit Regulations **N.I.**

**9.** In Regulation 76(1A)(**63**) of the Universal Credit Regulations (Northern Ireland) 2016(**64**) (special schemes for compensation etc.) after sub-paragraph (e)(**65**) add—

“(f) the Victims of Overseas Terrorism Compensation Scheme established by the Ministry of Justice in 2012 under section 47 of the Crime and Security Act 2010.”.

(56) Relevant amending regulations are [S.R. 2010 No. 69](#), [S.R. 2011 No. 357](#), [S.R. 2017 Nos. 205 and 219](#), [S.R. 2020 No. 108](#), [S.R. 2021 No. 345](#) and [S.R. 2023 No. 97](#)

(57) The definition of “qualifying person” was amended by regulation 10(3)(a) of [S.R. 2010 No. 69](#), regulation 21(2)(b) of [S.R. 2011 No. 357](#), regulation 8(2)(b) of [S.R. 2017 No. 205](#), regulation 8(2)(c) of [S.R. 2017 No. 219](#), regulation 7(2)(b) of [S.R. 2020 No. 108](#), regulation 7(2)(b) of [S.R. 2021 No. 345](#) and regulation 7(2)(c) of [S.R. 2023 No. 97](#)

(58) The definition of “vaccine damage payment” was inserted by regulation 7(2)(b) of [S.R. 2023 No. 97](#)

(59) Regulation 112(8) was substituted by regulation 7(4) of [S.R. 2023 No. 97](#)

(60) Regulation 115(5)(a) was amended by regulation 10(3)(d) and (5)(c) of [S.R. 2010 No. 69](#), regulation 21(9)(a) of [S.R. 2011 No. 357](#), regulation 8(3)(c) of [S.R. 2017 Nos. 205 and 219](#) respectively and regulation 7(5)(c) of [S.R. 2020 No. 108](#)

(61) Paragraph 27(1) was amended by regulation 10(3)(g) and (5)(f) of [S.R. 2010 No. 69](#), regulation 21(9)(c) of [S.R. 2011 No. 357](#), regulation 8(3)(f) of [S.R. 2017 Nos. 205 and 219](#) respectively and regulation 7(12)(a)(i) of [S.R. 2020 No. 108](#)

(62) Paragraph 27(7) was amended by regulation 10(3)(g) of [S.R. 2010 No. 69](#), regulation 8(3)(f) of [S.R. 2017 Nos. 205 and 219](#) respectively and regulation 7(12)(a)(v) of [S.R. 2020 No. 108](#)

(63) Regulation 76(1A) was inserted by regulation 8(5)(b) of [S.R. 2020 No. 108](#) and amended by regulation 8(3) of [S.R. 2021 No. 345](#) and regulation 8(2)(b) of [S.R. 2023 No. 97](#)

(64) Relevant amending Regulations are [S.R. 2020 No. 108](#), [S.R. 2021 No. 345](#) and [S.R. 2023 No. 97](#)

(65) Sub-paragraph (e) was added by regulation 8(2)(b)(ii) of [S.R. 2023 No. 97](#)

**Status:** Point in time view as at 28/10/2023.

**Changes to legislation:** There are currently no known outstanding effects for the The Social Security (Habitual Residence and Past Presence, and Capital Disregards) (Amendment) Regulations (Northern Ireland) 2023. (See end of Document for details)

#### Commencement Information

**I9** Reg. 9 in operation at 28.10.2023, see [reg. 1\(1\)](#)

#### Amendment of disability and carer's benefit legislation **N.I.**

**10.**—(1) In the provisions specified in paragraph (2)—

- (a) at the end of sub-paragraph (f)(**66**) omit “or”;
  - (b) after sub-paragraph (g)(**67**) add—
    - “or
    - (h) leave to enter or remain in the United Kingdom granted under or outside the immigration rules, a right of abode in the United Kingdom within the meaning given in section 2 of the Immigration Act 1971 or does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act, where the person—
      - (i) was residing in Israel, the West Bank, the Gaza Strip, East Jerusalem, the Golan Heights or Lebanon immediately before 7th October 2023; and
      - (ii) left Israel, the West Bank, the Gaza Strip, East Jerusalem, the Golan Heights or Lebanon in connection with the Hamas terrorist attack in Israel on 7th October 2023 or the violence which rapidly escalated in the region following the attack.”.
- (2) Those provisions are—
- (a) regulation 9C(1) of the Social Security (Invalid Care Allowance) Regulations (Northern Ireland) 1976(**68**) (refugees and certain persons with leave to enter or remain in the United Kingdom(**69**));
  - (b) regulation 2C(1) of the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1992(**70**) (refugees and certain persons with leave to enter or remain in the United Kingdom);
  - (c) regulation 2C(1) of the Social Security (Disability Living Allowance) Regulations (Northern Ireland) 1992(**71**) (refugees and certain persons with leave to enter or remain in the United Kingdom).

#### Commencement Information

**I10** Reg. 10 in operation at 28.10.2023, see [reg. 1\(1\)](#)

(66) Sub-paragraph (f) was added by regulation 4(2)(b) of [S.R. 2022 No. 149](#) and amended by regulation 3(1) of [S.R. 2022 No. 230](#)

(67) Sub-paragraph (g) was added by regulation 4(1)(b) of [S.R. 2023 No. 80](#)

(68) [S.R. 1976 No. 99](#); regulation 9C was inserted by regulation 2(3) of [S.R. 2017 No. 218](#); relevant amending Regulations are [S.R. 2021 No. 269](#), [S.R. 2022 Nos. 149 and 230](#) and [S.R. 2023 No. 80](#)

(69) The heading to the provisions referred to in paragraph (2)(a) to (c) was substituted by regulation 4(2) of [S.R. 2021 No. 269](#)

(70) [S.R. 1992 No. 20](#); regulation 2C was inserted by regulation 7(3) of [S.R. 2017 No. 218](#); relevant amending Regulations are [S.R. 2021 No. 269](#), [S.R. 2022 Nos. 149 and 230](#) and [S.R. 2023 No. 80](#)

(71) [S.R. 1992 No. 32](#); regulation 2C was inserted by regulation 8(3) of [S.R. 2017 No. 218](#); relevant amending Regulations are [S.R. 2021 No. 269](#), [S.R. 2022 Nos. 149 and 230](#) and [S.R. 2023 No. 80](#)



## Amendment of the Personal Independence Payment Regulations **N.I.**

11. In regulation 23A(1) of the Personal Independence Payment Regulations (Northern Ireland) 2016<sup>(72)</sup> (refuges and certain persons with leave to enter or remain in the United Kingdom<sup>(73)</sup>)—

(a) at the end of sub-paragraph (f)<sup>(74)</sup> omit “or”;

(b) after sub-paragraph (g)<sup>(75)</sup> add—

“or

(h) leave to enter or remain in the United Kingdom granted under or outside the immigration rules, a right of abode in the United Kingdom within the meaning given in section 2 of the Immigration Act 1971 or does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act, where C—

(i) was residing in Israel, the West Bank, the Gaza Strip, East Jerusalem, the Golan Heights or Lebanon immediately before 7th October 2023; and

(ii) left Israel, the West Bank, the Gaza Strip, East Jerusalem, the Golan Heights or Lebanon in connection with the Hamas terrorist attack in Israel on 7th October 2023 or the violence which rapidly escalated in the region following the attack.”.

### Commencement Information

111 Reg. 11 in operation at 28.10.2023, see [reg. 1\(1\)](#)

Sealed with the Official Seal of the Department for Communities on 27th October 2023

(L.S.)

*Patrick Rooney*  
A senior officer of the Department for  
Communities

The Department of Finance hereby consents to regulations 2(2)(d) and (e), 6 and 7

Sealed with the Official Seal of the Department of Finance on 27th October 2023

(L.S.)

*Barry Armstrong*  
A senior officer of the Department of Finance

<sup>(72)</sup> S.R. 2016 No. 217; regulation 23A was inserted by regulation 15 of S.R. 2017 No. 218; relevant amending Regulations are S.R. 2021 No. 269, S.R. 2022 Nos. 149 and 230 and S.R. 2023 No. 80

<sup>(73)</sup> The heading to regulation 23A was substituted by regulation 4(2) of S.R. 2021 No. 269

<sup>(74)</sup> Sub-paragraph (f) was added by regulation 5(2)(b) of S.R. 2022 No. 149 and amended by regulation 3(1) of S.R. 2022 No. 230

<sup>(75)</sup> Sub-paragraph (g) was added by regulation 5(b) of S.R. 2023 No. 80

**Status:** Point in time view as at 28/10/2023.

**Changes to legislation:** There are currently no known outstanding effects for the The Social Security (Habitual Residence and Past Presence, and Capital Disregards) (Amendment) Regulations (Northern Ireland) 2023. (See end of Document for details)

## EXPLANATORY NOTE

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

Regulation 1 provides for citation, commencement and interpretation.

Regulations 2 to 9 enable certain persons to access income-related benefits upon arrival in Northern Ireland from Israel, the West Bank, the Gaza Strip, East Jerusalem, the Golan Heights or Lebanon provided they meet the other relevant entitlement conditions. It also provides that any payments from the Victims of Overseas Terrorism Compensation Scheme (“the Scheme”) established by the Ministry of Justice in 2012 are to be disregarded for certain social security purposes.

Those regulations amend 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 State Pension Credit Regulations”), 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 (“the Universal Credit Regulations”) - “the income-related benefit regulations”.

The income-related benefit regulations provide that a person is ineligible for benefit where he or she is a “person from abroad”, “a person not in Northern Ireland” (for the purposes of the State Pension Credit Regulations), or “a person treated as not being in Northern Ireland” (for the purposes of the Universal Credit Regulations); that is to say where the person is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland, subject to a list of exemptions.

Regulation 2 inserts a new category into the list of persons who are exempted from having to satisfy the habitual residence test. Those persons are those who were residing in Israel, the West Bank, the Gaza Strip, East Jerusalem, the Golan Heights or Lebanon immediately before 7th October 2023, who left Israel, the West Bank, the Gaza Strip, East Jerusalem, the Golan Heights or Lebanon in connection with the Hamas terrorist attack in Israel on 7th October 2023 or the violence which rapidly escalated in the region following the attack and who—

- (a) have been granted leave in accordance with immigration rules made under section 3(2) of the Immigration Act 1971;
- (b) have a right of abode in the United Kingdom within the meaning given in section 2 of that Act; or
- (c) do not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act.

Regulations 3 to 9 amend the income-related benefit regulations to provide that payments from the Scheme established by the Ministry of Justice in 2012 are not to be taken into account in the calculation of capital.

Regulations 10 and 11 enable certain persons to access disability and carer’s benefits upon arrival in Northern Ireland where they were residing in Israel, the West Bank, the Gaza Strip, East Jerusalem, the Golan Heights or Lebanon and left in accordance with the criteria above, provided they meet the other relevant entitlement conditions.

Regulation 10 amends the Social Security (Invalid Care Allowance) Regulations (Northern Ireland) 1976, the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1992 and

the Social Security (Disability Living Allowance) Regulations (Northern Ireland) 1992 respectively, and regulation 11 amends the Personal Independence Payment Regulations (Northern Ireland) 2016 to exempt the same group of people from the past presence test. This is the test which normally has to be fulfilled in order to claim Carer's Allowance, Attendance Allowance, Disability Living Allowance and Personal Independence Payment. The past presence test normally requires that an individual has been present in Northern Ireland for a specified period of time to be eligible for those benefits. The amendments also have the effect of removing the habitual residence requirement for entitlement to disability and carer's benefits which would otherwise apply to these persons.

These regulations make in relation to Northern Ireland only provision corresponding to provision contained in Regulations made by the Secretary of State for Work and Pensions in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992, are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.

**Status:**

Point in time view as at 28/10/2023.

**Changes to legislation:**

There are currently no known outstanding effects for the The Social Security (Habitual Residence and Past Presence, and Capital Disregards) (Amendment) Regulations (Northern Ireland) 2023.