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## 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

**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)

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.

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