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STATUTORY RULES OF NORTHERN IRELAND

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**2019 No. 195**

**SOCIAL SECURITY**

**The Social Security (Capital Disregards)  
(Amendment) Regulations (Northern Ireland) 2019**

<i>Made</i>	- - - -	<i>3rd October 2019</i>
<i>Laid before Parliament</i>		<i>8th October 2019</i>
<i>Coming into operation</i>		<i>31st October 2019</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 122(1)(a) and (d), 132(3) and (4)(b), 132A(3), 133(1) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(1), Articles 2(2), 14(1) and (4)(b) of the Jobseekers (Northern Ireland) Order 1995(2), sections 15(3) and (6)(b), 17(1) and 19(1) and (3) of the State Pension Credit Act (Northern Ireland) 2002(3), section 17(1) and (3)(b) and 24(1) of the Welfare Reform Act (Northern Ireland) 2007(4) and Article 48(1) and (2) (a), paragraph 4(1) and (3)(a) of Schedule 1 and paragraph 1(1) of Schedule 6 to the Welfare Reform (Northern Ireland) Order 2015(5).

These powers are exercisable by the Secretary of State by virtue of Article 4(1) of the Welfare Reform (Northern Ireland) Order 2015(6).

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Social Security (Capital Disregards) (Amendment) Regulations (Northern Ireland) 2019 and come into operation on 31st October 2019.

(2) The Interpretation Act (Northern Ireland) 1954(7) shall apply to these Regulations as it applies to an Act of the Assembly.

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- (1) 1992 c. 7; section 132A was inserted by paragraph 3 of Schedule 2 to the State Pension Credit Act (NI) 2002 (c. 14), section 133(1) is cited for the definition of “prescribed” and section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21).
- (2) S.I. 1995/2705 (N.I. 15); Article 2(2) is cited for the definitions of “prescribed” and “regulations”.
- (3) 2002 c. 14 (N.I.); section 17(1) is cited for the definitions of “prescribed” and “regulations”.
- (4) 2007 c. 2 (N.I.); section 24(1) is cited for the definitions of “prescribed” and “regulations”.
- (5) S.I. 2015/2006 (N.I. 1).
- (6) Article 4 was amended by Article 4 of the Welfare Reform and Work (Northern Ireland) Order 2016 (S.I. 2016/999 (N.I. 1)). Functions under or for the purposes of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and the Jobseekers (Northern Ireland) Order 1995 are vested in the Department for Communities by virtue of Article 8(b) of S.R. 1999 No. 481 and section 1(7) of the Departments Act (Northern Ireland) 2016 (c. 5 (N.I.)).
- (7) 1954 c. 33 (N.I.).

### **Amendment of the Income Support (General) Regulations (Northern Ireland) 1987**

2.—(1) The Income Support (General) Regulations (Northern Ireland) 1987(8) are amended as follows.

(2) In Schedule 10 (capital to be disregarded), in paragraph 7(1) —

(a) in head (a) for “8 or 9” substitute “8, 9 or 72A”;

(b) after head (d) add—

“(e) maternity allowance under section 35 of the Contributions and Benefits Act (9)(state maternity allowance for employed or self-employed earner),”.

### **Amendment of the Jobseeker’s Allowance Regulations (Northern Ireland) 1996**

3.—(1) The Jobseeker’s Allowance Regulations (Northern Ireland) 1996(10) are amended as follows.

(2) In Schedule 7 (capital to be disregarded), in paragraph 12(1) —

(a) in head (a) for “9 or 10” substitute “9, 10 or 68A”;

(b) after head (e) add—

“(f) maternity allowance under section 35 of the Benefits Act (state maternity allowance for employed or self-employed earner),”.

### **Amendment of the State Pension Credit Regulations (Northern Ireland) 2003**

4.—(1) The State Pension Credit Regulations (Northern Ireland) 2003(11) are amended as follows.

(2) In Schedule 5 (capital disregarded for the purposes of calculating income), in paragraph 20(2) after head (r) add—

“(s) maternity allowance under section 35 of the Contributions and Benefits Act (state maternity allowance for employed or self-employed earner).”.

### **Amendment of the Housing Benefit Regulations (Northern Ireland) 2006**

5.—(1) The Housing Benefit Regulations (Northern Ireland) 2006(12) are amended as follows.

(2) In Schedule 7 (capital to be disregarded), in paragraph 9(1) after sub-paragraph (h) add—

“(i) maternity allowance under section 35 of the Act (state maternity allowance for employed or self-employed earner),”.

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(8) S.R. 1987 No. 459; paragraph 7(1)(a) was amended by regulation 10(7) of S.R. 1992 No. 6 and regulation 2(a) of S.R. 2002 No. 295 and head (d) was inserted by regulation 26(10)(a)(ii) of S.R. 2016 No. 236.

(9) Section 35 was amended Article 4(a) of the Still-Birth (Definition) (NI) Order 1992 (SI 1992/1310 (NI 10)), regulation 2(3) (b) of S.R.2014 No.102, Article 63 of the Social Security (NI) Order 1998 (SI 1998/1506 (NI 10)), Article 50(1) of the Welfare Reform and Pensions (NI) Order 1999 (SI 1999/3147 (NI 11)), regulation 2(3) of S.R. 1994 No. 176; paragraph 2(a) to (c) of Schedule 1 to the Social Security Act (NI) 2002 (c.10), paragraph 5 of Schedule 1 to the Work and Families (NI) Order 2006 (SI 2006/1947 (NI 16)), regulation.2(3) of S.R.2014 No.102 and section.6 of the Work and Families Act (Northern Ireland) 2015 (c.1).

(10) S.R. 1996 No. 198; paragraph 12(1)(a) was amended by regulation 4 of S.R. 2002 No. 295 and head (e) was inserted by regulation 14(3)(a) of S.R. 2016 No. 66.

(11) S.R. 2003 No. 28; head (r) was inserted by Article 12(3) of S.I. 2019 No. 1060.

(12) S.R. 2006 No. 405; sub-paragraph (h) was inserted by regulation 21(3)(a) of S.R. 2017 No. 66.

### **Amendment of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006**

6.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006(13) (meaning of income) are amended as follows.

(2) In Schedule 7 (capital to be disregarded), in paragraph 21(2) after head (o) add—

“(q) maternity allowance under section 35 of the Act (state maternity allowance for employed or self-employed earner).”.

### **Amendment of the Employment and Support Allowance Regulations (Northern Ireland) 2008**

7.—(1) The Employment and Support Allowance Regulations (Northern Ireland) 2008(14) are amended as follows.

(2) In Schedule 9 (capital to be disregarded), in paragraph 11(1) —

(a) in paragraph (a) for “10 or 11” substitute “10, 11 or 62”;

(b) after paragraph (d) add—

“(e) maternity allowance under section 35 of the Contributions and Benefits Act (state maternity allowance for employed or self-employed earner).”.

### **Amendment of the Universal Credit Regulations (Northern Ireland) 2016**

8.—(1) The Universal Credit Regulations (Northern Ireland) 2016(15) are amended as follows.

(2) In Schedule 10 (capital to be disregarded) in paragraph 18(2) after “United Kingdom” add—  
“and includes armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011(16)

### **Amendment of the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016**

9.—(1) The Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016(17) are amended as follows.

(2) In regulation 8A(18) (arrears of benefit disregarded as capital)—

(a) in paragraph (1)—

(i) after “of benefit” in both places, insert “or armed forces independence payment”;

(ii) in sub-paragraph (d) after “to benefit” insert “or armed forces independence payment”;

(b) after paragraph (2) add—

“(3) “Armed forces independence payment” means armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011.”.

(3) After regulation 8A insert—

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(13) S.R. 2006 No. 406; head (p) was inserted by Article 16(3) of S.I. 2019 No. 1060.

(14) S.R. 2008 No. 280; sub-paragraph (d) was inserted by regulation 5(a) of S.R. 2017 No. 66.

(15) S.R. 2016 No. 216.

(16) S.I. 2011/517; the relevant amending instrument is S.I. 2013/436.

(17) S.R. 2016 No. 226, amended by S.R. 2018 No. 187.

(18) Regulation 8A was inserted by regulation 4(3) of S.R. 2018 No. 187.

**“Arrears of maternity allowance disregarded as capital**

**8B.**—(1) This regulation applies in relation to the calculation of an award of universal credit where—

- (a) the conditions set out in regulation 8A(1)(a) to (d) are met; and
- (b) the claimant has received a payment of arrears of maternity allowance, or a payment made to compensate for arrears due to the non-payment of maternity allowance, of under £5,000.

(2) Where this regulation applies, notwithstanding anything in the Universal Credit Regulations, the payment is to be disregarded from the calculation of the claimant’s capital for 12 months from the date of receipt of the payment.

(3) “Maternity allowance” means a maternity allowance under section 35 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (state maternity allowance for employed or self-employed earner).”.

Signed by authority of the Secretary of State for Work and Pensions

3rd October 2019

*Mims Davies*  
Parliamentary Under-Secretary of State,  
Department for Work and Pensions

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## EXPLANATORY NOTE

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

These Regulations amend the Income Support (General) Regulations (Northern Ireland) 1987 (S.R. 1987 No. 459), the Jobseeker's Allowance Regulations (Northern Ireland) 1996 (S.R. 1996 No. 198), the State Pension Credit Regulations (Northern Ireland) 2003 (S.R. 2003 No. 28), the Housing Benefit Regulations (Northern Ireland) 2006 (S.R. 2006 No. 405), the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006 (S.R. 2006 No. 406), the Employment and Support Allowance Regulations (Northern Ireland) 2008 (S.R. 2008 No. 280), Universal Credit Regulations (Northern Ireland) 2016 (S.R. 2016 No. 216) and Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 (S.R. 2016 No. 226).

The amendments provide for the payment of arrears of an armed forces independence payment or a payment made to compensate a person for the non-payment of an armed forces independence payment to be disregarded in the calculation of that person's capital for the purposes of assessing that person's entitlement to income support, jobseeker's allowance, employment and support allowance or universal credit in accordance with the rules relating to the calculation of those benefits.

The amendments also provide for the payment of arrears of maternity allowance or a payment made to compensate a person for the non-payment of maternity allowance to be disregarded in the calculation of that person's capital for the purposes of assessing that person's entitlement to income support, jobseeker's allowance, state pension credit, housing benefit, employment and support allowance or universal credit in accordance with the rules relating to the calculation of those benefits.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.