STATUTORY RULES OF NORTHERN IRELAND

2017 No. 219

SOCIAL SECURITY

The Social Security (Infected Blood and Thalidomide) Regulations (Northern Ireland) 2017

Made - - - -	*24th October 2017*
Coming into operation	*30th October 2017*

The Department for Communities makes the following Regulations in exercise of the powers conferred by sections 122(1)(a) and (d), 132(3) and (4), 132A(3) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**), and section 165(4) and (6) of the Social Security Administration (Northern Ireland) Act 1992(**2**), Articles 14(1) and (4) and 36(2) of the Jobseekers (Northern Ireland) Order 1995(**3**), and now vested in it(**4**) and Article 29(1) and paragraph 8 of Schedule 1 to the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997(**5**), sections 2(3)(b), 15(3) and (6)(b) and 19(1) to (3) of the State Pension Credit Act (Northern Ireland) 2002 (**6**) and sections 17(1) and (3) and 25(2) of the Welfare Reform Act (Northern Ireland) 2007(**7**), makes the following Regulations.

Regulations 6 and 7 are made with the consent of the Department of Finance(**8**).

Citation, commencement and application

1.—(1) These Regulations may be cited as the Social Security (Infected Blood and Thalidomide) Regulations (Northern Ireland) 2017 and come into operation on 30th October 2017.

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

(**1**) 1992 c. 7; section 129A was inserted by section 30(2) of the Welfare Reform Act (Northern Ireland) 2007 (c. 2 (N.I.)), section 132A was inserted by paragraph 3 of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.)); section 134(1) was substituted by Article 66(1) of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) and section 171(1) was amended by paragraph 5 of Schedule 4 to, the Tax Credits Act 2002 (c. 21)

(**2**) 1992 c. 8; section 165 is applied to the provisions of the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997 by Article 28 of that Order

(**3**) S.I. 1995/2705 (N.I. 15); Article 36(2)(a) was amended by paragraph 55 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)

(**4**) *See* Article 8(b) of S.R. 1999 No. 481 and section 1(7) of the Departments Act (Northern Ireland) 2016 (c.5 (N.I.))

(**5**) S.I. 1997/1183 (N.I. 12)

(**6**) 2002 c. 14 (N.I.)

(**7**) 2007 c. 2 (N.I.)

(**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

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

Amendments to the Income Support (General) Regulations

2.—(1) The Income Support (General) Regulations (Northern Ireland) 1987(**10**) are amended in accordance with paragraphs (2) to (5).

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

(a) after the definition of "adoption leave"(**11**) insert—

> ""approved blood scheme" means a scheme established or approved by the Secretary of State, or trust established with funds provided by the Secretary of State, for the purpose of providing compensation in respect of a person having been infected from contaminated blood products;";

(b) after the definition of "the Independent Living Fund (2006)"(**12**) insert—

> ""the Infected Blood Payment Scheme for Northern Ireland" means the scheme of that name administered by the Regional Business Services Organisation established under section 14 of the Health and Social Care (Reform) Act (Northern Ireland) 2009(**13**);";

(c) in the definition of "qualifying person(**14**)", after "the Caxton Foundation" insert ", the Infected Blood Payment Scheme for Northern Ireland, the Scottish Infected Blood Support Scheme, an approved blood scheme";

(d) after the definition of "Scottish basic rate"(**15**) insert—

> ""Scottish Infected Blood Support Scheme" means the scheme of that name administered by the Common Services Agency (constituted by section 10 of the National Health Service (Scotland) Act 1978)(**16**);".

(3) In each of the following provisions, after "the Caxton Foundation" insert "the Infected Blood Payment Scheme for Northern Ireland, the Scottish Infected Blood Support Scheme, an approved blood scheme"—

(a) regulation 42(4ZA)(a)(**17**) (notional income);

(b) regulation 48(10)(c)(**18**) (income treated as capital);

(c) regulation 51(3A)(a)(**19**) (notional capital);

(d) paragraph 18(8)(b)(**20**) of Schedule 3 (housing costs);

(**10**) S.R. 1987 No. 459; relevant amending Regulations are S.R. 1988 Nos. 146, 205 and 431, 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. 2007 No. 196, S.R. 2008 No. 428, S.R. 2010 No. 69, S.R. 2011 No. 357 and S.R. 2017 No. 205

(**11**) The definition of "adoption leave was inserted by regulation 2(2)(a) of S.R. 2002 No. 363

(**12**) The definition of "the Independent Living Fund (2006)" was inserted by regulation 2(2)(b) of S.R. 2007 No. 382

(**13**) 2009 c.1(N.I.)

(**14**) 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 and regulation 7(2)(b) of S.R. 2011 No. 357 and regulation 2(2)(b) of S.R. 2017 No.205

(**15**) The definition of "Scottish basic rate" was inserted by regulation 2(2) of S.R. 2016 No. 147

(**16**) 1978 c.29

(**17**) Paragraph (4ZA) was inserted by regulation 2(2)(b) of S.R. 1998 No. 326. Sub-paragraph (a) was amended by regulation 2(3)(b) and (7)(a) of S.R. 2010 No. 69, regulation 7(5)(a) of S.R. 2011 No. 357 and regulation 2(3)(a) of S.R. 2017 No. 205

(**18**) Paragraph (10) was added by regulation 10(b) of S.R. 1988 No. 431. Sub-paragraph (c) was amended by 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 and regulation 2(3)(b) of S.R. 2017 No. 205

(**19**) Paragraph (3A) was inserted by regulation 3(2)(b) of S.R. 1998 No. 326. Sub-paragraph (a) was amended by regulation 2(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 and regulation 2(3)(c) of S.R. 2017 No. 205

(**20**) Sub-paragraph (8)(b) was amended by regulation 2(5)(e) of S.R. 2008 No. 428, regulation 2(3)(e) and (7)(d) of S.R. 2010 No. 69, regulation 7(5)(c) of S.R. 2011 No. 357 and regulation 2(3)(d) of S.R. 2017 No. 205

(e) paragraphs 21(2)(**21**) and 39(1)(**22**) and (7)(**23**) of Schedule 9 (sums to be disregarded in the calculation of income other than earnings); and

(f) paragraphs 22(1)(**24**) and (7)(**25**) and 29(**26**) of Schedule 10 (capital to be disregarded).

(4) In paragraph 18 of Schedule 3 after sub-paragraph (8)(c) add—

"(d) any payment made under or by a trust, established for the purpose of giving relief and assistance to disabled persons whose disabilities were caused by the fact that during their mother's pregnancy she had taken a preparation containing the drug known as Thalidomide, and which is approved by the Secretary of State.".

(5) In Schedule 10 after paragraph 65(**27**) add—

"**66.** Any payment made under or by a trust, established for the purpose of giving relief and assistance to disabled persons whose disabilities were caused by the fact that during their mother's pregnancy she had taken a preparation containing the drug known as Thalidomide, and which is approved by the Secretary of State.".

Amendments to the Jobseeker's Allowance Regulations

3.—(1) The Jobseeker's Allowance Regulations (Northern Ireland) 1996(**28**) are amended in accordance with paragraphs (2) to (5).

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

(a) after the definition of "adoption leave"(**29**) insert—

""approved blood scheme" means a scheme established or approved by the Secretary of State, or trust established with funds provided by the Secretary of State, for the purpose of providing compensation in respect of a person having been infected from contaminated blood products;";

(b) after the definition of "the Independent Living Fund (2006)"(**30**) insert—

""the Infected Blood Payment Scheme for Northern Ireland" means the scheme of that name administered by the Regional Business Services Organisation established under section 14 of the Health and Social Care (Reform) Act (Northern Ireland) 2009;";

(**21**) Paragraph 21 was substituted by regulation 36(d) of S.R. 1988 No. 146 and sub-paragraph (2) was amended by regulation 5(d) of S.R. 1988 No. 205, regulation 4(3)(e) of S.R. 1990 No. 33, regulation 4(7)(a) of S.R. 1991 No. 204, regulation 2(5)(f) of S.R. 2008 No. 428, regulation 2(3)(f) of S.R. 2010 No. 69, regulation 7(5)(d) of S.R. 2011 No. 357 and regulation 2(3)(e) of S.R. 2017 No. 205

(**22**) Paragraph 39(1) was substituted by regulation 4(7)(b) of S.R. 1991 No. 204 and amended by regulation 5(7)(b)(i) of S.R. 1992 No. 201, regulation 5(3)(f) of S.R. 1993 No. 195, regulation 5(4)(b)(i) of S.R. 1993 No. 233, regulation 2(5)(f) of S.R. 2008 No. 428, regulation 2(3)(f) and (7)(e) of S.R. 2010 No. 69, regulation 7(5)(d) of S.R. 2011 No. 357 and regulation 2(3)(e) of S.R. 2017 No. 205

(**23**) Sub-paragraph (7) was added by regulation 5(7)(b)(vi) of S.R. 1992 No. 201 and amended by regulation 2(3) and (4) of S.R. 2004 No. 389, regulation 2(4) of S.R. 2005 No. 550 and regulation 2(3)(f) and (7)(e) of S.R. 2010 No. 69, regulation 7(6)(b) of S.R. 2011 No. 357 and regulation 2(3)(e) of S.R. 2017 No. 205

(**24**) Paragraph 22 was 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(1), (2)(b), (3) and (4)(b) of S.R. 2004 No. 213 and regulation 2(3)(f) of S.R. 2017 No. 205

(**25**) 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 and regulation 2(3)(f) of S.R. 2017 No. 205

(**26**) Paragraph 29 was added by regulation 25 of S.R. 1988 No. 318 and amended by regulation 4(4) of S.R. 1990 No. 33, regulation 5(8)(b) of S.R. 1992 No. 201, regulation 5(4) of S.R. 1993 No. 195, regulation 2(7) of S.R. 2007 No. 382, regulation 2(10) of S.R. 2008 No. 428, regulation 2 of S.R. 2010 No. 69 and regulation 7(5)(f) of S.R. 2011 No. 357

(**27**) Paragraph 65 was added by Article 9(4)(b) of S.R. 2017 No. 66

(**28**) S.R. 1996 No. 198; ; relevant amending Regulations are S.R. 1998 No. 326, S.R. 2004 Nos. 213 and 389, S.R. 2005 No. 550, S.R. 2007 No. 196, S.R. 2008 No. 428, S.R. 2010 No. 69, S.R. 2011 No. 357 and S.R. 2017 No. 2015

(**29**) The definition of "adoption leave was inserted by regulation 3(2)(a) of S.R. 2002 No. 363

(**30**) The definition of "the Independent Living Fund (2006)" was inserted by Article 4(b) of S.R. 2007 No. 382

(c) in the definition of "qualifying person"(**31**), after "the Caxton Foundation" insert ", the Infected Blood Payment Scheme for Northern Ireland, the Scottish Infected Blood Support Scheme, an approved blood scheme";

(d) after the definition of "Scottish basic rate"(**32**) insert—

""Scottish Infected Blood Support Scheme" means the scheme of that name administered by the Common Services Agency (constituted by section 10 of the National Health Service (Scotland) Act 1978);".

(3) In each of the following provisions, after "the Caxton Foundation" insert ", the Infected Blood Payment Scheme for Northern Ireland, the Scottish Infected Blood Support Scheme, an approved blood scheme"—

(a) regulation 105(10A)(a)(**33**) (notional income);

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

(c) regulation 113(3A)(a)(**35**) (notional capital);

(d) paragraph 17(8)(b)(**36**) of Schedule 2 (housing costs);

(e) paragraphs 22(2)(**37**) and 41(1)(**38**) and (7)(**39**) of Schedule 6 (sums to be disregarded in the calculation of income other than earnings); and

(f) paragraphs 27(1)(**40**) and 31(**41**) of Schedule 7 (capital to be disregarded).

(4) In paragraph 17 of Schedule 2 after sub-paragraph (8)(c) add—

"(d) any payment made under or by a trust, established for the purpose of giving relief and assistance to disabled persons whose disabilities were caused by the fact that during their mother's pregnancy she had taken a preparation containing the drug known as Thalidomide, and which is approved by the Secretary of State.".

(5) In Schedule 7 after paragraph 58(**42**) add—

"**59.** Any payment made under or by a trust, established for the purpose of giving relief and assistance to disabled persons whose disabilities were caused by the fact that during their mother's pregnancy she had taken a preparation containing the drug known as Thalidomide, and which is approved by the Secretary of State.".

(**31**) 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 and regulation 10(2)(b) of S.R. 2011 No. 357 and regulation 3(2)(b) of S.R. 2017 No.205

(**32**) The definition of "Scottish basic rate" was inserted by regulation 3(2) of S.R. 2016 No. 147

(**33**) Paragraph (10A) was inserted by regulation 2(1)(b) of S.R. 1998 No. 326. Sub-paragraph (a) was amended by regulation 4(5)(a) of S.R. 2008 No. 428, regulation 4(3)(b) and (8)(a) of S.R. 2010 No. 69, and regulation 10(7)(a) of S.R. 2011 No. 357 357 and regulation 3(3)(a) of S.R. 2017 No.205

(**34**) Sub-paragraph (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 and regulation 10(7)(b) of S.R. 2011 No. 357 and regulation 3(3)(b) of S.R. 2017 No.205

(**35**) Paragraph (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)(c) and (8)(b) of S.R. 2010 No. 69, regulation 10(7)(b) of S.R. 2011 No. 357 and regulation 3(3)(c) of S.R. 2017 No.205

(**36**) Head (b) was amended by regulation 4(5)(e) of S.R. 2008 No. 428, regulation 4(3)(e) and (8)(d) of S.R. 2010 No. 69 and regulation 10(7)(c) of S.R. 2011 No. 357 and regulation 3(3)(d) of S.R. 2017 No.205

(**37**) Paragraph (2) was amended by regulation 4(5)(f) of S.R. 2008 No. 428, regulation 4(3)(f) of S.R. 2010 No. 69 and regulation 10(7)(d) of S.R. 2011 No. 357 and regulation 3(3)(e) of S.R. 2017 No.205

(**38**) Sub-paragraph (1) was amended by regulation 4(5)(f) of S.R. 2008 No. 428, regulation 4(8)(e) of S.R. 2010 No. 69 and regulation 10(7)(d) of S.R. 2011 No. 357 and regulation 3(3)(e) of S.R. 2017 No.205

(**39**) Paragraph (7) was added by regulation 2(5) of S.R. 2004 No. 389 and amended by regulation 4(4) of S.R. 2005 No. 550, regulation 4(12)(b) of S.R. 2010 No. 69, regulation 10(8)(b) of S.R. 2011 No. 357 and regulation 3(3)(e) of S.R. 2017 No.205

(**40**) 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. 2004 No. 213, regulation 10(8)(c) of S.R. 2011 No. 357 and regulation 3(3)(f) of S.R. 2017 No.205

(**41**) Regulation 31 substituted by regulation 4(5)(g) of S.R. 2008 No. 428 and amended by regulation 4 of S.R. 2010 No. 69 and regulation 10(7)(c) of S.R. 2011 No. 357

(**42**) Paragraph 58 was omitted by regulation 4(4)(c) of SR 2004 No. 143

Amendments to the Social Security (Recovery of Benefits) Regulations

4. In regulation 2(2) of the Social Security (Recovery of Benefits) Regulations (Northern Ireland) 1997(**43**) (exempted trusts and payments) after sub-paragraph (m) add—

"(n) any payment made from the Scottish Infected Blood Support Scheme administered by the Common Services Agency (constituted by section 10 of the National Health Service (Scotland) Act 1978(**44**));

(o) any payment made from a scheme established or approved by the Secretary of State, or trust established with funds provided by the Secretary of State, for the purpose of providing compensation in respect of a person having been infected from contaminated blood products;

(p) any payment from the Infected Blood Payment Scheme for Northern Ireland administered by the Regional Business Services Organisation established under section 14 of the Health and Social Care (Reform) Act (Northern Ireland) 2009;

(q) any payment made under or by a trust, established for the purpose of giving relief and assistance to disabled persons whose disabilities were caused by the fact that during their mother's pregnancy she had taken a preparation containing the drug known as Thalidomide, and which is approved by the Secretary of State.".

Amendments to the State Pension Credit Regulations

5.—(1) The State Pension Credit Regulations (Northern Ireland) 2003(**45**) are amended in accordance with paragraphs (2) to (5).

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

(a) after the definition of "adoption leave"(**46**) insert—

""approved blood scheme" means a scheme established or approved by the Secretary of State, or trust established with funds provided by the Secretary of State, for the purpose of providing compensation in respect of a person having been infected from contaminated blood products;";

(b) after the definition of "the Independent Living Fund (2006)"(**47**) insert—

""the Infected Blood Payment Scheme for Northern Ireland" means the scheme of that name administered by the Regional Business Services Organisation established under section 14 of the Health and Social Care (Reform) Act (Northern Ireland) 2009;";

(c) in the definition of "qualifying person"(**48**), after "the Caxton Foundation" insert ", the Infected Blood Payment Scheme for Northern Ireland, the Scottish Infected Blood Support Scheme, an approved blood scheme";

(d) after that definition "residential care home"(**49**) insert—

""Scottish Infected Blood Support Scheme" means the scheme of that name administered by the Common Services Agency (constituted by section 10 of the National Health Service (Scotland) Act 1978);".

(**43**) S.R. 1997 No.429 sub-paragraph (m) was added by regulation 11 of S.R. 2011 No. 357
(**44**) 1978 c. 29
(**45**) S.R. 2003 No. 28; relevant amending Regulations are S.R. 2004 No. 213, S.R. 2005 No. 550, S.R. 2007 No. 196, S.R. 2008 No. 428, S.R. 2010 No. 69, S.R. 2011 No. 357 and S.R. 2017 No. 205
(**46**) The definition of "adoption leave" was inserted by regulation 2(2)(a) of S.R. 2003 No. 421
(**47**) The definition of "the Independent Living Fund (2006)" was inserted by Article 5(b) of S.R. 2007 No. 382
(**48**) 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 and regulation 4(2)(b) of S.R. 2017 No. 205
(**49**) The definition of "residential care home" was substituted by regulation 23(2)(b) of S.R. 2003 No. 191