STATUTORY RULES OF NORTHERN IRELAND

2001 No. 150

HOUSING; RATES; SOCIAL SECURITY

The Social Security (Capital Disregards and Recovery of Benefits Amendment) Regulations (Northern Ireland) 2001

Made - - - -	*3rd April 2001*
Coming into operation	*12th April 2001*

The Department for Social Development, in exercise of the powers conferred on it by sections 122(1)(a) and (d), 132(4)(b), 134(1)(a) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**), section 165(4) to (6) of the Social Security Administration (Northern Ireland) Act 1992(**2**), Article 14(4)(b) of the Jobseekers (Northern Ireland) Order 1995(**3**) and Article 28(1) of, and paragraph 4 of Schedule 1 to, the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997(**4**) and now vested in it(**5**), and of all other powers enabling it in that behalf, with the consent of the Department of Finance and Personnel(**6**) in so far as regulation 2(2) is concerned, and after agreement by the Social Security Advisory Committee that proposals in respect of that regulation should not be referred to it(**7**), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Capital Disregards and Recovery of Benefits Amendment) Regulations (Northern Ireland) 2001 and shall come into operation on 12th April 2001.

(2) The Interpretation Act (Northern Ireland) 1954(**8**) shall apply to these Regulations as it applies to an Act of the Assembly.

(**1**) 1992 c. 7; section 134(1) was substituted by Article 66(1) of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10))
(**2**) 1992 c. 8; words in section 165(6) were repealed by Schedule 7 to the Social Security (Northern Ireland) Order 1998
(**3**) S.I. 1995 No. 2705 (N.I. 15)
(**4**) S.I. 1997/1183 (N.I. 12); section 165(4) to (6) of the Social Security Administration (Northern Ireland) Act 1992 is applied by Article 28(3) of this Order
(**5**) *See* Article 8(b) of, and Part II of Schedule 6 to, the Departments (Transfer and Assignment of Functions) Order (Northern Ireland) 1999 (S.R. 1999 No. 481)
(**6**) *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)); consent function transferred from the Department of the Environment for Northern Ireland to the Department of Finance and Personnel; *see* Article 6(b) of, and Part II of Schedule 4 to, the Departments (Transfer and Assignment of Functions) Order (Northern Ireland) 1999
(**7**) *See* section 150(1)(b) of the Social Security Administration (Northern Ireland) Act 1992
(**8**) 1954 c. 33 (N.I.)

Capital to be disregarded

2.—(1) There shall be added as paragraph 59 of Schedule 10 to the Income Support (General) Regulations (Northern Ireland) 1987(**9**) and paragraph 52 of Schedule 7 to the Jobseeker's Allowance Regulations (Northern Ireland) 1996(**10**) (capital to be disregarded) the following paragraph—

"—

(1) Subject to sub-paragraph (2), the amount of any trust payment made to a claimant or a member of a claimant's family who is—

(a) a diagnosed person;

(b) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;

(c) a parent of a diagnosed person, a person acting in the place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death, or

(d) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death.

(2) Where a trust payment is made to—

(a) a person referred to in sub-paragraph (1)(*a*) or (1)(*b*), that sub-paragraph shall apply for the period beginning on and including the date on which the trust payment is made and ending on the date on which that person dies;

(b) a person referred to in sub-paragraph (1)(*c*), that sub-paragraph shall apply for the period beginning on and including the date on which the trust payment is made and ending two years after that date;

(c) a person referred to in sub-paragraph (1)(*d*), that sub-paragraph shall apply for the period beginning on and including the date on which the trust payment is made and ending—

(i) two years after that date, or

(ii) on the day before the day on which that person—

(aa) ceases receiving full-time education, or

(bb) attains the age of 19,

whichever is the latest.

(3) Subject to sub-paragraph (4), the amount of any payment by a person to whom a trust payment has been made or of any payment out of the estate of a person to whom a trust payment had been made, which is made to a claimant or a member of a claimant's family who is—

(a) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;

(b) a parent of a diagnosed person, a person acting in the place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death, or

(c) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death,

but only to the extent that such payments do not exceed the total amount of any trust payments made to that person.

(4) Where a payment as referred to in sub-paragraph (3) is made to—

(**9**) S.R. 1987 No. 459; paragraph 58 was added by regulation 10 of S.R. 2001 No. 78
(**10**) S.R. 1996 No. 198; paragraph 51 was added by regulation 2(*c*) of S.R. 2001 No. 4

(a) a person referred to in sub-paragraph (3)(*a*), that sub-paragraph shall apply for the period beginning on and including the date on which that payment is made and ending on the date on which that person dies;

(b) a person referred to in sub-paragraph (3)(*b*), that sub-paragraph shall apply for the period beginning on and including the date on which that payment is made and ending two years after that date;

(c) a person referred to in sub-paragraph (3)(*c*), that sub-paragraph shall apply for the period beginning on and including the date on which that payment is made and ending—

(i) two years after that date, or

(ii) on the day before the day on which that person—

(aa) ceases receiving full-time education, or

(bb) attains the age of 19,

whichever is the latest.

(5) In this paragraph, a reference to a person—

(a) being the diagnosed person's partner;

(b) being a member of the diagnosed person's family, or

(c) acting in the place of the diagnosed person's parents,

at the date of the diagnosed person's death shall include a person who would have been such a person or a person who would have been so acting, but for the diagnosed person being in residential accommodation, a residential care home or a nursing home on that date.

(6) In this paragraph—

"diagnosed person" means a person who has been diagnosed as suffering from, or who, after his death, has been diagnosed as having suffered from, variant Creutzfeldt-Jakob disease;

"relevant trust" means a trust established out of funds provided by the Secretary of State in respect of persons who suffered, or who are suffering, from variant Creutzfeldt-Jakob disease for the benefit of persons eligible for payments in accordance with its provisions;

"trust payment" means a payment under a relevant trust.".

(2) There shall be added as paragraph 61 of Schedule 5 to the Housing Benefit (General) Regulations (Northern Ireland) 1987(**11**) (capital to be disregarded) the following paragraph—

"—

(1) Subject to sub-paragraph (2), the amount of any trust payment made to a claimant or a member of the claimant's family who is—

(a) a diagnosed person;

(b) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;

(c) a parent of a diagnosed person, a person acting in the place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death, or

(d) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death.

(2) Where a trust payment is made to—

(**11**) S.R. 1987 No. 461; paragraph 60 was added by regulation 2(4) of S.R. 2001 No. 134