EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (INCOME AND CAPITAL DISREGARDS) (AMENDMENT NO.2) REGULATIONS (NORTHERN IRELAND) 2025

S.R. 2025 No. 122

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Communities (DfC) to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2 The Statutory Rule is made under the Social Security Contributions and Benefits (Northern Ireland) Act 1992, the Jobseekers (Northern Ireland) Order 1995, the State Pension Credit Act (Northern Ireland) 2002, the Welfare Reform Act (Northern Ireland) 2007 and the Welfare Reform (Northern Ireland) Order 2015 and is subject to the negative resolution procedure.

2. Purpose

2.1 The purpose of this Rule is to amend various social security Regulations to ensure that payments made via the Northern Ireland Executive's, UK Ministry of Justice's and the Scottish Government's Miscarriage of Justice Compensation Schemes are disregarded indefinitely as capital or income when calculating entitlement to certain means-tested benefits[1]. If these payments were not disregarded claimants who receive payments from these Ministry of Justice Compensation schemes could see their benefit entitlement reduced or ceased.

3. Background

What is being done and why?

3.1 Section 133 of the Criminal Justice Act 1988, applicable to England, Wales, Scotland and Northern Ireland, provides for compensation when a person has been convicted of a criminal offence and when, subsequently, their convictions has been reversed or they have been pardoned on the ground that a new or newly discovered fact shows beyond reasonable doubt that there has been a miscarriage of justice.

3.2 A high-profile case, involving an individual who was imprisoned for 17 years before having his convictions quashed in 2023, has prompted the UK Government to seek an indefinite disregard of compensation scheme payments in relation to the assessment of entitlement to the certain social security means-tested benefits[1].

3.3 The UK's miscarriage of justice compensation schemes are similar in nature to other compensation schemes in which an indefinite benefit disregard has been previously agreed. This includes those cases seeking compensation for Post Office/Horizon miscarriages of justice.

3.4 Following a request from the Minister for Courts and Legal Services in the Ministry of Justice, Sir Stephen Timms agreed to introduce a specific disregard to allow

[1] Income-based Jobseeker's Allowance, income-related Employment and Support Allowance, Income Support, Housing Benefit, Housing Benefit for people over state pension age, Pension Credit and Universal Credit.

compensation payments awarded under the Miscarriages of Justice Application Service (MOJAS) scheme, and other Devolved Government administered miscarriages of justice compensation schemes, to be disregarded from the means-tested benefits income and capital rules.

3.5 In April 2025, Minister Timms outlined his decision to introduce a new indefinite income and capital disregard for payments made from the UK and Devolved Government administered miscarriage of justice compensation schemes, to recipients living in Great Britain. This disregard would enable recipients to continue to receive their entitlement to DWP benefits.

3.6 As of June 2025, there are three such schemes: the Miscarriages of Justice Application Service in England and Wales and equivalent schemes in Scotland and Northern Ireland. The new disregards also cover extra-statutory payments made for similar purposes.

3.7 When the indefinite income and capital disregard is introduced, it will allow customers who currently receive means-tested benefits to remain entitled to their benefit if they receive more than £16,000 in compensation.

3.8 Although Departmental legislation does include disregards in relation to, for example, personal injury or specified compensations schemes, it is not sufficient to cover the payments being made via miscarriage of justice compensation schemes. This means without amendment, payments made by this scheme would either reduce or remove some recipients' entitlement to means-tested benefits.

3.9 This Rule makes amendments to 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 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 to allow for payments made via miscarriage of justice compensation schemes to be indefinitely disregarded as capital and income when calculating entitlement to certain means-tested benefits.

3.10 Similar amendments were made via the Social Security (Income and Capital Disregards) (Amendment) Regulations (Northern Ireland) 2023 (S.R. 2023 No. 97) and the Social Security (Income and Capital Disregards) (Amendment) Regulations (Northern Ireland) 2025 (S.R. 2025 No. 24) so payments made by analogous schemes such as Grenfell Tower compensation, Post Office compensation, the LGBT Financial Recognition scheme and under the Vaccine Damage Payments scheme could be disregarded in the same way.

4. Consultation

4.1 There is no requirement to consult on these Regulations. They 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.

4.2 The Department for Work and Pensions presented their draft Regulations to the Social Security Advisory Committee on 21 May 2025. The Committee did not take the Regulations on formal reference.

5. Equality Impact

5.1 In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on the legislative proposals for these Regulations. The Department has concluded that they would not have significant implications for equality of opportunity and considers that an Equality Impact Assessment is not necessary.

6. Regulatory Impact

6.1 The proposed Rule does not apply to activities that are undertaken by small businesses. A Regulatory Impact Assessment has not been prepared for this Rule as there is no, or no significant, impact on business, charities, voluntary bodies or on the public sector.

7. Financial Implications

7.1 None for the Department.

8. Section 24 of the Northern Ireland Act 1998

8.1 The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied that the Rule complies with that provision.

9. EU Implications

9.1 This Rule does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

10. Parity or Replicatory Measure

10.1 The corresponding Great Britain provisions are the Social Security (Income and Capital Disregards) (Amendment No. 2) Regulations 2025 (S.I. 2025/778) which were laid on 01 July 2025 and come into force on 22 July 2025. Parity of timing and substance is an integral part of the maintenance of single systems of social security, child support and pensions in line with section 87 of the Northern Ireland Act 1998.

11. Additional Information

11.1 Internal guidance for staff at the Department for Communities will be updated to take account of these changes.