

EXPLANATORY MEMORANDUM

THE WELFARE SUPPLEMENTARY REGULATIONS (NORTHERN IRELAND) 2016

S.R. 2016 No.

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department for Social Development to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under Article 137(5) of the Welfare Reform (Northern Ireland) Order 2015 (“the Order”) and is subject to draft affirmative procedure.

2. Purpose

- 2.1 These Regulations introduce welfare supplementary payments to mitigate impacts as defined in the document “A Fresh Start the Stormont Agreement and Implementation Plan” arising from the implementation of Welfare Reform.
- 2.2 The Regulations provide for mitigations on the introduction of the benefit cap (as provided for in Article 101 of the Order) and time limiting of contribution based employment and support allowance (Article 57 of the Order).

3. Background

- 3.1 The Regulations provide for payments referred to as welfare supplementary payments. Their introduction has its basis in measures brought forward by the Government which included a benefit cap to restrict the total benefits paid to a household to £500 per week (£26,000 per year) for a family and time-limiting of contributory-based Employment and Support Allowance for those in the work-related activity group. Adherence to the normal parity provision for social security measures for single social security systems for the whole of the UK will see the introduction of similar provision in Northern Ireland. The Northern Ireland Executive sought and agreed transitional protection for those impacted by the reforms for defined periods.
- 3.2 “A Fresh Start the Stormont Agreement and Implementation Plan” was agreed by the main political parties in Northern Ireland on 17 November 2015. This included agreement on the implementation of welfare reform in Northern Ireland. It also agreed that Professor Eileen Evason should lead a small working group to bring forward proposals for mitigating welfare reforms within an agreed financial envelope. The Executive agreed to implement the findings of the working group.

- 3.3 Entitlement conditions to a payment to mitigate the reduction in housing benefit resulting from the benefit cap are described in regulation 4. The regulation makes provision to calculate the benefit cap rate as a daily amount for couples. It makes further provision to calculate the welfare supplementary payment by reference to the reduction of housing benefit on the first occasion it is reduced. The regulation allows for welfare supplementary payments to be made where a person's housing benefit is capped after 31st May 2016 in circumstances where that person has been continuously in receipt of a welfare benefit between that date and the date the benefit cap is applied. Where there is a change of circumstances leading to re-calculation of housing benefit and the outcome is a reduction of housing benefit which is less than the first reduction the welfare supplementary payment will be equal to that lesser amount. The regulation provides for the maximum duration of payments under the scheme and for payments to be made every four weeks. This is consistent with existing frequency of Housing Benefit payments made to private landlords.
- 3.4 The Regulations regulate any payments made as Discretionary Housing Payments with those made as welfare supplementary payments.
- 3.5 They further prescribe the conditions for entitlement to a welfare supplementary payment if contributory based employment and support allowance finishes because of time limits introduced by Article 57 of the Order. They define what is meant by financial disadvantage and limited capability for work.
- 3.6 The amount of a welfare supplementary payment under Part 3 of the Regulations (Contributory Employment and Support Allowance) is to be an amount corresponding to the difference between any new award of income-related employment and support allowance and the contributory award that immediately preceded it or in some cases an amount corresponding to the full amount of contributory employment and support allowance.
- 3.7 Regulation 9 provides for the adjustment or cessation of a welfare supplementary payment in the event of certain changes in circumstances.
- 3.8 Welfare supplementary payments under Part 3 are to be paid four weeks in arrears and regulation 10 stipulates the duration of the payments which is the earlier of one year from commencement of payment of welfare supplementary payment or the date the mitigation scheme ends.
- 3.9 Regulation 11 provides for reviewing a person's entitlement to a welfare supplementary payment.
- 3.10 A welfare supplementary payment is to be disregarded in the consideration of entitlement to social security benefits (regulation 12).
- 3.11 Regulation 13 defines entitlement by reference to residency and presence in Northern Ireland.

- 3.12 Regulation 14 allows periods of temporary absence from Northern Ireland to be deemed as presence for 4 weeks provided if at the beginning of the absence period that period was unlikely to exceed 52 weeks.
- 3.13 Regulation 15 allows temporary absence from Northern Ireland to be deemed as presence in Northern Ireland for the first 13 weeks of absence where a person is receiving medical treatment.
- 3.14 A welfare supplementary payment will not be paid where a person is imprisoned or detained in legal custody for a period in excess of 28 days.

4. Consultation

- 4.1 The working group set up under the leadership of Professor Evason has consulted widely on the Working Group's report and the Department is solely implementing its recommendations. The Regulations being presented to the Committee are the first set of mitigation measures and later Regulations will follow. There is scope, therefore, to address any issues arising in the interim.

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 proposals for these Regulations and concluded that they do not have significant implications for equality of opportunity. In light of this, the Department considers that an equality impact assessment is not necessary.

6. Regulatory Impact

- 6.1 These Regulations do not require a Regulatory Impact Assessment as they impose only minimal costs on business, charities or voluntary bodies.

7. Financial Implications

- 7.1 The figures in the table below represent costs estimated by reference to existing cases.

ESA time limiting is based on providing 100% protection for existing claimants for a period of one year

Benefit Cap estimates provided are based on supporting existing claimants, with families. Existing claimants are defined as those families with children who are in receipt of any of the welfare benefits that contribute towards the calculation of the Benefit Cap on the day that the Cap is implemented in Northern Ireland, who suffer a financial loss as a direct result of the introduction of the Benefit Cap and are continuously in receipt of any combination of the welfare benefits in the intervening period. There will be 2 separate implementation dates for the caps of £26k and £20k.

Administration costs over the four years for all the mitigation measures are estimated to be £20m.

ITEM- WELFARE REFORM	16/17	17/18	18/19	19/20	Total (£m)
Adult ill health ESA – supplementary payments for one year	17	7			24
Benefit Cap – exemption for families	1	7	7	7	22¹
Total (£m)	18	15	8	8	46

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 the Rule—

- (a) is not incompatible with any of the Convention rights,
- (b) is not incompatible with Community law,
- (c) does not discriminate against a person or class of person on the ground of religious belief or political opinion, and
- (d) does not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

9.1 Not applicable.

10. Parity or Replicatory Measure

10.1 There is no equivalent provision being made for Great Britain.

On 17 November 2015 “A Fresh Start the Stormont Agreement and Implementation Plan” was agreed by the main political parties in Northern Ireland. Included in this agreement was the approach agreed by the Executive and HM Government to implementing welfare reform in Northern Ireland.

¹ The costs in the table above have been reduced as mitigation for carers is no longer required as they will be exempt in Northern Ireland when the Benefit Cap is introduced on 31 May.