EXPLANATORY MEMORANDUM

The Social Security (Scottish Rate of Income Tax etc.) (Amendment) Regulations (Northern Ireland) 2016

S.R. 2016 No. 147

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 powers conferred by the Social Security Contributions and Benefits (Northern Ireland) Act 1992, the Jobseekers (Northern Ireland) Order 1995 and the Welfare Reform Act (Northern Ireland) 2007 and is subject to the negative resolution procedure.

2. Purpose

2.1 This Statutory Rule amends the Income Support (General) Regulations (Northern Ireland) 1987, Jobseekers Allowance Regulations (Northern Ireland) 1996, Housing Benefit Regulations (Northern Ireland) 2006, Housing Benefit (Persons who have attained the qualifying age for state pension credits) Regulations (Northern Ireland) 2006 and Employment and Support Allowance Regulations (Northern Ireland) 2008.

2.2 The Statutory Rule covers proposed amendments to various sets of existing regulations relating to income-related social security benefits in consequence of the introduction by the Scottish Government, of a Scottish rate of income tax from April 2016.

2.3 It also updates the various definitions of personal allowance currently to be found in the same legislation, to keep in step with changes to tax legislation and to make other minor corrections.

3. Background

3.1 The 1998 Act confers on the Scottish Parliament a power to vary the three rates of income tax for Scottish taxpayers for the whole of any specified tax year, through the introduction of a Scottish rate of income tax. The Scottish rate of income tax is only payable by Scottish taxpayers. It is the responsibility of Her Majesty's Revenue and Customs (HMRC) to decide who is and is not a Scottish taxpayer.

3.2 Depending on the rate at which the Scottish rate is set, the rates of income tax payable by Scottish taxpayers in any tax year might be higher or lower than, or the same as, the corresponding rates for the rest of the UK. It follows that the net income and earnings of a Scottish taxpayer might differ from those of a person with similar income levels who lives elsewhere in the UK.

3.3 The Department takes into account the net income and earnings of claimants (and, where appropriate, their partners) across a range of benefits, and in certain calculations as to how much maintenance a parent is to pay in respect of their child or children. Depending on the rate at which it is set, the introduction of a Scottish rate of income tax for Scottish taxpayers therefore has the potential to affect a range of Departmental calculations, in any case where the claimant or parent has sufficient taxable income to pay income tax. This is an inescapable consequence of the change.

3.4 This instrument introduces definitions of a "Scottish taxpayer" and the "Scottish basic rate" of tax into each of the Regulations mentioned at paragraph 2.1, and amends references to the "basic rate" of tax to include a reference to the "Scottish basic rate of tax", where appropriate. There are no references to the "higher" or "additional" rates of tax in any of the substantive Regulations, so no comparable amendments are required.

3.5 This instrument also amends references to "personal allowance" in each of the Regulations mentioned at paragraph 2.1, substituting references to "personal reliefs" under the relevant provisions of the Income Tax Act 2007.

4. Consultation

4.1 DWP did not undertake a formal consultation exercise as part of the legislative process as the amendments are considered to be technical and comprise, principally, changes to pre-existing definitions in legislation consequential upon the introduction by the Scottish Government of a separate rate of income tax for Scottish taxpayers.

4.2 The proposed changes were scrutinised by the Social Security Advisory Committee on 2 December 2015. The Committee decided that it did not require the proposed changes to be formally referred to it and, accordingly, it did not conduct a public consultation exercise on the proposals.

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 these legislative proposals and has concluded that the proposals 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 do not impose any new costs on business, charities or voluntary bodies.

7. Financial Implications

7.1 There are no significant costs to the Department to implement these proposals.

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 The corresponding Great Britain Regulations are the Social Security (Scottish Rate of Income Tax) Regulations 2016 (S.I. 2016/233). These regulations are therefore being made to ensure parity with amending regulations being made in Great Britain.

10.2 Parity of timing and substance is an integral part of the maintenance of single systems of social security, pension and child support provided for in section 87 of the Northern Ireland Act 1998.