

EXPLANATORY MEMORANDUM TO
THE HOUSING BENEFIT (MISCELLANEOUS AMENDMENTS) REGULATIONS
(NORTHERN IRELAND) 2016

2016 No. 230

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Social Development (Northern Ireland) (“the Department”) on behalf of the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The instrument amends [The Housing Benefit \(Decisions and Appeals\) Regulations \(Northern Ireland\) 2001](#) (S.R. 2001 No. 213) to ensure that housing benefit entitlement continues and claimants are not adversely affected during the transition from Disability Living Allowance (DLA) to the Personal Independence Payment (PIP).

2.2 This instrument also make minor changes to [The Housing Benefit Regulations \(Northern Ireland\) 2006](#) (S.R. 2006 No. 405), and [The Housing Benefit \(Persons who have attained the qualifying age for state pension credit\) Regulations \(Northern Ireland\) 2006](#) (S.R. 2006 No. 406) by tidying-up and updating references in those regulations.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to the negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 [Section 87 of the Northern Ireland Act 1998](#) places a statutory duty on the Minister for Social Development and the Secretary of State for Work and Pensions to consult with one another with a view to securing a single social security system for the United Kingdom. Section 88 of the 1998 Act makes provision for financial adjustments to support the maintenance of these parity arrangements.

4.2 Underpinning the parity principle, is the argument that as people in Northern Ireland pay the same rates of income tax and National Insurance contributions as people in Great Britain; they are entitled to the same rights and benefits paid at the same rates.

4.3 [The Welfare Reform Act 2012](#) introduced a number of reforms including Universal Credit, Personal Independence Payment, the Jobseeker’s Allowance Claimant Commitment and a cap on the amount of benefits working age people can receive.

4.4 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. [The Northern Ireland \(Welfare](#)

[Reform\) Act 2015](#) provides a power for Her Majesty to legislate on social security, child support and certain matters related to employment and training in Northern Ireland by Order in Council. Any such Order in Council may then confer power on the Secretary of State or a Northern Ireland department to make further provision regarding these matters by regulations or order. [The Welfare Reform \(Northern Ireland\) Order 2015](#) (the “2015 Order”) was made on 9 December 2015 and regulations stemming from the Order, to implement the various welfare reforms set out in the Welfare Reform Act 2012 in Northern Ireland, are now being brought forward.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is Northern Ireland.
- 5.2 The territorial application of this instrument is Northern Ireland.
- 5.3 These regulations replicate for Northern Ireland the legislation that applies to Great Britain.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 Under the current Housing Benefit legislation in Northern Ireland, when a claimant declares a change of circumstances which would affect the amount of their housing benefit, this change is normally taken into account from the start of the benefit week following the date when the change of circumstance occurs. However, if a change occurs at the same time as a change in rent, or when Housing Benefit is uprated annually in April, the change takes effect from the date of the change or uprating, whichever applies, and may not necessarily be the start of the benefit week. In the case of awards of new benefit, the Housing Benefit (Decisions and Appeals) Regulations (Northern Ireland) 2001 provide that the change is effective from the beginning of entitlement to that benefit.
- 7.2 In addition, the existing legislation in Northern Ireland provides for premiums to those in receipt of Disability Living Allowance (DLA) and Personal Independence Payment (PIP). Where a claimant is transferring from DLA to PIP, Housing Benefit rates should not be affected by that transfer, and should reflect that the cessation of DLA will dovetail with the start of entitlement to PIP.
- 7.3 However, the Housing Benefit provisions relating to a change of circumstances coupled with the linking provisions in the [Housing Benefit \(Decisions and Appeals\) Regulations \(Northern Ireland\) 2001](#) would result in the loss of premiums for short periods, as a gap would be created when DLA ceases and PIP starts.
- 7.4 This instrument ensures that housing benefit premiums are maintained and claimants are not adversely affected during the transition from DLA to PIP.

Consolidation

- 7.5 This instrument will be informally consolidated in the NI equivalent of the GB Law Relating to Social Security (or “Blue Volumes”). It will be available to the public at no cost via the internet at: <https://www.dsdni.gov.uk/services/law-relating-social-security>

8. Consultation outcome

- 8.1 As this is a consequence of wider welfare reform the Department has not consulted on this measure specifically. However, the Department for Social Development consulted extensively about the implications of the wider reforms in the [Welfare Reform Bill](#) consultation process, and has also discussed informally with stakeholders to ensure that the operational implications are fully understood and that processes are in place to ensure that the change is implemented correctly in Northern Ireland.
- 8.2 The Department for Social Development published an [Equality Impact Assessment](#) on the proposals contained in the draft Bill.

9. Guidance

- 9.1 Guidance for staff and Decision Makers will be available before this rule comes into force.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 The impact on the public sector is negligible. This measure is part of the welfare reform package that will restore parity with the rest of the UK and contribute toward sustainable finances for the executive.
- 10.3 An Impact Assessment has not been produced for these instruments. The change enables current arrangements to continue under the new benefit regime, therefore there is no impact of this change, but would be were this not to go ahead.

11. Regulating small business

- 11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

- 12.1 The operation of the Regulations will continue to be reviewed through the normal avenues of guidance enquiries received from the Department’s offices and correspondence from members of the public.

13. Contact

- 13.1 Anne McCleary at the Department for Social Development Telephone: 02890819984 or email: anne.mccleary@dsdni.gov.uk can answer any queries regarding the instrument.