

EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (EXPENSES OF PAYING SUMS IN RELATION TO VEHICLE HIRE) REGULATIONS (NORTHERN IRELAND) 2016

S.R. 2016 No. 376

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Communities (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 purpose of this instrument is to enable the Department to recover the cost of administering payments of certain benefits to providers of motor vehicles on hire to persons entitled to mobility benefits.

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](#) (“the 1998 Act”) places a statutory duty on the Northern Ireland Minister with responsibility for social security 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](#) (“the 2012 Act”) 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. It also reassessed incapacity benefits claimants for employment and support allowance, improved the work capability assessment and made sure housing support is fair.
- 4.4 [The Welfare Reform and Work Act 2016](#) (“the 2016 Act”) makes further provision in connection with welfare benefits, including amendments in relation to the benefit cap, employment and support allowance and universal credit and a freeze on certain social

security benefits for four years. It also introduces loans for mortgage interest and provisions for defraying expenses in respect of vehicle hire.

- 4.5 On 17 November 2015 “[A Fresh Start: The Stormont House 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 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](#) was made on 9 December 2015 making provision corresponding to the 2012 Act. [The Welfare Reform and Work \(Northern Ireland\) Order 2016](#) (“the 2016 Order”) was made on 12th October 2016 making provision corresponding to the social security provisions of the 2016 Act, and regulations stemming from the 2016 Order are now being brought forward.
- 4.6 This instrument implements [Article 17 of the 2016 Order](#), which inserts section 13B into the Social Security Administration (Northern Ireland) Act 1992. Section 13B enables Regulations to be made to provide for the method by which the Department will recover, from relevant providers who lease motor vehicles to beneficiaries of disability living allowance or personal independence payment, its expenses of making payments of those benefits to the relevant provider.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is to Northern Ireland only.
- 5.2 The territorial application of this instrument is Northern Ireland.
- 5.3 These amendments make corresponding changes for the social security system in Northern Ireland that were made in Great Britain by [the Social Security \(Expenses of Paying Sums in Relation to Vehicle Hire\) Regulations 2016](#) (S.I. 2016/674).

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 The Motability scheme leases motor vehicles to disabled persons in receipt of a qualifying benefit (see below). The scheme is run on a day-to-day basis by the Motability Operations group of companies (“Motability Operations”), which are all wholly-owned subsidiaries of Motability Operations Group PLC. It is overseen by Motability, a registered charity (“the Charity”), which is also responsible for the scheme’s relationship with the Department.
- 7.2 The Department facilitates this arrangement by diverting the benefit payments of participating claimants to Motability Operations Limited (part of Motability Operations), so Motability do not have to collect the money themselves. These benefit payments are the higher-rate mobility component of disability living

allowance, the enhanced-rate mobility component of personal independence payment, war pensioners' mobility supplement and armed forces independence payment. These Regulations relate to disability living allowance and personal independence payment only.

- 7.3 The diversion of payments is of direct benefit to Motability Operations. It reduces their customer credit risk, which in turn allows them to lease cars to disabled people without regard to their credit record. The cost of administering these payments varies annually, but currently stands at approximately £50,000 in Northern Ireland. Motability Operations have indicated that they are willing to pay for these administrative costs. They have confirmed that they will absorb this as an operating cost and will not change their pricing structure as a result, so there will be no cost to users of the scheme.
- 7.4 Motability will be charged for these administrative costs on an annual basis rather than a fixed charge per transaction or a percentage of each transaction's value. In accordance with Department of Finance guidance on Managing Public Money Northern Ireland, the charge will be calculated on a full-cost basis. This includes the full salary of those employed full-time to make the transfers and a pro-rata charge for those with other responsibilities. It also includes overheads, including an apportionment of those that are shared with other teams, and an apportionment of other shared costs such as rent.

Consolidation

- 7.5 This instrument will be informally consolidated in the Law Relating to Social Security Northern Ireland (or "Blue Volumes"). It will be available to the public at no cost via the internet at: <https://www.communities-ni.gov.uk/services/law-relating-social-security>

8. Consultation outcome

- 8.1 The Department for Work and Pensions consulted the Charity during the passage of the primary legislation and consulted them, and Motability Operations, on a draft of [the Social Security \(Expenses of Paying Sums in Relation to Vehicle Hire\) Regulations 2016](#). They have confirmed that they agree not only with the policy but with the method of recovery set out in the Regulations. The Director of Motability UK has confirmed that he is content that the same arrangements should apply in Northern Ireland. As no other party is affected by this instrument, the Department has not conducted any further consultation.

9. Guidance

- 9.1 None. These Regulations relate solely to the recovery of costs and will have no impact on decision makers within the Department.

10. Impact

- 10.1 The impact on business, charities or voluntary bodies is negligible (approximately £50,000 per year in relation to Northern Ireland). As discussed above, Motability Operations were in favour of this change. Motability Operations have confirmed that they will be able to absorb this charge as an operating cost, with no impact on scheme pricing.

10.2 There will be a small positive impact on the public sector as the Department will be able to recover around £50,000 a year.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses. The only business currently affected, Motability Operations, has annual revenues of £3.9 billion.

12. Monitoring & review

12.1 The Department for Communities has regular contact with the Charity to discuss the scheme, which would provide them with an opportunity to raise any concerns they come to have.

12.2 Northern Ireland social security legislation normally maintains parity with changes made by the Department for Work and Pensions.

13. Contact

13.1 Anne McCleary at the Department for Communities can direct any queries regarding the instrument. Telephone: 028 9082 3332 or email: caroline.banks@communities-ni.gov.uk.