

EXPLANATORY MEMORANDUM

THE WELFARE SUPPLEMENTARY PAYMENT (BENEFIT CAP) REGULATIONS (NORTHERN IRELAND) 2016

S.R. 2016 No. 389

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department for Communities 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 amend the Welfare Supplementary Payments Regulations (Northern Ireland) 2016 (“The Welfare Supplementary Payment Regulations”) which were introduced to mitigate impacts from the implementation of the Welfare Reform (Northern Ireland) Order 2015 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 making mitigation payments on the reduction of the benefit cap (as provided for in Article 5 of the Welfare Reform and Work (Northern Ireland) Order 2016).

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 Westminster Government which included a benefit cap to restrict the total benefits paid to a household to £500 per week (£26,000 per year) and a further benefit cap of £384.62 per week (£20,000 per year) for a family. 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 Regulation 2 provides for both claimants affected by the previous benefit cap at £26,000 and claimants affected by the benefit cap at £20,000 and introduces a definition of when a person is deemed to be affected by the revised benefit cap for the purpose of payments under these regulations. It amends Regulation 4 of the Welfare Supplementary Payment Regulations to remove the daily total entitlement condition as it is not a condition of eligibility and defines a new period that a claimant must be in receipt of a welfare benefit to include those newly affected by the £20,000 benefit cap.
- 3.4 Regulation 2 further inserts regulation 4A to provide for the calculation of the welfare supplementary payment from the date the new benefit cap is applied for both claimants affected by the previous benefit cap at £26,000 and claimants affected by the benefit cap at £20,000. Regulation 2(3) provides that 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.
- 3.5 Regulation 2(4) amends the Discretionary Financial Assistance Regulations (Northern Ireland) 2001 to ensure that Discretionary Housing Payments are not paid in addition to welfare supplementary payments for the same period and proportion of housing benefit reduction.
- 3.6 Regulation 3 amends Regulation 13 of the Welfare Supplementary Payment to provide for an additional residency requirement that in order to be entitled for a welfare supplementary payment the person must have been resident in Northern Ireland on 6 November 2016.

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.

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.

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.

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

ITEM- REFORM	WELFARE	16/17	17/18	18/19	19/20	Total (£m)
Benefit Cap – exemption for families		1	8	8	8	25¹

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.

¹ The original allocation of £25m over the 4 years of the scheme may be reduced as mitigation for carers was no longer required as they became exempt in Northern Ireland when the Benefit Cap was introduced on 31 May 2016.

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.