

EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (MISCELLANEOUS AMENDMENTS) REGULATIONS
(NORTHERN IRELAND) 2016

2016 No. 432

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Communities (Northern Ireland) 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 make miscellaneous amendments to certain social security legislation to bring Northern Ireland into parity with legislation in Great Britain. It also makes minor corrections to certain recently made Regulations.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 Regulations 2 and 6 of this instrument make amendments to regulation 2 (1) of the Discretionary Financial Assistance Regulations (Northern Ireland) 2001 ([S.R. 2001 No. 216](#)) and regulation 2(1) of the Personal Independence Regulations (Northern Ireland) 2016 ([S.R. 2016 No. 217](#)) to address the drafting issues raised by the Joint Committee on Statutory Instruments (JCSI) in their reports on the Personal Independence Payment Regulations (Northern Ireland) 2016 ([S.R. 2016 No. 217](#)) and the Benefit Cap (Housing Benefit and Universal Credit) (Amendment) Regulations (Northern Ireland) 2016 ([S.R. 2016 No. 375](#)):
http://www.publications.parliament.uk/pa/jt201617/jtselect/jtstatin/27/2703.htm#_idT_extAnchor006 and
http://www.publications.parliament.uk/pa/jt201617/jtselect/jtstatin/70/7003.htm#_idT_extAnchor005.

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 Communities 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, 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](#) 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 only.
- 5.2 The territorial application of this instrument is Northern Ireland.

6. European Convention on Human Rights

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

7. Policy background

What is being done and why

- 7.1 This instrument delivers a package of miscellaneous amendments, which are described briefly in this section.
- 7.2 The Discretionary Financial Assistance Regulations (Northern Ireland) 2001 ([S.R. 2001 No. 216](#)) are amended to clarify that all tenants, regardless of tenure type, may be eligible for a discretionary housing payment if the amount of housing benefit that they are entitled to is less than it would have been due to the removal of the family premium from the Housing Benefit applicable amount and they are deemed to require additional financial assistance in order to meet housing costs.
- 7.3 The revised provision also clarifies the structure of the existing regulation, which addresses the drafting issue raised by the Joint Committee on Statutory Instruments (JCSI) in their report on these regulations:
http://www.publications.parliament.uk/pa/jt201617/jtselect/jtstatin/70/7003.htm#_idTextAnchor005.
- 7.4 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](#)) are amended with regard to the definition of attendance allowance. Constant attendance allowance was paid under section 111, and Schedule 8, to the Social Security Contributions and Benefits (Northern Ireland) Act 1992 ([1992 c. 7](#)) (“the 1992 Act”), to people receiving Industrial Injuries Benefits under the pre-1948 Schemes. These old schemes have now

been incorporated in the modern scheme, and Article 70(2) of the Welfare Reform (Northern Ireland) Order 2015 [SI 2015/2006 \(N.I. 1\)](#) subsequently repealed Schedule 8 of the 1992 Act. These amendments take account of these changes.

- 7.5 These regulations need to come into force on 16th January 2017 as they include a minor correction to the Social Security (Lone Parents and Miscellaneous Amendments) Regulations (Northern Ireland) 2016 ([S.R. 2016 No. 67](#)), which themselves come into force on the 16th January 2017.
- 7.6 The Schedule to the Social Security (Lone Parents and Miscellaneous Amendments) Regulations (Northern Ireland) 2016 make various changes to lone parent conditionality and includes transitional protections for certain lone parents. Paragraph 5 of the Schedule to these regulations is being amended as the original dates in paragraph 5 meant that lone parents responsible for children who reach the age of 5 on the 17th April 2017 were not covered by the transitional provisions. This is not the policy intention and the amendment rectifies this issue.
- 7.7 In the Personal Independence Payment Regulations (Northern Ireland) 2016 ([S.R. 2016 No. 217](#)) the definition of “medical treatment” is amended by removing superfluous wording. This addresses the drafting issue raised by the Joint Committee on Statutory Instruments (JCSI) in their report on these regulations: <http://www.publications.parliament.uk/pa/jt201617/jtselect/jtstatin/27/2702.htm>.
- 7.8 The Housing Benefit (Amendment No. 2) Regulations (Northern Ireland) 2016 ([S.R. 2016 No. 326](#)) (which provide for the removal of the spare room subsidy in housing benefit) are to provide for a slightly later commencement date of 20 February 2017.

Consolidation

- 7.9 This instrument will be informally consolidated in the Northern Ireland Law Relating to Social Security (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 As this is a miscellaneous package of minor amendments and corrections the Department for Communities has not consulted on it specifically. The Department consulted extensively about the implications of the wider reforms as part of the [Welfare Reform Bill](#) (which fell in NI) consultation process.

9. Guidance

- 9.1 Prior to the implementation of these regulations, changes will be made to the Decision Makers Guide (DMG) which is also available free on the internet at <https://www.communities-ni.gov.uk/articles/decision-makers-guide>.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 The impact on the public sector is negligible.
- 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.

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 Communities Telephone: 028 9082 3332 or email: Anne.McCleary@communities-ni.gov.uk can answer any queries regarding the instrument.