

EXPLANATORY MEMORANDUM

The Social Security (Housing Costs Amendments) Regulations (Northern Ireland) 2016

S.R. 2016 No. 44

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.
- 1.3 The rule is due to come into operation on 1st April 2016.

2. Purpose

- 2.1 This rule amends and modifies the Income Support (General) Regulations (Northern Ireland) 1987, the Jobseeker's Allowance Regulations (Northern Ireland) 1996 and the Employment and Support Allowance Regulations (Northern Ireland) 2008 to increase the waiting period before full housing costs (including help with mortgage interest) can be met to 39 weeks (currently 13 weeks under temporary measures).
- 2.2 This change removes one of the temporary measures introduced by the Social Security (Housing Costs Special Arrangement) (Amendment and Modification) Regulations (Northern Ireland) 2008 (S.R. 2008 No. 503) as modified by the Social Security (Housing Costs Special Arrangements) (Amendment) Regulations (Northern Ireland) 2009 (S.R. 2009 No. 426).
- 2.3 The 39 week waiting period introduced by these Regulations will apply to new claims made on or after 1st April 2016 and "unlinked" claims made on or after 1st April 2016. The 13 week temporary waiting period will still apply to claimants who are in a waiting period for housing costs up to and including 31st March 2016.

3. Background

- 3.1 There has been provision in the benefits system to support owner occupier claimants' mortgage interest payments since 1948. Support for Mortgage Interest (SMI) helps homeowners to remain in their homes by providing a contribution to the interest payments due on their mortgages. It is paid as part of the income-related benefits. Those of working age have to serve a waiting period before they become eligible for this help.

- 3.2 In January 2009 two temporary measures were introduced to support home owners and the housing market during the recession. One of these changes reduced the waiting period from 39 weeks to 13 weeks. The other increased the capital limit for eligible loans from £100,000 to £200,000.
- 3.3 In the 2014 Budget, it was announced that these temporary measures would be funded until 31 March 2016. As the economy and the housing market are now showing signs of recovery the Chancellor announced in the Summer Budget 2015 that the waiting period for SMI would return to its previous level of 39 weeks. The higher capital limit of £200,000 would, however, remain in place.
- 3.4 The changes contained in the Regulations will mean that working age owner-occupiers making a new claim to an income-related benefit on or after 1 April 2016 will have to serve a waiting period of 39 weeks before SMI is payable.
- 3.5 Those making a claim prior to 1 April 2016 who are still in a waiting period at that date will qualify for SMI after 13 weeks. The 13 week waiting period will also apply to those who, prior to 1 April 2016, are not in receipt, but are “treated” as being in receipt of, an income-related benefit. This will apply to those whose income is too high for them to qualify for benefit during the waiting period but who would qualify with the addition of SMI.
- 3.6 The Social Security (Housing Cost Special Arrangement) (Amendment and Modification) Regulations (Northern Ireland) 2008 which introduced the temporary 13 week waiting period also removed waiting periods of 8 and 26 weeks that applied in a small number of specified cases. These were where the mortgage agreement was entered into before October 1995 or where the claimant was considered unlikely to be able to secure mortgage protection insurance. These provisions will not be re-introduced and these Regulations remove them from the relevant statutory rules.
- 3.7 The policy intention of the temporary measures when they were introduced was that they would provide a short-term measure to help people over the potentially difficult labour market problems at the time and help limit repossessions. The stated intention was always to review them once housing market conditions became more favourable.
- 3.8 The higher capital limit of £200,000 is being maintained to ensure that SMI continues to provide adequate protection against repossession. It has never been the intention since its instigation, that SMI would cover all of a person’s housing liabilities.
- 3.9 It is believed that the 39 week waiting period in itself will not have a major impact on repossessions because it is expected mortgage lenders will continue to exercise forbearance in the knowledge that housing costs will become payable. Based on the housing costs in respect of mortgage

interest for working age claimants of £165 monthly, a claimant who made no mortgage payments whilst serving a waiting period would accrue around £1000 in mortgage arrears over a six month period. This level of arrears is similar to the arrears position in around 150,000 cases in the wider mortgage market.

4. Consultation

- 4.1 The Department for Work and Pensions (DWP) issued a Call for Evidence paper on housing costs for owner occupiers in December 2011 (period of call for evidence December 2011 to February 2012). The Department issued DWP's paper to give organisations and individuals in Northern Ireland an opportunity to submit views and comments on the proposals. Any comments or views put forward by respondents in Northern Ireland were passed to DWP for consideration. Respondents to this consultation who commented on the waiting period said that they would not support the current 13 week waiting period being extended to 39 weeks until economic conditions improved. If a return to a 39 week waiting period took place before the employment and housing markets improved it could lead to an increase in arrears and, potentially repossessions, with wider consequences for the housing market and the economy more generally.
- 4.2. Economic and housing market conditions have improved since this Call for Evidence was held, and in light of this the Chancellor announced, through the Budget on 8 July 2015, that the waiting period would return to the pre-recession length of 39 weeks.
- 4.3 The Social Security Advisory Committee discussed the corresponding Great Britain Regulations at their meeting on 4th September 2015 and after careful consideration, agreed that they did not require them to be formally referred.

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 any significant implications for equality of opportunity. In light of this, the Department considers that an equality impact assessment is not necessary.
- 5.2 Every social security policy by its very nature has a differential impact in that the policy is designed to meet a specific need, in this case to remove one of the temporary short-term measures that was introduced in 2009 by returning to the 39 week waiting period before SMI is paid. The changes will apply to new claims for working age income-related benefits made on or after 1st April 2016 regardless of religious belief, political opinion, race, sexual orientation, gender or disability.

6. Regulatory Impact

- 6.1 These Regulations do not require a Regulatory Impact Assessment as they do not impose any additional costs or savings on business, charities or voluntary bodies.

7. Financial Implications

- 7.1 No financial implications

8. Section 24 of the Northern Ireland Act 1998

- 8.1 The Department has also considered its obligations under section 24 of the Northern Ireland Act 1998. It is the Department's judgement that the Social Security (Housing Costs Amendments) Regulations (Northern Ireland) 2016 are not incompatible with the Convention rights, are not incompatible with Community law, do not discriminate against any person or class of person on the ground of religious belief or political opinion and do not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. E.U. Implications

- 9.1 Not applicable.

10. Parity or Replicatory Measure

- 10.1 The Regulations mirror the Great Britain Regulations which are to come into force on 1st April 2016.

11. Additional Information

- 11.1 Not applicable