

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

2016 No. 55

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Social Development (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 instrument makes provision for a cap on the total amount of welfare benefits to which a household in Northern Ireland is entitled from May 2016 by reducing the amount of Housing Benefit to which that household is entitled.
- 2.2 The Regulations also disregard Housing Benefit from the calculation of the total amount of benefits that can be received where the person is living in supported accommodation.
- 2.3 These changes restore parity between social security systems in Northern Ireland and Great Britain as the instrument makes the largely the equivalent changes for Northern Ireland that were made in Great Britain by The Benefit Cap (Housing Benefit) Regulations 2012 ([S.I.2012/2994](#)) and The Benefit Cap (Housing Benefit) (Amendment) Regulations 2013 ([S.I.2013/546](#)).

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 arguments 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. It also reassessed incapacity benefits claimants for Employment and Support Allowance (ESA), improved the Work Capability Assessment and made sure housing support is fair.

- 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.
- 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

Background

- 7.1 Article 101 of the Welfare Reform (Northern Ireland) Order 2015 allows for the introduction of a benefit cap. Initially the cap will be applied by the Northern Ireland Housing Executive reducing a claimant’s housing benefit until the introduction of Universal Credit.
- 7.2 From May 2016 the Department for Social Development will introduce, through housing benefit, a cap on the total amount of benefit that working-age people can receive. The cap provides a strong work incentive and fairness for hard-working taxpaying households, whilst providing a reasonable safety net of support for the most vulnerable. It is not fair for hardworking taxpayers to pay for people to live on out of work benefits at higher incomes than many may receive themselves from work. The benefit cap (i.e. the rate at which the total amount of welfare benefits paid cannot exceed) is £350 for a single person and £500 for couples and lone parents.
- 7.3 In order to increase the incentive effect to find work or increase the hours worked households which are entitled to Working Tax Credit will be exempt from the cap. This exemption includes households who are working sufficient hours to qualify for Working Tax Credit but whose earnings are so great that they have been awarded a “nil

entitlement”. Households where the claimant or their partner have a strong work history are also to be exempt from the cap: There will be a grace period whereby the benefit cap will not be applied for 39 weeks to those who have been in work continuously for the previous 12 months.

- 7.4 Where the total amount of welfare benefits exceeds the cap, the Northern Ireland Housing Executive will reduce a claimant’s entitlement to housing benefit by the amount of the excess.
- 7.5 However, housing benefit will not be taken below the minimum amount payable of £0.50 under the current rules, to ensure that claimants are still able to access help from the Northern Ireland Housing Executive through the Discretionary Housing Payment Scheme and to other services where eligibility is dependent on being in receipt of housing benefit.
- 7.6 There are a number of exemptions to the cap to protect the most vulnerable, such as for those in the ESA Support Group, or those in receipt of a benefit associated with the extra costs a disability may bring such as Disability Living Allowance. Those entitled to Carer’s Allowance will also be exempt from the benefit cap.
- 7.7 The benefit cap provisions apply only to awards of housing benefit made under the working age housing benefit regulations.
- 7.8 The Regulations also prevent the housing costs of those living in what legislation defines as “exempt accommodation” from being included in the calculation of the benefit cap.

Consolidation

- 7.9 This instrument will not be informally consolidated in the GB Law Relating to Social Security (or “Blue Volumes”), as the legislation applies only to Northern Ireland. However, 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 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 is being developed for staff and Decision Makers and the relevant guidance 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 outlined in the Impact Assessment. 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 been prepared for this instrument. It is estimated that 470 households may be affected by the benefit cap if they do not make the behavioural change and move into employment. In GB capped households were 41% more likely to move into work than similar households just under the cap level. If they do not make a change to move out of scope of the cap, such as moving into work these households will see an average reduction of £44 per week. Those who may be affected in the future, but currently are not in scope will not have a cash reduction in benefit income, but simply a lower entitlement.

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: 028 9081 9984 or email: anne.mcleary@dndni.gov.uk can answer any queries regarding the instrument.