

EXPLANATORY MEMORANDUM TO
THE HOUSING BENEFIT AND STATE PENSION CREDIT (TEMPORARY
ABSENCE) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2017

SR 2017 No.1

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 sections 122(1)(d), 129A(2), 133(2)(b) and (h), and 171(1), (3), (4), and (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and sections 1(5), 12(2)(a), 15(3) and 6(b), 17(2) and 19(1) to (3) of the State Pension Credit Act (Northern Ireland) 2002, and is subject to the negative resolution procedure.

2. Purpose

- 2.1. This Statutory Rule amends the Housing Benefit Regulations (Northern Ireland) 2006, the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006 and the State Pension Credit Regulations (Northern Ireland) 2003 to reduce the period in which entitlement to Housing Benefit and Pension Credit may continue when a person is temporarily absent from Northern Ireland.
- 2.2. The temporary absence period is reduced from 13 to 4 weeks in most cases, to achieve fairness in the benefits system, balancing the burden on taxpayers with support for claimants on low incomes.

3. Background

- 3.1. The Chancellor, in his Autumn Statement of November 2015, announced that the Government would end the payment of Housing Benefit and State Pension Credit to claimants who travel outside of Great Britain for longer than 4 weeks consecutively, from April 2016.
- 3.2. Housing Benefit is a means tested benefit to help people pay rent on the dwelling they occupy as their home. HB is administered by the Northern Ireland Housing Executive.
- 3.3. Pension Credit (PC) is a tax-free income related benefit for people who have reached the minimum qualifying age (linked to women's State Pension Age) and live in Northern Ireland. PC is made up of two parts - the Guarantee Credit and the Savings Credit. The Guarantee Credit tops weekly income up to a minimum level and the Savings Credit is an extra payment for people who have saved some money towards their retirement such as a pension. The Savings Credit has closed for people who reached their State Pension age on or after 6th April 2016.
- 3.4. It is a basic condition of entitlement to HB that the person must be occupying a dwelling in Northern Ireland as their home. It is also a basic

condition of entitlement to PC that the person must be in Northern Ireland. There are some exceptions to those rules which enable people to be treated as occupying their dwelling as their home for periods of time when they are absent from the United Kingdom.

- 3.5. HB has a temporary absence rule (where HB can continue for a maximum of 13 weeks) when the person intends to return to the dwelling. If the period of absence is expected to last more than 13 weeks, HB stops immediately. Within this rule, HB does not distinguish between absences within Northern Ireland or outside Northern Ireland.
- 3.6. Since October 2008, it has been possible for PC to continue for up to 13 weeks during a temporary absence from Northern Ireland, where the absence is unlikely to exceed 52 weeks. Prior to that, the general rule was that entitlement could continue for up to 4 weeks.
- 3.7. The Government has decided that HB and PC regulations should be amended to specify that absences from Northern Ireland are, in most cases, limited to 4 weeks. There will be exceptions to that general rule.
- 3.8. Where the absence from Northern Ireland is in connection with the death of a partner, a child or young person, then the 4 week period can be extended by a further 4 weeks if it would be unreasonable to expect a return to Northern Ireland within 4 weeks. This also applies where the temporary absence is in connection with the death of a close relative of the claimant, or of their partner or of a child or young person normally living with the claimant.
- 3.9. If the absence is from Northern Ireland in connection with medical treatment or convalescence, then HB and/or PC may continue for up to 26 weeks. Where the claimant is accompanying their partner or a child or a young person who lives with them for medical treatment or convalescence outside Northern Ireland, then HB and/or PC may continue for up to 26 weeks. In PC the range of circumstances wherein the medical exemption can apply has broadened.
- 3.10. The new absence rules for both HB and PC will apply to members of the claimant's household as well as the claimant

Housing Benefit Specific

- 3.11. To be entitled to HB, a claimant must be liable to make payments in respect of a dwelling they occupy as their home. The number of people who occupy the claimant's dwelling as their home will affect a claimant's HB award. Where the claimant is absent from Northern Ireland for more than 4 weeks the claimant's entitlement to HB will cease. HB will need to be reassessed if a person who normally lives with the claimant is absent from Northern Ireland for more than 4 weeks.
- 3.12. Where the absence from Northern Ireland is due to HB claimants fleeing domestic violence, HB may continue for up to 26 weeks.
- 3.13. There will be further exceptions to the general rule for members of the armed forces who are posted overseas from Northern Ireland, continental shelf workers and mariners. Where the absence is within Northern Ireland they will continue to be covered by the general 13-week absence rule. For

continental shelf workers and mariners, the nature of their work is that they are generally employed outside Northern Ireland territorial waters. These exceptions do not apply in PC, as it is primarily a safety net benefit for people who have reached women's State Pension Credit age.

- 3.14. When a person is absent within Northern Ireland from their dwelling, and they then leave Northern Ireland, the allowance period of absence can be (unless they fall within one of the exceptions): up to 13 weeks starting from the absence from the dwelling; plus up to 4 weeks for absences outside Northern Ireland. Where the temporary absence from Northern Ireland ends and they have been absent from their home in Northern Ireland for more than 13 weeks, they must return to the dwelling they occupy as their home in order to continue to meet the condition that they occupy the dwelling as a home.
- 3.15. A transitional provision is included and will apply to people who are temporarily absent from Northern Ireland when this Rule comes into operation. However, for HB this will not apply to members of the armed forces on operation outside Northern Ireland, continental shelf workers or mariners as these groups are entitled to up to 26 weeks absence and so the new measure is more beneficial to them.

4. Consultation

- 4.1. This policy has not been subject to public consultation.

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.

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. None.

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, and considers that these Regulations 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 any enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1. Not Applicable.

10. Parity or Replicatory Measure

- 10.1. These Regulations are equivalent to the Housing Benefit and State Pension Credit (Temporary Absence) (Amendment) Regulations 2016 (SI 2016/624) which were made on 5th July 2016 and restore parity between Northern Ireland and Great Britain in social security matters.

11. Additional Information

- 11.1. The Department for Work and Pensions will undertake an evaluation of the policy change a year after its introduction.