

EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (MISCELLANEOUS AMENDMENTS) REGULATIONS
(NORTHERN IRELAND) 2017

2017 No. 116

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 working age social security benefits in relation to extended periods of sickness, Scottish rate of income tax, and clarification of sanctions regime to bring Northern Ireland legislation into parity with legislation in Great Britain. It also makes minor corrections to recently made Regulations.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments.

- 3.1 Regulation 5(3) corrects an error which was drawn to the attention of both Houses of Parliament in the Twenty-fourth Report of Session 2016–17 of the Joint Committee on Statutory Instruments, in respect of the Income Support (Work-Related Activity) and Miscellaneous Amendments Regulations (Northern Ireland) 2017;
- 3.2 Regulation 8(b)(ii) corrects an error which was drawn to the attention of both Houses of Parliament in the Seventh Report of Session 2016–17 of the Joint Committee on Statutory Instruments, in respect of the Employment and Support Allowance (Sanctions) (Amendment) Regulations (Northern Ireland) 2016.

Other matters of interest to the House of Commons

- 3.3 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, the Jobseeker's Allowance Claimant Commitment 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 the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 The amendments are to:
- 7.2 The Social Security (Credits) Regulations (Northern Ireland) 1975 ([S.R. 1975 No. 113](#)) and the Jobseeker's Allowance (Sanctions) (Amendment) Regulations (Northern Ireland) 2016 ([S.R. 2016 No. 241](#)) are both amended to correct an error relating to regulation 8A(5)(ba) of the Social Security (Credits) Regulations (Northern Ireland) 1975. This regulation had been replaced by consequential sanction changes made by regulation 51(4)(e) of the UC (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations (NI) 2016 ([SR 2016 No. 236](#)) therefore the duplicate changes have been removed.
- 7.3 The Social Fund (Cold Weather Payments) (General) Regulations (Northern Ireland) 1988 (S.R. 1988 No. 368) are being amended to ensure that persons in receipt of universal credit may be entitled to a cold weather payment.
- 7.4 The Jobseeker's Allowance Regulations (Northern Ireland) 1996 ([S.R. 1996 No. 198](#)) and the State Pension Credit Regulations (Northern Ireland) 2003 ([S.R. 2003 No. 28](#)) are being amended in order to ensure consistency with the Jobseeker's Allowance Regulations (Northern Ireland) 2016 ([S.R. 2016 No. 218](#)). The GB equivalent of these regulations is Social Security (Miscellaneous Amendments) (No. 3) Regulations 2013 ([S.I. 2013 No. 2536](#)).
- 7.5 The definition of "registered social worker" in the Jobseeker's Allowance Regulations (Northern Ireland) 1996, the Universal Credit Regulations (Northern Ireland) 2016, the

Jobseeker's Allowance Regulations (Northern Ireland) 2016 and the Employment and Support Allowance Regulations (Northern Ireland) 2016 are being amended to reflect the renaming, by Part 3 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2) of the Care Council for Wales as Social Care Wales. The GB equivalent of these regulations is the Social Security (Social Care Wales) (Amendment) Regulations 2017 ([S.I. 2017 No. 291](#)).

- 7.6 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 so that a payment of arrears of Universal credit is disregarded for the purpose of calculating Housing Benefit.
- 7.7 The Employment and Support Allowance Regulations (Northern Ireland) 2008 ([S.R. 2008 No. 280](#)) are amended to take account of the changes made by the Social Security (Jobseeker's Allowance, Employment and Support Allowance and Universal Credit) (Amendment) Regulations 2016 ([S.I. 2016/678](#)). The amendments restore parity with GB and also correct an error in regulation 63(8).
- 7.8 The Universal Credit Regulations (Northern Ireland) 2016 ([S.R. 2016 No. 216](#)) are amended to make provision for the calculation of earned income for the purposes of determining entitlement to universal credit until 2018. Provisions have also been inserted for NI specific disregards. The sanctions provisions have been amended to ensure that in all cases where a failure has occurred within 14 days of a previous one the reduction period for the subsequent failure is for the same duration as the previous reduction period. There are also minor corrections.
- 7.9 The Jobseeker's Allowance (Northern Ireland) Regulations 2016 ([S.R. 2016 No. 218](#)) ("2016 Regulations") come into operation in Northern Ireland immediately after Universal Credit in 2017. The GB equivalent of these regulations is the Jobseeker's Allowance Regulations 2013 ([S.I. 2013 No. 378](#)) ("2013 Regulations"). At the time of drafting the Northern Ireland 2016 Regulations it was not possible to include the changes that GB were making at that time to their 2013 Regulations. The amendments restore parity with GB and are equivalent to the amendments made to the 2013 GB Regulations carried by the following sets of regulations:
- The Jobseeker's Allowance (Extended Period Of Sickness)(Amendment) Regulations 2016 ([S.I. 2016/502](#));
 - The Social Security (Scottish Rate of Income Tax etc.) (Amendment) Regulations 2016 ([S.I. 2016/233](#));
 - Social Security (Jobseeker's Allowance, Employment and Support Allowance and Universal Credit) (Amendment) Regulations 2016 ([S.I. 2016/678](#)). Corresponding amendments are also being made to the Jobseeker's Allowance (Northern Ireland) Regulations 1996. .
- 7.10 The equivalent amendments have already been made to the Jobseeker's Allowance (Northern Ireland) Regulations 1996 by [S.R. 2016 No. 233](#) and [S.R. 2016 No. 147](#). The Employment and Support Allowance Regulations (Northern Ireland) 2016 ([S.R. 2016 No. 219](#)) ("2016 Regulations") come into operation in Northern Ireland immediately after Universal Credit commences in 2017. The GB equivalent of these regulations is the Employment and Support Allowance Regulations 2013 ([S.I. 2013 No. 379](#)) ("2013 Regulations"). At the time of drafting the Northern Ireland 2016 Regulations it was not possible to include the changes that GB were making at that time to their 2013 Regulations. The amendments restore parity with GB and are equivalent to the

amendments to the 2013 Regulations made by the Social Security (Scottish Rate of Income Tax etc.) (Amendment) Regulations 2016 ([S.I. 2016/233](#)).

- 7.11 The Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 ([S.R. 2016 No. 226](#)) need amending to include provisions in regulations 33 and 34 referencing regulations 69A, 69B and 70 of the Jobseeker's Allowance (Northern Ireland) Regulations 1996. At the time of making, the provisions which inserted regulations 69A, 69B and 70 had not been commenced and so could not be included. Also inserted is the equivalent of regulation 4 of [S.I. 2014/1230](#) to, provide discretion for the Department to temporarily exclude claims in any area, or in any category of case, if it considers this is necessary in order to safeguard the efficient administration of universal credit, or to ensure the effective testing of administrative systems. Provision has also been made to ensure that overpayments of housing benefit, in the form of a rate rebate, cannot be offset as unearned income against the claimant's entitlement to universal credit. There are also minor corrections.

Consolidation

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