

EXPLANATORY MEMORANDUM TO

THE UNIVERSAL CREDIT (HOUSING COSTS ELEMENT FOR CLAIMANTS AGED 18 TO 21) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2017

2017 No. 142

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 This instrument amends the Universal Credit Regulations (Northern Ireland) 2016 ([S.R. 2016 No. 216](#)), to remove automatic entitlement to housing costs in Universal Credit for some 18 – 21 year-olds. There are a number of exemptions to protect vulnerable claimants so that they continue to receive the housing support that they need.

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 these Regulations are subject to the negative resolution procedure and have 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](#) (“the 1998 Act”) 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 rate.
- 4.3 The [Welfare Reform Act 2012](#) (“the 2012 Act”) introduced a number of reforms which included the introduction of Universal Credit, Personal Independence Payment and a cap on the amount of benefits working age people can receive. This was to restrict the total amount of money a non-working household can receive to broadly the level of the average earned income of working households after tax and national insurance contributions are deducted.
- 4.4 The [Welfare Reform and Work Act 2016](#) (“the 2016 Act”) provided for the introduction of further reforms in Great Britain, including tiered reductions to the level of the benefit cap depending on where in Great Britain claimants lived, changes

to the child element of Universal Credit and Child Tax Credits and the removal of the work-related activity component in Employment and Support Allowance and the Limited Capability for Work element in Universal Credit.

- 4.5 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](#) (“the 2015 Order”) was made on 9 December 2015 making provision corresponding to the 2012 Act. [The Welfare Reform and Work \(Northern Ireland\) Order 2016](#) (“the 2016 Order”) was made on 12th October 2016 making provision corresponding to the social security provisions of the 2016 Act, and regulations stemming from the 2016 Order are now being brought forward.
- 4.6 In order to maintain parity, these regulations implement for Northern Ireland the changes brought about in the equivalent GB regulations The Universal Credit (Housing Costs Element for claimants aged 18 to 21) (Amendment) Regulations 2017 ([S.I.2017/252](#)). This instrument delivers the Government’s intention to remove automatic entitlement to the housing costs element in Universal Credit for 18-21 year-olds so that young people in the benefit system face the same choices as other young people who go out to work and cannot yet afford to leave the parental home. This instrument is intended to encourage young people who can stay at home to do so. It makes the system fairer as these people will not move out by simply passing the costs on to the taxpayer.
- 4.7 This instrument also introduces some exemptions. There are two reasons for the exemptions: to protect vulnerable young claimants and to take account of the reasonable choices young people can make when deciding to move out of their parents’ home such as when they have earnings that allows them to pay their rent.

5. Extent and Territorial Application

- 5.1 The extent of these Regulations is Northern Ireland.
- 5.2 The territorial application of these Regulations is Northern Ireland.

6. European Convention on Human Rights

- 6.1 As these Regulations are subject to the negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

Removing automatic entitlement

- 7.1 Article 16(1) of the Welfare Reform (Northern Ireland) Order 2015 (Housing costs) ([S.I. 2015/2006 \(N.I. 1\)](#)) provides that an award of Universal Credit is to include an

amount for housing costs if a claimant is liable to make payments in respect of their home (e.g. rent or a mortgage).

- 7.2 These Regulations remove automatic entitlement to housing costs in Universal Credit by amending the Universal Credit Regulations (Northern Ireland) 2016 (“the 2016 Regulations”) to specify that Article 16(1) does not apply to certain renters who are (i) at least 18 but under 22 year old, (ii) a single person and (iii) subject to ‘all work-related requirements’ (required to look for and be available for full time work (see Article 27 of the Welfare Reform (Northern Ireland) Order 2015).

Exemptions

- 7.3 The exemptions to the policy are set out in paragraphs 4B and 4C of Schedule 4 (housing costs element for renters) of the 2016 Regulations as inserted by regulation 2(3)(c) of these Regulations.
- 7.4 It is recognised that, whilst the majority of young people can live at home, there will be some who are unable to do so. This policy will not apply where the claimant is an orphan or their parents live abroad. It will also not apply where, in the opinion of the Department, it would be inappropriate for the young person to live in the parental home including where there would be a serious risk to the young person’s physical or mental health, or the young person would suffer significant harm, if they lived with their parents.
- 7.5 It is also recognised that it would be unreasonable to remove entitlement where the claimant is vulnerable. These Regulations therefore set out, in paragraph 4B, a range of additional exemptions. These exemptions mean that the policy will not apply where the claimant.
- is responsible for a child or qualifying young person;
 - was a care leaver before reaching the age of 18;
 - receives the care component of disability living allowance at the middle or highest rate or the daily living component of personal independence payment;
 - is the subject of risk management (pursuant to arrangements established under Part 3 of the Criminal Justice (Northern Ireland) Order 2008) ([S.I. 2008/1216 \(N.I. 1\)](#)).
 - is in temporary accommodation provided by an authority pursuant to their homelessness duties;
 - has been subject to, or threatened with, domestic violence by their partner, former partner, or a family member.

- 7.6 In addition an exemption will apply where, due to caring responsibilities or physical or mental impairment, the number of hours the claimant is expected to work is less than 35 hours per week. An exemption will also apply to those on whom a work-search requirement cannot be imposed due to the range of time-limited circumstances prescribed in regulation 97(6) and (7) of the 2016 Regulations (circumstances in which requirements must not be imposed). These include where the claimant has suffered a bereavement within the past 6 months (in relation to certain people), they are undertaking treatment for an addiction, or where they have provided medical evidence that they are currently unfit for work (for up to 14 days).

- 7.7 This policy will only apply to claimants who are ‘job seekers’. That means that claimants who are not in the all work-related requirements group of universal credit

(which broadly speaking, are those who are expected to be available for and actively seeking work) will not be affected by this policy.

- 7.8 The policy will not apply to those claimants who are currently in work and have net earnings in an assessment period above a prescribed amount. The amount is set at the monthly equivalent that a person would earn working 16 hours per week at the National Minimum Wage for a person aged 18 to 20 years (that is, £89.60 a week from April 2017). If the claimant is under a contract of apprenticeship, the amount is set at the monthly equivalent of 16 hours per week at the National Minimum Wage of apprentices (that is, £56 a week from April 2017). In addition, there will be a time-limited exemption of 6 months for those who do not satisfy this requirement in an assessment period but whose earnings were at this level or above for a prescribed 6 month period (paragraph 4C). This will provide a buffer period to give them time to find alternative employment.
- 7.9 The policy will not apply to those claimants who are currently in work and have net earnings in an assessment period above a prescribed amount. The amount is set at the monthly equivalent that a person would earn working 16 hours per week at the National Minimum Wage for a person aged 18 to 20 years (that is, £89.60 a week from April 2017). If the claimant is under a contract of apprenticeship, the amount is set at the monthly equivalent of 16 hours per week at the National Minimum Wage of apprentices (that is, £56 a week from April 2017). In addition, there will be a time-limited exemption of 6 months for those who do not satisfy this requirement in an assessment period but whose earnings were at this level or above for a prescribed 6 month period (paragraph 4C). This will provide a buffer period to give them time to find alternative employment.

Consolidation

- 7.10 This instrument will be informally consolidated in the Law Relating to Social Security Northern Ireland (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 consequence of wider welfare reforms the Department for Communities has not consulted on it specifically. The Department consulted extensively about the implications of those wider reforms as part of the Welfare Reform Bill.
- 8.2 The Department for Work and Pensions (DWP) carried out extensive consultation with stakeholders with respect to the exemptions.
- 8.3 DWP also shared the draft regulations, including provisions on the exemptions with the Social Security Advisory Committee (SSAC). Some recommendations from stakeholders have not been accepted, one example being 18-21 year-olds who had not been in the care of an authority as such but were described as being ‘on the edge of care’. SSAC suggested young people in this category were often vulnerable and needed the protection of being exempt. It was decided it would be difficult to accurately describe such a group and doing so would introduce significant complexity. SSAC also asked for consideration as to whether the threshold for the in-work exemption was set at too high a level, particularly for those on zero earnings contracts. As a result the threshold was reduced from 35 to 16 times the National Minimum Wage (see paragraph 3.7 above). SSAC’s concerns that comprehensive

guidance should be provided to work coaches, particularly with respect to claimants who state that they are unable to live with their parents, were also addressed.

8.4 SSAC decided not to take the proposals on formal reference (in November 2016).

9. Guidance

9.1 The appropriate guidance will be amended for staff and Decision Makers in advance of this instrument becoming operational.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 An Impact Assessment has not been prepared for this instrument.

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. Contact

12.1 Anne McCleary at the Department for Communities can answer any queries regarding the rule Telephone: 028 90823332 or email: anne.mccleary@communities-ni.gov.uk.