

**EXPLANATORY MEMORANDUM TO**  
**THE DISCRETIONARY FINANCIAL ASSISTANCE (AMENDMENT)**  
**REGULATIONS (NORTHERN IRELAND) 2017**

**2017 No. 143**

**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 instrument amends the Discretionary Financial Assistance Regulations (Northern Ireland) 2001 (S.R. 2001 No.216), extend the use of discretionary housing payments to Universal Credit claimants.

**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](#) (“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 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.

- 4.4 In order to maintain parity, these regulations implement for Northern Ireland the changes brought about for discretionary housing payments only in the equivalent GB regulations, the Welfare Reform Act 2012 (Consequential Amendments) Regulations 2013 ([S.I.2013/1139](#)) which came into force on 10 June 2013.

## **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 negative resolution procedure and do not amend primary legislation no statement is required.

## **7. Policy background**

### *What is being done and why*

- 7.1 The Discretionary Financial Assistance Regulations (Northern Ireland) 2001 (S.R. 2001 No.216) provide the legal framework that enables the Northern Ireland Housing Executive to make discretionary housing payments to housing benefit claimants where a claimant requires further financial assistance towards housing costs..
- 7.2 Unlike Great Britain, where discretionary housing payments are available to housing benefit claimants generally, in Northern Ireland their use has been restricted to those tenants in the private rental sector, who are subject to local housing allowance or local reference rent rules, or those claimants in both the private and social rented sector who have been affected by the removal of the family premium and the application of the benefit cap, and face a shortfall between the amount that housing benefit contributes toward rental costs and the rent charged by their landlord.
- 7.3 The Welfare Reform (Northern Ireland) Order 2015 (the 2015 Order) contains provision to extend the use of Discretionary Housing Payments to persons entitled to Universal Credit (paragraph 44 of Schedule 2 to the 2015 Order), and these Regulations will therefore extend the use of discretionary housing payments to Universal Credit claimants whose rent has been restricted and may require further financial assistance with their housing costs.

### *Consolidation*

- 7.4 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.

## **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 The impact on the public sector is negligible. There will be minor costs relating to changes in guidance for Departmental staff.
- 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 use of discretionary housing payments is monitored by the Department for Communities using monthly information returns from the Northern Ireland Housing Executive.

## **13. Contact**

- 13.1 Anne McCleary at the Department for Communities Telephone: 028 90823332 or email: [anne.mccleary@communities-ni.gov.uk](mailto:anne.mccleary@communities-ni.gov.uk) can answer any queries regarding the instrument.