

**EXPLANATORY MEMORANDUM TO**  
**THE JOBSEEKER'S ALLOWANCE (HARDSHIP) (AMENDMENT)**  
**REGULATIONS (NORTHERN IRELAND) 2017**

**2017 NO. 185**

**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 These regulations amend the Jobseeker's Allowance Regulations (Northern Ireland) 1996<sup>1</sup> ("the JSA Regulations") to give immediate access to Jobseeker's Allowance hardship payments following a successful application to:

- Single claimants who are homeless;
- Single claimants who have a long-term mental health impairment;
- Claimant couples where one or both members are homeless; and
- Claimant couples where one member of the couple has a long-term mental health impairment.
- They also correct three minor missed amendments in the provisions relating to hardship payments.

**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 negative resolution procedure, 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 1988](#) places a statutory duty on the Northern Ireland Minister with responsibility for social security 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.

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<sup>1</sup> <http://iaccess.communities-ni.gov.uk/sspldbluevolumesinternet/users/internetsearchpage.aspx>

- 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 In 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. [Northern Ireland \(Welfare Reform\) Act 2015](#) provided a time limited 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 until December 2016. Any such Order in Council could then confer power on the Secretary of State or a Northern Ireland department to make further provision regarding these matters by regulation or order. [The Welfare Reform \(Northern Ireland\) Order 2015](#) (the “2015 Order”) 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 (the “2012 Act”) in Northern Ireland are now being brought forward.
- 4.5 The JSA Regulations prescribe the framework for the payment of Jobseeker’s Allowance (JSA) to claimants who are available for and actively seeking employment. There is a sanctions regime in those Regulations for those who fail to comply with the relevant conditions of entitlement to JSA.
- 4.6 There is a system of hardship payments in the JSA Regulations. Regulation 140(1) (meaning of “person in hardship”) of the JSA Regulations prescribes the categories of JSA claimant who can receive hardship payments immediately. Regulation 146A(1)(d) (meaning of “couple in hardship”) of the JSA Regulations prescribes the categories of claimant couple for JSA (meaning of “couple in hardship”) who can receive hardship payments immediately.
- 4.7 Both these regulations are amended to include those who are homeless or who have a mental health impairment as persons who can receive a hardship payment immediately.

## **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 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 JSA Regulations enable Hardship Payments to be made in a number of circumstances, which include when a sanction has been imposed because, for example a claimant has not met their work-related requirements without a good reason or there is a doubt about whether a claimant meets the conditions for the receipt of JSA.
- 7.2 Hardship Payments are available as a safeguard to those claimants who demonstrate that they cannot meet their immediate and most essential needs, including

accommodation, heating, food and hygiene, when their JSA has been suspended, stopped or reduced as a result of a sanction.

- 7.3 Currently JSA claimants who make a successful application for Hardship Payments receive between 60% to 80% of their JSA award.
- 7.4 If claimants demonstrate that they are in hardship, they will have to serve a 14-day waiting period before a hardship payment is made to them. The exception to this is claimants who are deemed to be vulnerable; they are able to receive immediate hardship payments. Vulnerable groups currently include claimants or partners who are pregnant, lone parents responsible for a young person and claimants with long-term physical health impairments.
- 7.5 Following a recommendation by the Work and Pensions Select Committee, the Department for Work and Pensions agreed to extend the list of vulnerable claimants for JSA hardship payments purposes to include those who are homeless and those who have a long-term mental health impairment. This is a positive change to the JSA Regulations; it now gives those claimants or their partner's immediate access to hardship payments, rather than having to serve the 14-day waiting period. Additionally, it gives them parity of treatment with other vulnerable claimants, for example, with claimants who have long-term physical health impairments.
- 7.6 In the same way as applies currently for claimants suffering hardship with long-term physical health impairments, for a claimant with a long-term mental health impairment to qualify for immediate JSA hardship payments, there must be an expectation that their health would deteriorate more than that of a healthy adult within the first 14 days, if immediate access to JSA hardship payments was not granted.
- 7.7 We have also taken the opportunity in this instrument to make three minor amendments to the hardship provisions which were missed when previous amendments were made.
- 7.8 Regulations 140(1) and 146A(1), have a list of circumstances providing individual and joint claim couples immediate access to Hardship Payments. These corrections will mean that the word "or" is inserted in the correct places in the lists.
- 7.9 In addition, regulation 141 is amended to insert the correct cross reference in the Jobseekers (Northern Ireland) Order 1995 to the income-based conditions a claimant must satisfy to be eligible for hardship payments under that regulation.

#### ***Consolidation***

- 7.10 This will be informally consolidated in the Law Relating to 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 This is a positive measure based on a recommendation by the Work and Pensions Select Committee and, as such, consultation was not considered necessary.

### **9. Guidance**

- 9.1 The Department is developing draft guidance for our operational staff and communication to both claimants and external stakeholders. Development of both guidance and communication products remain on-going and will be ready ahead of the commencement of the change in October 2017.

- 9.2 The changes will also be made to the Decision Makers Guide (DMG) which is available on the internet at <http://www.communities-ni.gov.uk/articles/decision-makers-guide> through implementation updates and updates to operational guidance at the appropriate time.
- 9.3 In addition we will also communicate the changes to relevant external stakeholders, for example Citizens Advice Bureau.

## **10. Impact**

- 10.1 There is no impact on business, there may be nominal impact on charities or voluntary bodies in updating guidance.
- 10.2 The impact on the public sector in Great Britain is estimated at less than £1m in hardship payments spread over the next four years. The administrative costs for this option will be limited to updating guidance and training for staff decisions.
- 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 for Communities' offices and correspondence from members of the public.
- 12.2 Northern Ireland social security legislation normally maintains parity with changes made by the Department for Work and Pensions.

## **13. Contact**

- 13.1 Anne McCleary at the Department for Communities: telephone 02890823332 or email: [anne.mccleary@communities-ni.gov.uk](mailto:anne.mccleary@communities-ni.gov.uk) can answer any queries regarding this instrument.