

EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY
(MISCELLANEOUS AMENDMENTS NO. 2) REGULATIONS
(NORTHERN IRELAND) 2017

S.R. 2017 No. 218

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 the Social Security Contributions and Benefits (Northern Ireland) Act 1992, the Social Security Administration (Northern Ireland) Act 1992, the Jobseekers (Northern Ireland) Order 1995, the Social Security (Northern Ireland) Order 1998, the State Pension Credit Act (Northern Ireland) 2002, the Welfare Reform Act (Northern Ireland) 2007 and Welfare Reform (Northern Ireland) Order 2015 and is subject to negative resolution procedure.

2. Purpose

- 2.1 This Statutory Rule make amendments to several sets of Regulations to make minor corrections or clarify the existing regulations to ensure the legislation reflects current practice and the policy intent.

3. Background

- 3.1 The Past Presence Test (“PPT”) requires a claimant to have spent 2 out of the last 3 years in Northern Ireland. These regulations makes amendments to how the PPT test is applied to refugees in relation to Attendance Allowance, Disability Living Allowance, Carer’s Allowance and Personal Independence Payment, which will allow refugees and their families to claim extra-costs disability benefits once they have been granted refugee status or humanitarian protection, rather than having to wait until they also satisfy the criteria as set out by the past-presence test.
- 3.2 The Regulations make amendments to put beyond doubt the treatment of State Pension as income in the State Pension Credit Regulations and the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations and to avoid uncertainty about how notional income should be calculated following the introduction of pensions flexibilities.
- 3.3 It also makes minor consequential changes to existing regulations to reflect the increase in the age at which entitlement to Widow’s Pension ends. This is currently 65 but will be linked to State Pension age once that exceeds

65. An amendment is also made to the State Pension Regulations to clarify that only one individual is to be awarded a specified adult childcare credit in any one week.

- 3.4 Since the current decision making system was introduced in 1999 the time limit for applying for a revision was one month extended by 12 months. This Statutory Rule corrects a minor drafting error in the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations (Northern Ireland) 2016 to restore policy intent. There is also a minor amendment to interpretation provisions in those Regulations to ensure that they are interpreted consistently with the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 Regulations.
- 3.6 It also makes a consequential amendment to the Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1979 which had been overlooked on the introduction of Personal Independence Payment.

4. Consultation

- 4.1 There is no requirement to consult on the Regulations. They make in relation to Northern Ireland only provision corresponding to provision contained in regulations made by the Secretary of State for Work and Pensions. GB's corresponding provisions were considered by Social Security Advisory Committee but no other consultation was considered necessary because these are minor and technical changes.

7. Equality Impact

- 7.1 In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on proposals for these Regulations. As the Regulations just make minor corrections and clarifications, the Department has concluded that they would not have significant implications for equality of opportunity and considers that an equality impact assessment is not necessary.

8. Regulatory Impact

- 8.1 The Regulations do not require a Regulatory Impact Assessment as they have no impact on costs on business, charities or voluntary bodies.

9. Financial Implications

- 9.1 None applicable.

10. Section 24 of the Northern Ireland Act 1998

- 10.1 The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied that these Regulations –

- (a) are not incompatible with any of the Convention rights,
- (b) are not incompatible with Community law,
- (c) do not discriminate against a person or class of person on the ground of religious belief or political opinion, and
- (d) do not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

11. EU Implications

11.1 None applicable.

12. Parity or Replicatory Measure

12.1 The corresponding Great Britain Regulations are the Social Security (Miscellaneous Amendments No. 4) Regulations 2017 (S.I. 2017/1015).

13. Additional information

13.1 None applicable.