

EXPLANATORY MEMORANDUM TO
THE SOCIAL FUND (AMENDMENT) REGULATIONS (NORTHERN IRELAND)
2017

2017 No. 55

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department for Communities (“the Department”) to accompany the Statutory Rule (details above), which is laid before the Northern Ireland Assembly.
- 1.2. These Regulations are made under sections 134(1)(a), (2) and 171(1), (3), (4) and (5) of the Social Security Contributions and Benefits Act (Northern Ireland) 1992.
- 1.3. These Regulations are subject to the negative resolution procedure.

2. Purpose

- 2.1. This memorandum outlines changes to the Social Fund (Cold Weather Payments) (General) Regulations (Northern Ireland) 1988 (“the 1988 Regulations”) and the Social Fund Maternity and Funeral Expenses (General) Regulations (Northern Ireland) 2005 (“the 2005 Regulations”).
- 2.2. The principle policy aims of these regulations are to:
 - minimise the effect of the changes to Child Tax Credits on Social Fund claimants. Payments are made from the Social Fund to meet certain maternity and funeral expenses, and expenses due to extreme cold weather. One of the conditions of eligibility for Social Fund payments is that claimants are in receipt of certain prescribed benefits. The Welfare Reform and Work Act 2016 has made changes to Child Tax Credits from 6 April 2017 which would impact on those who are currently eligible for a Social Fund payment unless we amend both the 1988 Regulations and 2005 Regulations; and
 - amend the 1988 Regulations to enable the Department to vary weather station designations relevant to cold weather payments without the need for new legislation every time a variation is needed. The Department will continue to make a cold weather payment to eligible persons in the postcode areas linked to the weather station.

3. Background

What is being done and Why

Welfare Reform and Work Act 2016

- 3.1 The Welfare Reform and Work Act 2016 introduced reforms of Child Tax Credit, which will take effect from 6 April 2017:

- a. From 6 April 2017 the family element of Child Tax Credit will only be payable where a claimant is responsible for a child or qualifying young person born before 6 April 2017;
- b. Where the claimant is responsible for a child born on or after 6 April 2017, the individual element of Child Tax Credit will be capped at two children. Families will no longer be able to claim additional support for a third or subsequent child in a family. Some exceptions will apply, for example, in the case of multiple births and adopted sibling groups; and
- c. The premiums payable in respect of children who are disabled or severely disabled will now be paid as a separate element (“disability element”), rather than as a higher rate individual element. Payment of this element will be made in respect of any qualifying children, and will not be restricted to a maximum number of children per household.

Sure Start Maternity Grant and Funeral Expenses Payment

- 3.2 Sure Start Maternity Grants (“SSMG”) and Funeral Expenses Payments (“FEP”) have operated in a similar form since the introduction of the Social Fund in April 1988. SSMG provide help to families with the cost of a new baby if there are no other children under the age of 16 in the claimant’s family. FEP provides help with the necessary cost of a simple funeral for which the claimant is responsible.
- 3.3 Following the introduction of Child Tax Credits in 2002 additional payments for children and young persons, including those with disabilities, were removed from Income Support, income-based Jobseeker’s Allowance and income-related Employment and Support Allowance. At that point changes were made to the qualifying conditions for SSMG and FEP to include those in receipt of Child Tax Credit payable at a rate higher than the family element (Regulations 5(2)(e) and 7(4)(v) of the 2005 Regulations).
- 3.4 After 6 April 2017 entitlement to SSMG or FEP will be linked to award of an individual or disability element of Child Tax Credit. All claimants who would have received Child Tax Credit “payable at a rate higher than the family element” prior to 6 April 2017 will be awarded an individual or disability element from 6 April 2017.
- 3.5 Some higher-income claimants may qualify for a SSMG or FEP from 6 April 2017 where they would not previously have done so. This is likely to affect only a small number of claimants. This group may be affected because entitlement to SSMG or FEP will be linked to whether they are *awarded* the individual or disability element of Child Tax Credit. Prior to 6 April 2017 entitlement to SSMG or FEP is linked to whether Child Tax Credit is *payable* to a claimant at a rate higher than the family element. Child Tax Credit would not have been payable at a rate higher than the family element to this group because Child Tax Credit payments are reduced depending on the income of the claimant. This approach has been taken because it will not be possible for the Department to ascertain which elements are in payment once the overall payment has been reduced because of the claimant’s income. However the Department will be able to ascertain whether the claimant has been awarded the individual or disability element,

before the reduction is applied. This approach is therefore intended to ensure that no one who would have qualified for a SSMG or FEP prior to 6 April 2017 will lose out as a result of the changes.

- 3.6 Because the individual element will be capped in some cases, it is possible that a claimant may be in receipt of a disability element but not an individual element in respect of a particular child. As a result of these amending Regulations the 2005 Regulations will refer to both the individual and disability elements.
- 3.7 The 2005 Regulations will be amended by omitting the reference to the family element under regulations 3(1) and by substituting “which includes an individual element or a disability element referred to in section 9(3) of the Tax Credits Act 2002” for “payable at a rate higher than the family element” under regulations 5(2)(e), 6(1)(b) and 7(4)(a)(v).

Cold Weather Payments

- 3.8 Cold weather payments provide financial help for vulnerable groups of people who are most likely to be susceptible to the cold and who are in receipt of one of the following income replacement benefits – State Pension Credit, Income Support, income-based Jobseeker’s Allowance, income-related Employment and Support Allowance and Universal Credit – and meet other specified conditions. Payments are to meet heating costs incurred, or likely to be incurred, during periods of cold weather. A period of cold weather, means a period when the average of the mean daily temperature for a period of seven consecutive days at a given weather station is recorded as, or is forecast to be, 0 degrees Celsius or below.
- 3.9 Each residential postcode in Northern Ireland is linked to one of a series of weather stations used in the Scheme. The Met Office calculates rolling seven day average temperatures for each of the weather stations during the period 1 November to 31 March. It notifies the Department when a weather station records, or forecasts, an average temperature of 0 degrees Celsius or below over a seven day period. Following a notification from the Met Office, the Department makes a payment to eligible persons in the postcode area linked to the weather station.
- 3.10 The rate of a cold weather payment remains at £25. This rate was a temporary increase (from £8.50) for winters 2008/09 and 2009/10 and made permanent from the winter of 2010/11.
- 3.11 These regulations amend the 1988 Regulations by substituting “P’s child tax credit includes a disability element within the meaning of section 9(3) of the Tax Credits Act 2002” for “P’s child tax credit includes an individual element referred to in regulation 7(4)(a), (b), (d) or (e) of the Child Tax Credit Regulations 2002” in regulation 1A(3)(d).
- 3.12 To reduce the cost to the public purse and create a more efficient process, amendments are being made to the 1988 Regulations so that revisions can be made without the need for new legislation each time the weather stations/postcode linkages change. This instrument therefore amends the 1988 Regulations by revoking the Schedule to the 1988 Regulations and providing instead that the Department must designate a primary

weather station and may designate a secondary weather station for each postcode district and must publish this information.

- 3.13 The rule also makes some minor changes to the 1988 Regulations to ensure that where a primary station is unable to provide temperature information, or the Met Office is unable to produce a forecast at a primary station, there are adequate procedures for the necessary temperature information or forecast to be obtained from another weather station. These changes will ensure that, where there is a problem with the primary station (and, where relevant, with the secondary station), the most appropriate station (rather than simply the nearest station) is used to provide the relevant information. The reason for this is that the nearest station may not reflect the climatic conditions experienced by the primary station. An example of this would be where the primary station is located in a coastal region and the nearest station is in the mountains.
- 3.14 Claimants and other stakeholders/interested parties will be able to access information about which weather station links to which postcode by visiting the [Social Fund – Cold Weather Payments](#) guidance page on the DfC Intranet.

4. Consultation

- 4.1. This statutory rule makes no changes to the way eligibility for a cold weather payment under the Scheme is determined. It amends the 1988 Regulations and 2005 Regulations in order to minimise the effect of the changes to Child Tax Credits on Social Fund claimants and also enables the Department to continue the long-standing practice of linking postcodes to weather stations to determine eligibility, but removes the need for annual amendment to the 1988 Regulations without removing any transparency. In this context, no consultation was considered necessary.

5. Equality Impact

- 5.1. In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on these legislative proposals and has concluded that the proposals do not have significant implications for equality of opportunity. In light of this, the Department considers that an equality impact assessment is not necessary.

6. Regulatory Impact

- 6.1. These Regulations do not require a Regulatory Impact Assessment as they do not impose a cost on business, charities or voluntary bodies.

7. Financial Implications

- 7.1. Not Applicable

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied the Rule—
- (a) is not incompatible with any of the Convention rights;

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

9. EU Implications

9.1. Not applicable

10. Parity or Replicatory Measure

The corresponding Great Britain Regulations are the Social Fund Cold Weather Payments (General) (Amendment) Regulations 2016 and the Social Fund (Amendment) Regulations 2017. Parity of timing and substance is an integral part of the maintenance of single systems of social security, pensions and child support provided for in section 87 of the Northern Ireland Act 1998. It was, therefore necessary to make the Regulations during the period of interregnum to ensure that Social Fund Regulations are amended to take account of changes to Child Tax Credits and ensure any Northern Ireland claimants were not disadvantaged.

11. Additional Information

11.1. Not applicable