

EXPLANATORY MEMORANDUM TO
THE UNIVERSAL CREDIT (RESTRICTION ON AMOUNTS FOR CHILDREN AND
QUALIFYING YOUNG PERSONS) (TRANSITIONAL PROVISIONS)
(AMENDMENT) REGULATIONS (NORTHERN IRELAND)

2019 No. 3

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Communities (DfC) on behalf of the Department for Work and Pensions, and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments and the Secondary Legislation Scrutiny Committee.

2. Purpose of the instrument

The purpose of this instrument is to amend the [Universal Credit Regulations \(Northern Ireland\) 2016 \(S.R.2016 No. 216\)](#) and the [Universal Credit \(Transitional Provisions\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016 No. 226\)](#) to make provision for the payment of the child element in new claims for Universal Credit for all children born before 6 April 2017 (where entitlement exists). Payment in new claims was formerly introduced as an interim measure only, which was due to come to an end on 1 February 2019.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments and the Secondary Legislation Scrutiny Committee

- 3.1 This instrument makes corresponding changes to provisions in the Universal Credit (Restriction on Amounts for Children and Qualifying Young Persons) (Transitional Provisions) Amendment Regulations 2019, which were laid before both Houses on 11 January 2019. As such, it includes a coming into force date of 1 February 2019, which is necessary to make sure there is no gap between current legislation and the proposed changes, and that no claimants will lose out as a result of such a gap. This means that the current instrument breaches the 21 day rule. Given the positive impact of the instrument, and its protection of claimants the Government believes this breach is justified.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is Northern Ireland.
- 4.2 The territorial application of this instrument is Northern Ireland.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement regarding human rights is required.

6. Legislative Context

- 6.1 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.
- 6.2 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.
- 6.3 The [Welfare Reform Act 2012](#) (“the 2012 Act”) introduced a number of reforms which included the introduction of Universal Credit (UC), 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.
- 6.4 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 UC 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 UC.
- 6.5 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](#) 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. 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](#) was made on 9 December 2015 making provision corresponding to the 2012 Act. [The Welfare Reform and Work \(Northern Ireland\) Order 2016](#) was made on 12 October 2016 making provision corresponding to the social security provisions of the 2016 Act.
- 6.6 The UC Transitional Regulations NI made provision for the introduction of UC for new claims in Northern Ireland and the abolition of certain existing benefits. A series of Commencement Orders brought into force provisions relating to UC in specified postcodes and the abolition of income-related Employment and Support Allowance and income-based Jobseeker’s Allowance.
- 6.7 This instrument makes changes to the existing statutory instruments relating to Universal Credit: the Universal Credit Regulations (Northern Ireland) 2016; and the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016.

7. Policy background

What is being done and why?

- 7.1 Under the Welfare Reform and Work (Northern Ireland) Order 2016 a broad policy was established to provide support in Child Tax Credits and the Child Element of Universal Credit for a maximum of two children (with some exceptions). This was to ensure that parents in receipt of benefits faced the same financial choices when deciding to grow their family as those supporting themselves solely through work. This applied to claims for children born on or after 6 April 2017.
- 7.2 During an interim period following the introduction of the policy, new claims for families with three or more children were to be directed to Tax Credits and the child element in Universal Credit was to be paid for all children born before 6 April 2017. This interim period is due to come to an end on the 1 February 2019. On this date, the policy was to apply to all new claims to Universal Credit regardless of the date of birth of the child.
- 7.3 From 1 February 2019, new claims for families with three or more children will no longer be directed to Tax Credits and will, instead, be made to Universal Credit. As a result of the amendments made by this instrument, families with three or more children will continue to receive an additional amount in Universal Credit for all children born before 6 April 2017 (the date that the legislation relating to the policy to provide support for a maximum of two children came into force).

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 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: [SSPLD Blue Volumes](#).

10. Consultation outcome

- 10.1 No consultation was carried out prior to this policy change. This change is a beneficial change for families making new claims to Universal Credit with 3 or more children born before 6 April 2017.

11. Guidance

- 11.1 The appropriate guidance will be amended for staff and decision makers in advance of this instrument becoming operational.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies. Consequently, a Regulatory Impact Assessment has not been prepared for this instrument.

12.2 DfC has concluded that no benefit recipient with a protected characteristic will be adversely affected because there are no adverse or disproportionate negative impact on equality and the Decision Makers are content that the need to advance equality has been considered appropriately.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 DfC will continue to closely monitor Universal Credit and the operation of the regulations will continue to be reviewed through the normal avenues of guidance enquiries received from the DfC's offices and correspondence from members of the public.

15. Contact

15.1 Anne McCleary at the Department for Communities can be contacted with any queries regarding the instrument: Telephone: 028 90823332 or email: annemccleary@communities-ni.gov.uk .

15.2 Anne McCleary, Director of Social Security Policy and Legislation Division, at the Department for Communities can confirm that this Explanatory Memorandum meets the required standard.

15.3 Alok Sharma, MP - Minister of State for Employment at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.