

EXPLANATORY MEMORANDUM

THE HOUSING BENEFIT (Welfare Supplementary Payment) REGULATIONS (Northern Ireland) 2017

SR 2017 No. 35

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 Article 137A of the Welfare Reform (Northern Ireland) Order 2015 (“the Order”) and is subject to the draft affirmative resolution procedure.

2. Purpose

- 2.1 These Regulations introduce welfare supplementary payments to mitigate the impact on the calculations of Housing Benefit of the Social Sector Size Criteria under Regulations B14(2) of the Housing Benefit Regulations (Northern Ireland) 2006.

3. Background

- 3.1 The Regulations provide for payments referred to as welfare supplementary payments. Their introduction is based in measures brought forward by the Westminster Government including measures to change how Housing Benefit is calculated for working age claimants resident in the social rented sector. Adherence to normal parity provision for a single social security system for the whole of the UK will result in the introduction of similar provision in Northern Ireland from 20th February 2017. As a result working age Housing Benefit claimants resident in the social rented sector who occupy a larger property than their household size warrants will have their Housing Benefit entitlement reduced. The Northern Ireland Executive sought and agreed transitional protection for those impacted by the reform for a defined period until March 2020.
- 3.2 “A Fresh Start the Stormont Agreement and Implementation Plan” was agreed by the main political parties in Northern Ireland on 17 November 2015. This included agreement on the implementation of welfare reform in Northern Ireland. It also agreed that Professor Eileen Evason should lead a small working group to bring forward proposals for mitigating welfare reforms within an agreed financial envelope. The Executive agreed to implement the findings of the working group.
- 3.3 In its report the Welfare Reform Mitigations Working Group welcomed the Executive’s decision to provide full mitigation for the Social Sector Size Criteria. The Regulations provide for welfare supplementary payments to mitigate the impact of the criteria on calculations of housing benefit.

- 3.4 Regulation 1 makes provisions for the Regulations to come into operation on the 20th February 2017, the date on which the Social Sector Size Criteria will come into operation.
- 3.5 Regulation 2 makes provision for welfare supplementary payments to be paid to current and future working age Housing Benefit claimants whose award of Housing Benefit is reduced by the application of the Social Sector Size Criteria. To receive the welfare supplementary payment the claimant must be of working age, eligible for Housing Benefit, and resident in the social rented sector. Regulation 2 also provides that entitlement to a welfare supplementary payment will cease if the person moves within the social rented sector and continues to under-occupy to the same or a greater extent than before, unless the move happens because the person has Management Transfer status.
- 3.6 Regulation 3 makes provision for the amount of welfare supplementary payment to equal the difference between the amount of housing benefit to which the claimant would have been entitled were it not for the reduction by the application of the social sector size criteria and the amount to which that claimant is entitled after the reduction has been made. The welfare supplementary payment is to be made four weekly in arrears under Regulation 4, Regulation 5 provides that the payments will be made to the landlord or to the person concerned or, if some other person receives the housing benefit on his or her behalf, to that recipient.
- 3.7 Regulation 6 obliges the claimant who is entitled to the welfare supplementary payment to notify the Housing Executive and registered Housing Association of any change of circumstances which might affect entitlement. Regulation 7 makes provision to enable the sharing of information relating to housing benefit and welfare supplementary payments between the Department for Communities, the Northern Ireland Housing Executive and registered housing associations.
- 3.8 Regulation 8 sets out circumstances in which the Department is entitled to recover an overpayment of welfare supplementary payment. This includes where the overpayment results from a misrepresentation of, or failure to disclose, a material fact, from a failure to notify the Department of a relevant change of circumstances, from an error made by the Department and where the overpayment results from a welfare supplementary payment being made pending the outcome of an appeal against the award of Housing Benefit. Recovery of the overpayment may be made from the claimant's landlord, the claimant and the claimant's partner.
- 3.9 The methods by which recovery of an overpayment of welfare supplementary payment can be made are outlined in Regulation 9. These include, in order of preference, deduction from certain welfare supplementary payments, deduction from social security benefits, deduction from earnings and court action.

- 3.10 Regulations 10 to 13 provide the Department with powers to recover the overpayment of welfare supplementary payment in accordance with the methods outlined in Regulation 9.
- 3.11 A welfare supplementary payment is to be disregarded in the consideration of entitlement to social security benefits (Regulation 14).
- 3.12 Regulation 15 provides for reviewing a person’s entitlement to a welfare supplementary payment, and a decision to recover a payment of welfare supplementary payment.

4. Consultation

- 4.1 The working group set up under the leadership of Professor Evason has consulted widely on the Working Group’s report and the Department is implementing its recommendations.

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 proposals for these Regulations and concluded that they 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 impose only minimal costs on business, charities or voluntary bodies.

7. Financial Implications

- 7.1 The Welfare Reform Mitigation Working Group set aside £91 million to mitigate the impact of Social Sector Size Criteria.

Table (1): Funding Requirement

Year	2016/17	2017/18	2018/19	2019/20	Total
£million	15m*	24m	26m	26m	91m

*based on part year

Welfare supplementary payments for working age Housing Benefit claimants are based on offsetting the reduction in Housing Benefit entitlement as a result of the application of the Social Sector Size Criteria over the life of the Fresh Start Agreement to March 2020.

The Social Sector Size Criteria and mitigation project will also benefit from the £5million per annum set aside for the administration of the Welfare Reform Mitigation Schemes.

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 broadly compatible with the Convention rights,

(b) is broadly compatible 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

10.1 There is no equivalent provision being made for Great Britain.

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.