

EXPLANATORY MEMORANDUM

THE UNIVERSAL CREDIT (GREAT BRITAIN RECIPROCAL ARRANGEMENTS) REGULATIONS (NORTHERN IRELAND) 2020

S.R. 2020 No. 129

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 powers conferred by conferred by section 87(5) and (6) of the Northern Ireland Act 1998⁽¹⁾ and section 165(1) and (4) of the Social Security Administration (Northern Ireland) Act 1992 and is subject to the negative resolution procedure.

2. Purpose

- 2.1 These regulations give effect in Northern Ireland to reciprocal arrangements for Universal Credit between Great Britain and Northern Ireland. The intention of this is to extend existing arrangements that make provision for what is effectively a single system of social security for the whole of the United Kingdom, so that these arrangements also apply to Universal Credit.

3. Background

- 3.1 The reciprocal arrangements are designed to co-ordinate, to the extent agreed, the respective legislations; creating in effect, a single system of social security across the United Kingdom. They ensure that recipients of certain specified benefits do not experience a break in claim as a result of moving from one jurisdiction to the other and are entitled to benefits on the same basis as other people in the relevant jurisdiction.
- 3.2 The arrangements are made under section 87 of the Northern Ireland Act 1998. That Act was modified in 2016 to bring the Welfare Reform Act 2012 and the Welfare Reform (Northern Ireland) Order 2015, which introduced Universal Credit, within its scope. The Welfare Reform (Northern Ireland) Order 2015, was brought within the scope of section 87 by the Northern Ireland Act 1998 (Modification) Order 2016.
- 3.3 The new Memorandum takes account of the introduction of Universal Credit which was provided for in the Welfare Reform (Northern Ireland) Order 2015; this provided for the introduction of a new working age income-related social security benefit Universal Credit, and the abolition of income-based Jobseeker's Allowance, income-related Employment and Support Allowance, Income Support, Housing Benefit, Working Tax Credit and Child Tax Credit.

(1) 1998 c.47; section 87(6) was amended by Article 2 of the Northern Ireland Act 1998 (Modification) Order 2008 (S.I. 2008/ 1242) and Article 2 of the Northern Ireland Act 1998 (Modification) Order 2016 (S.I. 2016/ 160)

- 3.4 The Secretary of State and the Minister for Communities have agreed that Universal Credit should be covered by the reciprocal arrangements. These arrangements are given effect in Northern Ireland by regulations made by the Department under section 87(4) of the 1998 Act.
- 3.5 Responsibility for the arrangements lies with the Department for Communities and the Department for Work and Pensions. Section 87(2) of the Northern Ireland Act 1998 requires the consent of Treasury and the Department of Finance.
- 3.6 Reciprocal Arrangements exist for a number of other benefits, including Employment and Support Allowance, but do not yet cover Universal Credit. Universal Credit, which replaces six existing benefits including Employment and Support Allowance, was introduced in Northern Ireland incrementally, from 27 September 2017. Full implementation was completed throughout Northern Ireland in December 2018. Universal Credit was introduced in Great Britain from 2013.
- 3.7 People in receipt of Universal Credit who moved from Great Britain to Northern Ireland since 27 September 2017, have received extra-statutory payments to ensure that they did not have a shortfall in their award of Universal Credit.
- 3.8 The original intention was to introduce reciprocal arrangements for Universal Credit in 2017 to align with the roll out of Universal Credit in Northern Ireland. The suspension of the Northern Ireland Assembly from January 2017 meant that the regulations could not be introduced.
- 3.9 With the restoration of the Northern Ireland Assembly, we are making these regulations to give effect to the effective coordination of Universal Credit provision between Northern Ireland and Great Britain. Great Britain will introduce similar regulations in parallel.
- 3.10 The memorandum setting out the reciprocal arrangements is set out in the Schedule to the Regulations. When people move from Great Britain to Northern Ireland they will become subject to the Northern Ireland regulations and the same will apply in reverse. In effect reciprocal arrangements facilitate the movement of Universal Credit claimants by treating anything done in one jurisdiction as done in the other. This applies to:
- claims (so that a Universal Credit claimant moving to Northern Ireland from Great Britain would not have to make a new claim);
 - residence and presence (so a temporary absence in another jurisdiction will not be counted as going abroad);
 - decisions made by staff or tribunals (for example, so that a work capability assessment would not have to be repeated);
 - waiting times served.
- 3.11 The regulations themselves allow for the relevant Northern Ireland legislation to be read with appropriate adaptations. Cross reference in the Northern

Ireland legislation to other Northern Ireland legislation include the corresponding Great Britain legislation so, for example, a care leaver who had been in care under the Great Britain legislation would be counted as a care leaver in Northern Ireland.

- 3.12 These arrangements are especially important for claimants who have claimed Universal Credit on grounds of having a health condition or disability which impacts on their capability for work. Claimants who are determined by a Department for Communities' decision maker to have limited capability for work and work related activity are required to serve (with the exception of those who are terminally ill, as defined), a three month waiting period, known as the relevant period, before the additional amount of benefit awardable to those claimants becomes payable.
- 3.13 This legislation ensures that claimants who have served the relevant period in one jurisdiction will not be required to serve it again if they move to the other jurisdiction.

4. Consolidation

- 4.1 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: <https://www.communities-ni.gov.uk/services/law-relating-social-security>

5. Consultation

- 5.1 A consultation has not been carried out for these regulations, as they effectively extend the scope of existing arrangements to include Universal Credit.

6. Guidance

- 6.1 Departmental guidance will be available from 24 July 2020.

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 the proposals and concluded that the proposals do not have significant implications for equality of opportunity.

8. Regulatory Impact

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

9. Financial Implications

9.1 The Regulations are not expected to give rise to any significant cost.

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 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.

11. EU Implications

11.1 None.

12. Parity or Replicatory Measure

12.1 The corresponding Great Britain Regulations are the Universal Credit (Northern Ireland Reciprocal Arrangements) Regulations 2020 (S.I. 2020/677) and come into force on 24 July 2020. 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.