

EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (CORONAVIRUS) (FURTHER MEASURES)
REGULATIONS (NORTHERN IRELAND) 2020

SR 2020 No. 53

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.

2. Purpose of the instrument

- 2.1 The purpose of this instrument is, to make provision for those who are making a new claim for or have been awarded Universal Credit (UC), Jobseeker's Allowance (JSA) or Housing Benefit (HB) to provide additional support which helps both individuals and the wider economy weather the financial impacts arising from the Covid-19 outbreak.
- 2.2 The changes are also designed to ensure financial support continues for certain claimants during the pandemic i.e. claimants receiving JSA, UC and Carer's Allowance (CA) so they are not penalised for following Government advice.

3. Matters of special interest to Parliament

- 3.1 Matters of special interest to the Joint Committee on Statutory Instruments
- 3.2 These are emergency regulations in relation to the Government's response to Covid-19. These regulations will invoke the urgency provisions and will be made without first submitting to the Social Security Advisory Committee.
- 3.3 This SR will breach the 21day rule as it will come into force on the day after it is made. This is so increased financial support can be made available as quickly as possible to provide additional support to claimants who are making a new claim or have been awarded UC and HB in order to help them manage the economic impacts of the Coronavirus pandemic.
- 3.4 It will also provide that those receiving old style JSA and who are unable to meet conditions of entitlement because they are following Government advice remain eligible for JSA. The SR also prevents work search and work availability requirements being imposed on claimants of UC and new style JSA. It also enables those who have an award of CA to remain eligible even if they are unable to provide the necessary level of care.
- 3.5 The regulations will also make provision regarding any period of permitted sickness where JSA claimants are diagnosed with or self-isolating due to Covid-19. If this provision was not brought into force immediately then it is possible that such claimants would reach the maximum permitted periods of sickness and lose eligibility to JSA causing them to claim UC.

- 3.6 The Department is bringing the SR into force as soon as possible after it has been made and laid to ensure that it benefits as many people affected by Covid-19 as possible.
- 3.7 The impact of delaying the SR in order to comply with 21-day rule is that claimants will not receive the extra financial support made available to them and also face being penalised, if they are in receipt of certain benefits, for adhering to Government advice.
- 3.8 Regulations 2, 6, 7, 8 and 9 will expire by virtue of regulation 10, so the expiry date coincides with that of the Employment and Support Allowance and Universal Credit (Coronavirus) Regulations (Northern Ireland) 2020¹. This ensures these ‘Covid-related’ regulations are coordinated to end at the same time. As with these previous regulations, the current regulations also include an explicit requirement for the Secretary of State to keep the operation of the regulations under review. This commitment allows for flexibility in the current fast-changing environment.
- 3.9 The increase in the amount of the UC Standard Allowance and increasing the HB additional earnings disregard does not fall under regulation 10 as the amounts will only apply to the 2020/ 2021 tax year. As a result, they have an inbuilt end date. The increase in Local Housing Allowance (LHA) rates for private renters is also not subject to regulation 10. This is because the legislation is usually linked to the rent officer order which lasts a year and will need amendment in the Autumn for the year beginning April 2021.

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)

- 3.10 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 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 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 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 time.

¹ <http://www.legislation.gov.uk/nisr/2020/33/contents/made>

- 6.3 The Welfare Reform Act 2012 provides for the introduction of a new working age income-related social security benefit, UC, 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.
- 6.4 On 17th 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 implement 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 could then confer power on the Secretary of State or a Northern Ireland department to make further provision regarding these matters by regulation or order.
- 6.5 In line with the consent given by the Northern Ireland Assembly in relation to the 2015 Act, and with agreement of the Department for Communities in recognition of the urgency of the situation, the Department for Work and Pensions will be laying this instrument on behalf of Northern Ireland in order to deliver the changes equally across both Great Britain and Northern Ireland.
- 6.6 The instrument makes provision to cover a number of claimants groups who will be impacted by the Covid-19 pandemic. In some cases, this will mean providing extra financial support so claimants can ‘weather’ the wider economic effects and for others ensure they are not penalised for following Government advice.

7. Policy background

What is being done and why?

- 7.1 As part of the Government’s strategy of supporting people affected by Covid-19, the below changes are being made:
- a. temporarily increasing the UC Standard Allowances for the 20-21 tax year to provide extra financial support during the pandemic. The new UC Standard Allowance rates are detailed below in **Table 1**.

Table 1

	2019-20 rates	Previous 2020-21 rates	New 2020-21 rates
	per month	per month	per month
UC Standard Allowance			
Single claimant, under 25	£251.77	£256.05	£342.72
Single claimant, 25+	£317.82	£323.22	£409.89
Couple, both under 25	£395.20	£401.92	£488.59

Couple, at least one 25+	£498.89	£507.37	£594.04
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- b. relaxing the application of the Minimum Income Floor² (MIF) for all self-employed UC claimants affected by the economic impact of Covid-19 for the duration of the outbreak. This goes further than the previous Budget announcement to temporarily relax the MIF only for claimants who are sick or self-isolating in line with government Covid-19 guidance. It ensures that the self-employed are supported by the benefit system so that they can follow the Regional Agency for Public Health and Social Well-being guidance on social distancing and self-isolation. However, current UC entitlement rules for example, relating to capital and unearned income will still apply;
- c. providing increased support to renters for the fiscal year 2020-21 by increasing LHA rates (including Shared Accommodation Rates) for private renters claiming the UC Housing Costs Element or HB, to the 30th percentile. Rates will be set in line with the 30th percentile of market rents in a local area for each bedroom size up to a maximum of four bedrooms. National caps will still apply and will be based on the maximum LHA rate for outer London, plus an additional 20%. This increase to LHA rates will provide additional financial support for housing costs;
- d. providing that work search and work availability requirements must not be imposed on claimants receiving UC or contribution-based JSA and treating those in receipt of income-based JSA as being available for work and actively seeking work so that they do not lose entitlement to JSA. This will initially be for three months but will be reviewed and may be extended by the Secretary of State if the easement is still required;
- e. excluding any periods where a person is infected, self-isolating or caring for a child who is infected or self-isolating from the calculation of the maximum permitted number of sickness periods applicable to a person whilst in receipt of legacy JSA and/ or new-style (contributory) JSA. Currently, claimants awarded JSA can have:
- two short periods of sickness of up to 2 weeks in any jobseeking period, within each successive 12-month period, if their jobseeking period lasts longer than 12 months, or
 - a third or longer period of sickness of up to 13 weeks in a fixed 12-month period starting from the first date of their sickness.
- before losing entitlement to JSA. By effectively disapplying these provisions it means that no one will lose entitlement to JSA because of COVID-19;
- f. treat a person who is in receipt of Carer's Allowance and has only temporarily ceased providing care for the severely disabled person because either they or the cared for person are infected with Covid-19 or self-isolating, as continuing to meet the conditions. Where an alternative carer claims benefit for providing the necessary care and meets the qualifying conditions, they will receive the carer

² The MIF is an assumed level of income that is designed to encourage individuals to increase their earnings by developing their self-employment. It is determined by multiplying the number of hours' claimants can reasonably be expected to work or be looking for work by the relevant national minimum wage or National Living Wage for their age, minus notional income tax and National Insurance contributions that would be payable on actual earnings at that level, to produce a net figure.

benefit instead and the original carer will be advised to claim another benefit, such as UC;

- g. increasing the HB additional earnings disregard from £17.10 to £37.10 per week to ensure that the increase in the maximum rate of the basic element of Working Tax Credit (WTC) of approximately £20 per week is not clawed back where a person claims or is entitled to HB – the change will also apply to persons who are not entitled to WTC but who comply with certain conditions with respect to minimum hours of work as set out in the regulations relating to HB.
- h. modifying provision contained in The Employment and Support Allowance and Universal Credit (Coronavirus Disease) Regulations 2020 so that UC claimants who have Covid-19, are in isolation or who are looking after a child/qualifying young person who is infected or in isolation will not automatically be treated as having Limited Capability for Work.

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 As this is a temporary measure consolidation is not being undertaken.

10. Consultation outcome

- 10.1 Given the urgency of these Regulations, no consultation has been undertaken.

11. Guidance

- 11.1 Guidance will be issued to DfC staff urgently to reflect the changes in this instrument.

12. Impact

- 12.1 This change does not negatively impact claimants. A full Impact Assessment has not been produced for this instrument as no, or no significant, impact on business, or the private, voluntary or public sector, is foreseen.
- 12.2 UC claimants will benefit straight away from the increase to the UC Standard Allowance, as well as new claimants who become unemployed or whose earnings or work hours decrease because of the outbreak. This additional increase means claimants will be up to £1,040 better off.

13. Regulating small business

- 13.1 The legislation may apply to small business, where they are self-employed and come to UC, as outlined above. However, the changes are beneficial for claimants.

14. Monitoring & review

- 14.1 DfC is firmly committed to evaluating and monitoring the impact of its policies. To this DfC will constantly consider whether further changes are required in line with CMO guidance while the Covid-19 outbreak continues.

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 Thérèse Coffey, Secretary of State at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.