

EXPLANATORY MEMORANDUM TO
THE HOUSING BENEFIT AND UNIVERSAL CREDIT (SANCTUARY SCHEMES)
(AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2021

S.R. 2021 No. 248

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. This Statutory Rule is made under sections 122(1)(d), 129A(2) and (4) and 171(1) and (3) to (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and Articles 16(4) and 48(1) of the Welfare Reform (Northern Ireland) Order 2015 and is subject to the negative resolution procedure.

2. Purpose

2.1. This Rule introduces an exception to the maximum housing support available to Housing Benefit and Universal Credit claimants in the social rented sector whose home has been adapted under a sanctuary scheme. Those who qualify for the exception will not have a deduction applied to their housing support if they are under-occupying their home.

3. Legislative Context

3.1. The Housing Benefit Regulations (Northern Ireland) 2006 (S.R. 2006 No. 405) and Universal Credit Regulations (Northern Ireland) 2016 (S.R. 2016 No. 216) each set out the circumstances in which housing support is reduced for claimants in the social rented sector who are considered to under-occupy their home, amongst other things, it incentivises claimants to downsize. Claimants who have a shortfall between their housing support and their housing costs can apply for a discretionary housing payment from the Northern Ireland Housing Executive.

3.2. In *JD & A v UK* the European Court of Human Rights found that the availability of discretionary housing payments did not remove the conflict between the housing support reduction which incentivises claimants to move and sanctuary schemes which support victims to remain safely in their own home.

3.3. This Rule amends both sets of regulations to remove the conflict between the policies

4. Background

4.1. Since 2017 the maximum amount of housing support available to working age claimants living in the social rented sector has been reduced where the household is deemed to under-occupy the property. Based on the number of bedrooms in a claimant's property and details of people resident, size criteria are used to assess whether a claimant is under-occupying their accommodation. Where a claimant is deemed to be under-occupying, a reduction of 14% if there is one spare bedroom and 25% if there are two or more is applied to the eligible rent.

4.2. The policy was introduced as part of the welfare reforms to contain rising benefit expenditure, encourage mobility within the social rented sector, strengthen work-incentives and make better use of available social housing.

4.3. Claimants who have been supported to remain in their home by the installation of security measures under a sanctuary scheme, would previously have had a deduction applied to their claim if they were under-occupying a social rented sector tenancy. If they needed further financial support to cover their housing costs and enable them to remain in their home, they could apply for a discretionary housing payment from the Northern Ireland Housing Executive.

Why is it being changed?

4.4. The incentive to move created by the reduction in housing support where the property is under-occupied conflicts with the intention of the sanctuary scheme to support victims of domestic abuse to safely remain in their home, should they wish to. The amendments in this Rule remove that conflict, providing housing support based on the full eligible rent to support those in need of the security of a sanctuary scheme to remain in their home.

What will it now do?

4.5. From 1 October 2021, subject to qualifying criteria, claimants whose home has had additional security installed under a sanctuary scheme will be exempt from a deduction in housing support which would otherwise apply due to them under-occupying a social rented sector property. The qualifying criteria are that:

- the claimant lives in the social rented sector in a property which has had additional security installed under a sanctuary scheme due to an ongoing threat of domestic abuse against a member of the household,
- the perpetrator of the abuse does not live at the property - except where they are a qualifying young person who is a dependent of a member of the household,
- the claimant provides written evidence from a person acting in an official capacity that the victim's circumstances are consistent with those of a person who has had domestic violence inflicted upon or threatened against them and the victim has made contact with the person acting in an official capacity in relation to such an incident.

5. Consultation

5.1 There is no requirement to consult on these Regulations.

6. Equality Impact

6.1. In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department conducted a screening exercise and concluded that the changes did not have any significant implications for equality of opportunity. In light of this, the Department considered that an equality impact assessment was not necessary.

7. Regulatory Impact

7.1. The proposed Rule does not require a Regulatory Impact Assessment as it does not impose any new costs on business, charities or voluntary bodies or on the public sector.

8. Financial Implications

8.1. None for the Department.

9. Section 24 of the Northern Ireland Act 1998

9.1. The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied that 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.

10. EU Implications

10.1. Not applicable.

11. Parity or Replicatory Measure

11.1. These Regulations are equivalent to Domestic Abuse Support (Relevant Accommodation and Housing Benefit and Universal Credit Sanctuary Schemes) (Amendment) Regulations 2021 in Great Britain which come into force on 1st October 2021.

12. Additional Information

12.1. Guidance will be issued to Department for Communities staff prior to this Statutory Rule becoming operational.