

**EXPLANATORY MEMORANDUM TO**  
**THE SOCIAL SECURITY BENEFITS (CLAIMS AND PAYMENTS)**  
**(AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2023**

**S.R. 2023 No. 67**

**1. Introduction**

- 1.1 This Explanatory Memorandum has been prepared by the Department for Communities (DfC) to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under sections 5(1)(q) and 165(1), (4) and (6) of the Social Security Administration (Northern Ireland) Act 1992<sup>1</sup> and is subject to the negative resolution procedure.

**2. Purpose**

- 2.1 This Rule makes amendments to the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987<sup>2</sup> (S.R. 1987 No. 465) and the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2016<sup>3</sup> (S.R. 2016 No. 220).
- 2.2 These Regulations follow a temporary policy change, meaning that applications for ongoing consumption payments or increases of existing payments must be made by the claimant, rather than the energy supplier doing so. These Regulations ensure that a new request for deductions in relation to ongoing consumption of fuel or an increase to an existing deduction can only be made with the claimant's consent.
- 2.3 This instrument will introduce permanent changes to the process for requesting deductions from benefit for ongoing consumption payments from 10th May 2023. It will require new requests, or requests for increased deductions, to be made by energy suppliers and such deductions will only be made with the claimant's consent.

**3. Background**

- 3.1 On 4th April 2022, the Department for Work and Pensions (DWP) introduced temporary regulations<sup>4</sup> (S.I. 2022/428) in response to the Energy Cap Price Rise in Great Britain (GB) to make a short-term modification to the operation of Third-Party Deduction (TPD) Scheme in relation to deductions for 'ongoing consumption' in regard to energy costs.
- 3.2 The TPD scheme is intended as a last resort measure to protect vulnerable people on low income from eviction or disconnection of their electricity or gas supply, avoiding adverse health or welfare impacts.
- 3.3 While DfC did not replicate the temporary legislation made by DWP at the time, the Department did bring forward minor changes to the TPD process and engaged with

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<sup>1</sup> [Social Security Administration \(Northern Ireland\) Act 1992 \(legislation.gov.uk\)](https://legislation.gov.uk)

<sup>2</sup> [The Social Security \(Claims and Payments\) Regulations \(Northern Ireland\) 1987 \(legislation.gov.uk\)](https://legislation.gov.uk)

<sup>3</sup> [The Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance \(Claims and Payments\) Regulations \(Northern Ireland\) 2016 \(legislation.gov.uk\)](https://legislation.gov.uk)

<sup>4</sup> [The Social Security Benefits \(Claims and Payments\) \(Modification\) Regulations 2022 \(legislation.gov.uk\)](https://legislation.gov.uk)

energy providers to ensure that consent is sought from their customer before applying to DfC for a deduction to be taken from benefit. This was also reflected in the application forms used by DfC for TPD's and any associated guidance.

- 3.4 Under current legislation, any energy provider in Northern Ireland can apply to become a TPD Scheme member. The TPD Scheme is utilised by energy providers only once they have exhausted all other means of securing repayment from claimants. There is an expectation that this condition is met before they apply to the scheme and are required to provide an assurance to DfC that this is the case.
- 3.5 Given the increase in energy prices a new approach to deduction requests will be introduced providing more control to claimants.
- 3.6 DWP has since introduced The Social Security Benefits (Claims and Payments) (Amendment) Regulations 2023 to effect a permanent change to the process.
- 3.7 DfC now intends to introduce corresponding regulations, the Social Security Benefits (Claims and Payments) (Amendment Regulations (Northern Ireland) 2023, to amend The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 and The Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations (Northern Ireland) 2016 to ensure parity across the UK by introducing similar provisions.

#### **4. Consultation**

- 4.1 As the Regulations make, in relation to Northern Ireland, only provision corresponding to provision contained in Regulations made by the Secretary of State for Work and Pensions in relation to GB consultation with the Social Security Advisory Committee was not required.
- 4.2 A public consultation is not required as these Regulations merely implement a permanent legislative amendment to reflect a previously agreed policy change.

#### **5. Equality Impact**

- 5.1 In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has considered a screening exercise on the legislative proposals for these Regulations and has 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 The proposed Rule does not apply to activities that are undertaken by small businesses. A Regulatory Impact Assessment has not been prepared for this Rule as there is no, or no significant, impact on business, charities or voluntary bodies or on the public sector.

#### **7. Financial Implications**

- 7.1 None for the Department.

#### **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 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.

## **9. EU Implications**

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

## **10. Parity or Replicatory Measure**

- 10.1 The corresponding Great Britain provisions are the Social Security Benefits (Claims and Payments) (Amendment) Regulations 2023 (S.I. 2023/232) which were laid on 1st March 2023 and came into force on 1st April 2023. DfC were unable to make the regulations in the same timeframe due to a delay in notification from DWP of their intention to make regulations. However, as DfC had already made changes to the policy and process with regard to consent we are now replicating the supporting regulations.

## **11. Additional Information**

- 11.1 Internal guidance for staff at the Department for Communities will be updated to take account of these changes.