

EXPLANATORY MEMORANDUM TO
THE UNIVERSAL CREDIT (TRANSITIONAL PROVISIONS) (AMENDMENT)
REGULATIONS (NORTHERN IRELAND) 2024

S.R. 2024 No. 5

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.

2. Purpose

- 2.1 This Statutory Rule amends the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 (S.R. 2016 No. 226) to provide additional amounts of transitional protection to eligible claimants who move from a legacy benefit to Universal Credit (UC) and are entitled to the transitional severe disability premium (SDP) element (tSDPe).
- 2.2 The Regulations make provision for new claimants, who commence their Universal Credit award on or after the date the regulations come into operation, to receive the additional amount with their Universal Credit award.

3. Background and detail

- 3.1 The Universal Credit (Transitional Provisions) (SDP Gateway) (Amendment) Regulations (Northern Ireland) 2019 (S.R. 2019 No. 2) introduced the severe disability premium (SDP) Gateway. The SDP Gateway prevented recipients of the SDP from claiming Universal Credit (UC). The Universal Credit (Managed Migration and Miscellaneous Amendments) Regulations (Northern Ireland) 2019 (S.R. 2019 No. 152) added provision to the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 to provide for the planned migration of all existing benefits claimants to Universal Credit (UC). These Regulations also introduced the transitional severe disability premium (SDP) amount for claimants entitled to SDP as part of their legacy award who had already moved to UC, following a change in their circumstances (known as natural migration). These payment provisions provided transitional support to these claimants in acknowledgement of the decrease in financial award they would have experienced moving to UC prior to the introduction of the SDP gateway.
- 3.2 The Universal Credit (Transitional Provisions) (Claimants previously entitled to a severe disability premium) (Amendment) Regulations (Northern Ireland) 2021 further amended Schedule 2 of the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016. This amendment also provided a transitional SDP element tSDPe to a member of a couple where the other member was entitled to an award of income support, income-based jobseeker's allowance or income-related employment and support allowance.
- 3.3 The Universal Credit (Transitional Provisions) (Amendment) Regulations (Northern Ireland) 2024 will make provision for additional amounts to be added to the tSDPe for claimants, who move to UC following a change in their circumstances, in respect of

the difference in monies paid between the legacy benefits and their UC award in respect of enhanced disability premium, disability premium and the difference between the disabled child premium / disabled child element and the lower rate of the disabled child addition in UC.

- 3.4 The new total amount of tSDPe will continue to be treated as a transitional element and will be subject to erosion and termination associated with transitional protection as described in the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016.

Policy Background

What is being done and why?

- 3.5 In a High Court judgment that was handed down in January 2022, the Judge decided that there is differential treatment between SDP recipients who have naturally migrated to UC and those who remain on legacy benefits. This was either because their change of circumstances did not trigger a new claim for benefit, or because they experienced their change of circumstances when the SDP Gateway was in place (between 16th January 2019 and 27th January 2021), preventing them claiming UC. The Judge found that this difference was not justified.
- 3.6 The judgment did not order the Government to take any action, however in response the UK Government decided to amend The Universal Credit (Transitional Provisions) Regulations 2014. In the interest of maintaining parity with Great Britain the Department for Communities has decided to amend The Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016.
- 3.7 The amendments to the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 make provision to introduce additional amounts for claimants who:
- are entitled to a transitional severe disability premium element (tSDPe) (or a transitional SDP amount) in UC and
 - were previously entitled in the month preceding their claim to Universal Credit (UC) and continue to satisfy the eligibility conditions up to and including the first day of their UC award, to one or more of the following:
 - enhanced disability premium (EDP)
 - disability premium (DP)
 - disabled child premium (DCP) or the disabled child element (DCE) and are now receiving the lower rate disabled child addition (DCA) in Universal Credit (UC).
- 3.8 The monthly additional amount added to the transitional severe disability premium (SDP) element (tSDPe) will broadly reflect the value of the EDP and DP premiums that a claimant was entitled to prior to them naturally migrating to UC.
- 3.9 The additional monthly rates will be (for 2023/2024):
- Enhanced Disability Premium – single rate £84; couple rate £120
 - Disability Premium – single rate £172; couple rate £246

- Disabled Child Addition (lower rate) - £177 for each eligible child or qualifying young person.
- 3.10 For those claimants who have disabled children and were previously entitled to the DCP or the DCE and are now entitled to the lower rate DCA in UC, the additional amount added to the tSDPe will broadly reflect the difference between the DCP/DCE and the lower rate DCA.
- 3.11 The Universal Credit (Transitional Provisions) (Amendment) Regulations (Northern Ireland) 2024 will require claimants to be eligible for the relevant premiums at the start of their UC award, as it is a condition of eligibility for the additional amounts that had the claimant still been on existing benefits, those premiums would not have ceased.
- 3.12 The additional amount will be added to the claimant's tSDPe and in line with the existing transitional protection rules covered under the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 the new amount will be subject to erosion and will end where UC claimants form a couple or separate from their partner or where entitlement to UC ends.

4. Consultation

- 4.1 There is no requirement to consult on these Regulations.

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 the legislative proposals. The Department has concluded that the proposals would not have significant implications for equality of opportunity although, they would impact positively on those claimants with dependents. The Department considers that an Equality Impact Assessment is not necessary.

6. Regulatory Impact

- 6.1 There is no impact on business, charities or voluntary bodies or on the public sector.

7. Financial Implications

- 7.1 None anticipated.

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 complies with that provision.

9. EU Implications

- 9.1 Not Applicable.

10. Parity or Replicatory Measure

- 10.1 These Regulations are equivalent to Universal Credit (Transitional Provisions) (Amendment) Regulations 2023 (2023/1238) in Great Britain which come into force on 14th February 2024.

11. Additional Information

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