

EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (CORONAVIRUS) (PRISONERS) REGULATIONS 2020

2020 No. 409

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by the 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 individuals on temporary release from a prison in England and Wales due to the outbreak of COVID-19 in Great Britain to access means tested benefits during the period of that release.
- 2.2 The benefits affected are Universal Credit, State Pension Credit, Income Support, income based Jobseeker's Allowance, income related Employment and Support Allowance, and Housing Benefit.
- 2.3 This change provides the same financial support to these prisoners, while on temporary release, as other comparable claimants to these benefits, which helps both individuals and the wider economy weather the financial impacts arising from the Covid-19 outbreak.
- 2.4 The changes are also designed to support measures taken by the Ministry of Justice to allow prison governors, on behalf of the Secretary of State, to release certain prisoners temporarily to help manage the incidence or transmission of coronavirus and to facilitate the effective running of prisons and young offender institutions for this purpose.
- 2.5 Justice is devolved in Scotland, where prisoners are being released under different powers, which mean that these means tested benefits can be paid to them without amending the reference to temporary release pursuant to powers of the Scottish Ministers in this instrument.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 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.
- 3.2 This SI will breach the 21-day rule as it will come into force on the day after it is made. This is so financial support can be made available as quickly as possible to prisoners on temporary release who are making a new claim or are part of a household that has been awarded the above means tested benefits.
- 3.3 The Department is bringing the SI into force as soon as possible after it has been made and laid to ensure that it benefits prisoners on temporary release as soon as possible.

- 3.4 The impact of delaying the SI in order to comply with the 21-day rule is that these prisoners will not receive the financial support they require while on temporary release.
- 3.5 Regulations 2, 3, 4 and 5 will expire by virtue of regulation 6, so the expiry date coincides with that of the Employment and Support Allowance and Universal Credit (Coronavirus disease) Regulations 2020¹ and the Social Security (Coronavirus) (Further Measures) Regulations 2020². 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.

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)

- 3.6 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 Great Britain.
- 4.2 The territorial application of this instrument is Great Britain.

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 The instrument makes provision regarding prisoners on temporary release who will be impacted by the Covid-19 pandemic. This means allowing them to claim financial support so they can provide for themselves and their families while out of prison.

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 Ministry of Justice has made provision for the urgent temporary release of prisoners, where necessary, to allow for the safe running of the prison estate. This instrument responds to that, by removing restrictions which otherwise prevent prisoners on temporary release from claiming means tested benefits.

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.

¹ <http://www.legislation.gov.uk/uksi/2020/289/contents/made>

² <http://www.legislation.gov.uk/uksi/2020/371/contents/made>

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 DWP staff urgently to reflect the changes in the statutory 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 It is estimated that some 4060 prisoners on temporary release will potentially benefit from this measure.

12.3 An Impact Assessment has not been prepared for this instrument because no impact on business is foreseen.

13. Regulating small business

13.1 The legislation should not apply to small business and are beneficial for claimants.

14. Monitoring & review

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

15. Contact

15.1 Angus Kidd at the Department for Work and Pensions Telephone: 0114 204 1763 or email: angus.kidd@dwp.gsi.gov.uk can be contacted with any queries regarding the instrument.

15.2 Kerstin Parker at the Department for Work and Pensions 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.