

**EXPLANATORY MEMORANDUM TO**  
**THE WELFARE SUPPLEMENTARY PAYMENT (AMENDMENT) REGULATIONS**  
**(NORTHERN IRELAND) 2022**

**S.R.2022 NO. [XXXX]**

**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 The Statutory Rule is made under Articles 137(5) and 137A(9) of the Welfare Reform (Northern Ireland) Order 2015 (“the Order”) and is subject to the draft affirmative procedure.

**2. Purpose**

- 2.1 The Statutory Rule will amend the Welfare Supplementary Payments Regulations (Northern Ireland) 2016 and the Housing Benefit (Welfare Supplementary Payment) Regulations (Northern Ireland) 2017.
- 2.2 The purpose of these regulations is to amend the welfare mitigation schemes available to people affected by the Benefit Cap and the Social Sector Size Criteria policy (commonly known as the “bedroom tax”). The amendments will remove some of the existing restrictions on entitlement and provide that all families with children who are affected by the Benefit Cap will be eligible for a welfare supplementary payment equivalent to the loss of benefit. Similarly, any person affected by the Social Sector Size Criteria policy will be eligible for a welfare supplementary payment.
- 2.3 The regulations will restore entitlement to welfare supplementary payments to people who previously had their payments ended provided they satisfy the amended eligibility criteria. If a person is receiving a welfare supplementary payment that is less than the loss of benefit resulting from the application of the Benefit Cap they will become entitled to an increase in welfare supplementary payment from the date the regulations come into operation.
- 2.4 There will be no retrospective entitlement to a re-instated or increased welfare supplementary payment for any date before the regulations come into operation.

**3. Background**

- 3.1 The earlier regulations provide for welfare supplementary payments, which are intended to provide financial support for people affected by specified changes to the welfare system brought forward by the Westminster Government. Their introduction was designed to address the impact of the Benefit Cap, which currently acts to restrict the total benefits paid to families with children to £384.62 per week (£20,000 per year) and the introduction of the Social Sector Size Criteria policy, which uses the number of bedrooms deemed necessary for a household when determining entitlement to Housing Benefit for people in the social rented sector.
- 3.2 As introduced the welfare mitigation scheme for people affected by the Social Sector Size Criteria places restrictions on people that move property and continue to under-occupy by at least the same number of bedrooms. There can currently be no further

entitlement to a welfare supplementary payment. There is an exception to this policy where the move has been allocated “Management Transfer Status” by the Northern Ireland Housing Executive or a registered Housing Association. As at 31 March 2020 306 people had their entitlement ended as a result of this policy. The regulations will remove this restriction on entitlement. This will mean that those people who previously lost their welfare supplementary payment due to this restriction will ‘requalify’ for a welfare supplementary payment if they satisfy the eligibility criteria.

- 3.3 The existing regulations restrict entitlement to a Benefit Cap welfare supplementary payment to families with children who have been in continuous receipt of a relevant social security benefit from 6 November 2016, which is the date the £20,000 per year Benefit Cap was introduced. Under the existing policy the maximum amount of a welfare supplementary payment is equal to the amount by which a family has their benefit capped on the first occasion. The value of payments decrease in line with relevant changes of circumstances but do not increase and once entitlement is ended it cannot restart.
- 3.4 As at August 2021 640 families with children were affected by the Benefit Cap and were not eligible for a welfare supplementary payment. The regulations will remove these restrictions on entitlement and provide that all families with children will receive a welfare supplementary payment equivalent to the amount by which their benefit has been capped. This means that (i) there will be no restriction on the number of times a person can qualify for a Benefit Cap mitigation payment and (ii) those who previously had a change in circumstances that resulted in a reduction of their mitigation payment will requalify for a payment equivalent to their full loss of benefit from the date the regulations comes into operation.

#### **4. Consultation**

- 4.1 The regulations will amend the existing welfare mitigation schemes for the Benefit Cap and Social Sector Size Criteria policies. As it is considered that these are positive changes that will enable provision of increased support to the most vulnerable in society no consultation has taken place on the proposed Rule.

#### **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 proposals in these regulations and concluded that they would 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 These regulations do not require a Regulatory Impact Assessment as they impose only minimal costs on business, charities or voluntary bodies.

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

- 7.1 The figures in the table below represent the estimated expenditure on welfare supplementary payments for the Benefit Cap and the Social Sector Size Criteria policies. These figures include the estimated additional costs associated with the changes to the mitigation schemes.

Administration and IT system costs over the three years for all mitigation measures are estimated to be £15.1m

2022/23	2023/24	2024/25
£28.693m	£29.632m	£30.451m

## **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 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 Not applicable

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

- 10.1 There is no equivalent provision being made for Great Britain. On 17 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 Northern Ireland Executive and HM Government to implementing welfare reform in Northern Ireland. The funding and legislation for this ended on 31 March 2020.
- 10.2 The extension of the schemes beyond this date was included in the New Decade, New Approach Deal as a commitment of the Northern Ireland Executive when the Northern Ireland Assembly returned in January 2020.