

EXPLANATORY MEMORANDUM

THE SOCIAL SECURITY (RECOVERY) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2012

S.R. 2012 No. 108

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department for Social Development (“the Department”) to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Rule is made under sections 69(6)(a) and (8), and 73(1), (4) and (5) and 165(1) and (4) of the Social Security Administration (Northern Ireland) Act 1992 and is subject to the negative resolution procedure.

2. Purpose

- 2.1 The Rule makes changes to regulations concerning the calculation of a recoverable overpayment, increases the maximum deduction which can be made from benefits to recover an overpayment which has arisen as a result of fraud and aligns rules for rounding in the calculation of the maximum deduction.

3. Background

- 3.1 Legislation provides for a reduction in the amount of a recoverable overpayment by the additional amount of income-related benefit that would have been payable to a claimant had all the facts about their claim been known and the correct amount of benefit had been paid. In these circumstances any notional amount which may have been due can be offset against the overpayment thus reducing the amount to be recovered.
- 3.2 This currently applies where separate claims have been made for an income-related and non income-related benefit by the person who has been overpaid and creates an anomaly between those cases where a person is in receipt of both benefits and those where separate claims are made by members of a couple. The amendment addresses this anomaly so that the reduction in an overpayment will also apply in cases where an income-related benefit is payable to partners.
- 3.3 The Regulations also increase the maximum deduction from benefit which can be made to recover an overpayment where the overpayment is associated with an offence for which the claimant has been prosecuted, or has admitted guilt under caution or accepted an administrative penalty. At present the maximum deduction is £13.60 a week. The Regulations increase this to £17.00 and align the rules for calculating the maximum amount which may be deducted to ensure consistency in all cases.

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 Great Britain consultation with the Social Security Advisory Committee is not required.

5. Equality Impact

5.1 In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department conducted a screening exercise on proposals for these Regulations and has concluded that they do not have significant implications for equality of opportunity. In light of this, the Department considered that an equality impact assessment was not necessary.

5. Regulatory Impact

6.1 This Order does not require a Regulatory Impact Assessment as it does not impose a cost on business, charities or voluntary bodies.

7. Financial Implications

7.1 None.

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 The corresponding Great Britain Regulations are the Social Security (Recovery) (Amendment) Regulations 2012 and come into force on 1 April 2012. Parity of timing and substance is an integral part of the maintenance of single systems of social security, pensions and child support provided for in section 87 of the Northern Ireland Act 1998.