

EXPLANATORY MEMORANDUM

THE SOCIAL SECURITY (MISCELLANEOUS AMENDMENTS) REGULATIONS (NORTHERN IRELAND) 2014

S.R. 2014 No. 105

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department for Social Development to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under powers conferred by the Social Security Contributions and Benefits (Northern Ireland) Act 1992, the Social Security Administration (Northern Ireland) Act 1992, the Jobseekers (Northern Ireland) Order 1995, the State Pension Credit Act (Northern Ireland) 2002 and the Welfare Reform Act (Northern Ireland) 2007 and is subject to the negative resolution procedure.

2. Purpose

- 2.1 The Statutory Rule makes miscellaneous amendments and minor changes to the Regulations relating to income-related benefits and other relevant social security regulations. These amendments will correct and update existing legislative provisions with the intention of maintaining, clarifying or restoring their original policy intention. This Statutory Rule will amend the Income-related Benefit Regulations namely:
 - the Income Support (General) Regulations (Northern Ireland) 1987;
 - the Jobseeker's Allowance Regulations (Northern Ireland) 1996;
 - the State Pension Credit Regulations (Northern Ireland) 2003;
 - the Housing Benefit Regulations (Northern Ireland) 2006;
 - the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006; and
 - the Employment and Support Allowance Regulations (Northern Ireland) 2008.
- 2.2 The Regulations will also make amendments to:
 - the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987.

3. Background

- 3.1 The main purpose of these regulations is to correct, clarify, align or update various pieces of social security legislation (listed at paragraph 2.1 and 2.2). The background and reasons for these amendments are further explained below at paragraphs 3.2 to 3.8.

Service User Group change

- 3.2 The definition of ‘service user group’ is omitted from the Income Support (General) Regulations (Northern Ireland) 1987, the Jobseeker’s Allowance Regulations (Northern Ireland) 1996, the State Pension Credit Regulations (Northern Ireland) 2002, the Housing Benefit Regulations (Northern Ireland) 2006, and the Housing Benefit (persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006 and is replaced with the revised definition of a person participating as a service user. As a consequence, further amendments are made to other legislative provisions within these Regulations to replace the wording of ‘a claimant participating in a service user group’ with ‘a claimant participating as a service user’.
- 3.3 These amendments provide clarification of existing provisions in line with the original policy intention. It also signals that carers who are paid expenses etc or any other sum because the person they care for participates as a service user, is covered by the provisions. This resolves a degree of confusion concerning this group of people.

Telephone claims for Winter Fuel Payment

- 3.4 The majority of Winter Fuel Payments (WFP) are made automatically because entitlement can be established from benefit records. However, there are some people who need to make a claim for their WFP. Currently claim forms can be downloaded from the internet or can be sent to people who request them, but the system is paper-based, and there is no provision in current legislation for telephone claims for WFPs. Although there is power in section 5(1)(a) Social Security Administration (Northern Ireland) Act 1992 to provide for a claim to be made by telephone, WFP is not currently one of the benefits specified in regulation 4 of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987.
- 3.5 Amendments are therefore being made to regulation 4 of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 with the policy intention of allowing WFP claims to be made by telephone and to make this the initial option for claiming. There will be no change to the paper-based methods of claiming which will remain easily accessible. If a person does not want to make a telephone claim, a claim form can still be downloaded, or a paper claim form will be issued.

Owner occupier housing costs Standard Interest Rate

- 3.6 Support for Mortgage Interest (SMI), which is paid as part of Income Support, income-based Jobseeker's Allowance, income-related Employment and Support Allowance and State Pension Credit provides help towards eligible mortgage interest payments which helps people maintain their existing, reasonable mortgage commitments so they can remain in their homes. For mortgage interest support, a person's eligible mortgage interest is calculated using a standard interest rate (SIR).
- 3.7 The existing SIR of 3.63% is based on the Average Mortgage Rate (AMR) published by the Bank of England in August 2010. The intention is that any subsequent changes to the SIR will only occur when the AMR differs by 0.5 percentage points or more from the SIR. This means that the current SIR of 3.63% will be adjusted only when the AMR either increases to 4.13%, or reduces to 3.13%.
- 3.8 However, the legislation as currently drafted refers to a difference of 0.5% or more from the SIR, rather than 0.5 percentage points.¹ Therefore, if the SIR was adjusted when the AMR differed by 0.5% the SIR would need to be changed when the AMR either increased to 3.65%, or reduced to 3.61%. Amendments are therefore made to the relevant Regulations in order to provide clarity that the SIR will only be adjusted when the Bank of England published AMR goes up or down by at least 0.5 percentage points from the current SIR.

4. Consultation

- 4.1 The Social Security Advisory Committee was consulted and agreed that it did not require the proposals for these Regulations to be formally referred.

5. Equality Impact

- 5.1 The changes proposed do not provide a new benefit or service but correct, clarify, align or update various pieces of social security legislation.
- 5.2 In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on these legislative proposals and has concluded that the proposals do not have significant implications for equality of opportunity. In light of this, the Department considers that an equality impact assessment is not necessary.

¹ The figure of 0.5% differs in meaning from 0.5 percentage points because a percentage change refers to a relative change, whereas a percentage point change is the arithmetic difference between two percentages.

6. Regulatory Impact

- 6.1 These Regulations do not require a Regulatory Impact Assessment as they do not impose any new costs on business, charities or voluntary bodies.

7. Financial Implications

- 7.1 There are no significant costs to the Department to implement these proposals.

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 main corresponding Great Britain Regulations are the Social Security (Miscellaneous Amendments) Regulations 2014 (S.I. 2014/591).
- 10.2 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.