

EXPLANATORY MEMORANDUM TO

**THE UNIVERSAL CREDIT (MISCELLANEOUS AMENDMENTS AND
TRANSITIONAL AND SAVINGS PROVISIONS) REGULATIONS (NORTHERN
IRELAND) 2017**

2017 No. 146

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Communities (Northern Ireland) on behalf of the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 This instrument amends the Universal Credit Regulations (Northern Ireland) 2016 ([S.R.2016 No. 216](#)) (“the Universal Credit Regulations”) and other secondary legislation in order to remove references to the Universal Credit limited capability for work element which will not be included in awards of Universal Credit when it is introduced in Northern Ireland in September 2017. The Employment and Support Allowance (Consequential Amendments and Transitional and Savings Provisions) Regulations (Northern Ireland) 2017 ([S.R.2017 No. 51](#)) (“the 2017 ESA Consequential Regulations”) have already made similar provision to remove references to the work-related activity component from Employment and Support Allowance from 3 April 2017 except for certain claimants who are transitionally protected.
- 2.2 This instrument also sets out certain circumstances in which claimants who were entitled to the work-related activity component of Employment and Support Allowance before 3 April 2017 and who are protected under the 2017 ESA Consequential Regulations will be awarded the limited capability for work element when they claim or are transferred to Universal Credit.
- 2.3 Additionally, it amends the Universal Credit Regulations 2016 to require work coaches to take into account the child care responsibilities of responsible carers when setting an individual’s work-related requirements.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As these Regulations are subject to negative resolution procedure and have not been prayed against consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 Section 87 of the [Northern Ireland Act 1998](#) (“the 1998 Act”) places a statutory duty on the Minister for Communities and the Secretary of State for Work and Pensions to

consult with one another with a view to securing a single social security system for the United Kingdom. Section 88 of the 1998 Act makes provision for financial adjustments to support the maintenance of these parity arrangements.

- 4.2 Underpinning the parity principle is the argument that, as people in Northern Ireland pay the same rates of income tax and National Insurance contributions as people in Great Britain, they are entitled to the same rights and benefits paid at the same rate.
- 4.3 The [Welfare Reform Act 2012](#) (“the 2012 Act”) introduced a number of reforms which included the introduction of Universal Credit, Personal Independence Payment and a cap on the amount of benefits working age people can receive. This was to restrict the total amount of money a non-working household can receive to broadly the level of the average earned income of working households after tax and national insurance contributions are deducted.
- 4.4 The [Welfare Reform and Work Act 2016](#) (“the 2016 Act”) provided for the introduction of further reforms in Great Britain, including tiered reductions to the level of the benefit cap depending on where in Great Britain claimants lived, changes to the child element of Universal Credit and Child Tax Credits and the removal of the work-related activity component in Employment and Support Allowance and the Limited Capability for Work element in Universal Credit.
- 4.5 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 Executive and HM Government to implementing welfare reform in Northern Ireland. [The Northern Ireland \(Welfare Reform\) Act 2015](#) provides a power for Her Majesty to legislate on social security, child support and certain matters related to employment and training in Northern Ireland by Order in Council. Any such Order in Council may then confer power on the Secretary of State or a Northern Ireland department to make further provision regarding these matters by regulations or order. [The Welfare Reform \(Northern Ireland\) Order 2015](#) (“the 2015 Order”) was made on 9 December 2015 making provision corresponding to the 2012 Act. [The Welfare Reform and Work \(Northern Ireland\) Order 2016](#) (“the 2016 Order”) was made on 12th October 2016 making provision corresponding to the social security provisions of the 2016 Act, and regulations stemming from the 2016 Order are now being brought forward.
- 4.6 In order to maintain parity, these regulations implement for Northern Ireland the changes brought about for Universal Credit only in the equivalent GB regulations, The Employment and Support Allowance and Universal Credit (Miscellaneous Amendments and Transitional and Savings Provisions) Regulations 2017 ([S.I.2017/204](#)) which came into force on 3 April 2017. Similar provision has already been made in Northern Ireland for Employment and Support Allowance in the 2017 ESA Consequential Regulations.

5. Extent and Territorial Application

- 5.1 The extent of these Regulations is Northern Ireland.
- 5.2 The territorial application of these Regulations is Northern Ireland.

6. European Convention on Human Rights

- 6.1 As these Regulations are subject to negative resolution procedure and do not amend primary legislation no statement is required.

7. Policy background

What is being done and why

- 7.1 The Government in the Summer Budget 2015 announced reforms to provide greater incentives to help claimants return to work and support the Government's commitment to halve the disability employment gap.

Universal Credit limited capability for work element and Employment and Support Allowance

- 7.2 These Regulations make amendments in connection with the 2016 Order to remove references to the limited capability for work element from Universal Credit and other secondary legislation. These Regulations are intended to provide the right incentives and support to enable those who have limited capability, but some potential for work, to move closer to the labour market and when they are ready, back into work. Aligning the rate of benefit paid in respect of new claims for Universal Credit on the grounds of having limited capability for work, with the standard rate paid to claimants who are capable for work will remove the financial disincentives that could otherwise discourage claimants from taking steps back to work.
- 7.3 When Universal Credit is introduced in Northern Ireland claimants assessed as having limited capability for work will not receive the limited capability for work element. Similar changes have already been made to remove the work-related activity component from Employment and Support Allowance in the 2017 ESA Consequential Regulations.
- 7.4 These Regulations also set out the circumstances in which some claimants will be protected. This includes claimants:
- who were receiving the Employment and Support Allowance work-related activity component immediately before 3 April 2017 and who continued to continuously receive Employment and Support Allowance up to the date of claim for Universal Credit;
 - who have made or are treated as having made a claim for Employment and Support Allowance before 3 April 2017 but who are awaiting an assessment on their capability for work or work-related activity
 - who have claimed Employment and Support Allowance prior to 3 April 2017 and have requested a mandatory reconsideration, or have appealed a decision, that they are fit for work and as a result are found to have limited capability for work.

Consequential amendments

- 7.5 These Regulations also make a number of consequential amendments to secondary legislation that arise due to the removal of the limited capability for work element. The policy intention is that new claimants will continue to benefit from such provisions in the same way as existing claimants despite no longer receiving the additional element. These references relate to the eligibility criteria for help such as housing costs and student support. Entitlement for these will be based on whether or not a claimant has limited capability for work rather than receipt of the Universal Credit limited capability for work element.

Parental conditionality

- 7.6 The Government is committed to ensuring that all households are able to participate fully in society. Providing additional support for parents to move into work and conditionality requiring them to engage with it enables them to take financial responsibility for themselves and their children. The changes are intended to provide a safeguard to ensure that parents with a child below compulsory school age have requirements set as part of their benefit conditionality which take into consideration their caring responsibilities.

Consolidation

- 7.7 Informal consolidated text of instruments is available to the public free of charge via ‘the National Archive’ website legislation.gov.uk.

8. Consultation outcome

- 8.1 As this is a consequence of wider welfare reforms the Department for Communities has not consulted on it specifically. The Department consulted extensively about the implications of those wider reforms as part of the Welfare Reform Bill.

9. Guidance

- 9.1 The appropriate guidance will be amended for staff and decision makers in advance of this instrument becoming operational.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 The impact on the public sector is negligible. There will be minor costs relating to changes in guidance for Departmental staff.
- 10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

- 12.1 The operation of the Regulations will continue to be reviewed through the normal avenues of guidance enquiries received from the Department’s offices and correspondence from members of the public
- 12.2 Northern Ireland social security legislation normally retains parity with changes made by the Department for Work and Pensions.

13. Contact

- 13.1 Anne McCleary at the Department for Communities Telephone: 028 90823332 or email: anne.mccleary@communities-ni.gov.uk can answer any queries regarding the instrument.