

EXPLANATORY MEMORANDUM TO
THE UNIVERSAL CREDIT (MISCELLANEOUS AMENDMENTS) REGULATIONS
(NORTHERN IRELAND) 2020

SR 2020 No. 107

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Communities (DfC) 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 The Universal Credit (Miscellaneous Amendments) Regulations (Northern Ireland) 2020 make the following amendments to:

- ensure that care provided for a child in Northern Ireland by a home-based childcare provider approved by a Health and Social Care Trust in Northern Ireland can be treated as “relevant childcare”.
- allow the Universal Credit childcare element to be awarded where care is provided outside Northern Ireland by a childcare provider accredited by the Secretary of State, or by a childcare provider who has been approved or accredited under the legislation of the relevant state and where proof of that accreditation or approval is provided to the Department for Communities by the claimant
- allow full regulatory cover to use the Landlord Portal to verify changes to housing costs with landlords. The Landlord Portal is an online tool which enables landlords to verify rent values for tenants who claim support for housing costs in Universal Credit.
- make it clear that the earnings threshold, for the purpose of the benefit cap grace period, is to be calculated using the national living wage as at the beginning of each month or assessment period (an assessment period for Universal Credit is a period of one month) in which the claimant was working. For households where the benefit cap is applied through Universal Credit there can be a period of 9 months, known as a grace period, during which time their benefit may not be capped.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

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)

3.2 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 Northern Ireland.
- 4.2 The territorial application of this instrument is Northern Ireland.

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 Section 87 of the [Northern Ireland Act 1998](#) (“the 1998 Act”) places a statutory duty on the Minister for Communities and 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.
- 6.2 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 time.
- 6.3 The Welfare Reform Act 2012¹ provided for the introduction of a new working age income-related social security benefit, UC, and the abolition of income-based Jobseeker’s Allowance, income-related Employment and Support Allowance, Income Support, Housing Benefit, Working Tax Credit and Child Tax Credit.
- 6.4 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](#) provided a time-limited 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 could 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](#) was made on 9 December 2015 making provision corresponding to the 2012 Act. [The Welfare Reform and Work \(Northern Ireland\) Order 2016](#) was made on 12 October 2016 making provision corresponding to the social security provisions of the Welfare Reform and Work Act 2016.
- 6.5 In line with the consent given by the Northern Ireland Assembly in relation to the 2015 Act, and with agreement of the Department for Communities, the Department for Work and Pensions will be laying this instrument on behalf of Northern Ireland in order to deliver the changes equally across both Great Britain and Northern Ireland.
- 6.6 This SR makes amendments to the Universal Credit Regulations (Northern Ireland) 2016 (“the UC Regulations”) to ensure that care provided for a child in Northern Ireland by a home-based childcare provider approved by a Health and Social Care Trust in Northern Ireland can be treated as “relevant childcare”. It also allows the Universal Credit childcare element to be awarded where care is provided outside Northern Ireland by a childcare provider who is either accredited by the Secretary of State, or approved,

¹ <http://www.legislation.gov.uk/ukpga/2012/5/contents>

or accredited under the legislation of the relevant state. It also amends the UC Regulations to ensure claimants benefit from a history of sustained employment and that the benefit cap is not applied.

- 6.7 This SR also makes amendments to the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations (Northern Ireland) 2016 to improve efficiency and accuracy in calculating Universal Credit housing costs by enabling those costs to be verified by landlords where circumstances change.

7. Policy background

What is being done and why?

Relevant childcare

- 7.1 Where a person claims Universal Credit which includes the childcare element, the element can only be awarded where there is “relevant childcare”, for example, the childcare provider must be approved by or registered with a relevant authority. Regulation 37 is amended in order that “relevant childcare” provided for a child in Northern Ireland now includes a home based childcare provider approved by a Health and Social Care Trust in Northern Ireland.
- 7.2 A further amendment also allows the Universal Credit childcare costs element to be awarded if where registered childcare is provided outside Northern Ireland by a provider accredited by the Secretary of State. If a person is a Crown servant, for example a civil servant or a member of the armed forces posted overseas, they may receive the childcare costs element for their childcare costs where the overseas childcare provider who provides the care is accredited by the Secretary of State.
- 7.3 In other cases where claimants seek care from a childcare provider outside Northern Ireland, this amendment ensures that the childcare costs element of Universal Credit can be awarded where such care is provided by a childcare provider who is approved or accredited under the legislation of the relevant state, where proof of the approval of accreditation is provided to the Department for Communities.

Benefit Cap

- 7.4 The Benefit Cap is a limit on the total amount of benefit working age claimants can receive. The national limit per year which applies in Northern Ireland is £20,000 for couples and lone parents and £13,400 for single people. For households where the benefit cap is applied through Universal Credit there can be a period of 9 months, known as a grace period, during which time their benefit may not be capped. A grace period can be applied where the household earnings are at least a certain amount, this is known as the benefit cap earnings threshold. To qualify for a grace period, the household earnings must have been at least the relevant earnings threshold for the previous 12 months/assessment periods.
- 7.5 The benefit cap earnings threshold is calculated using the national living wage set out in regulation 4 of the National Minimum Wage Regulations 2015².

²<http://www.legislation.gov.uk/ukxi/2015/621/introduction/made>

- 7.6 As the amount of the national living wage changes each year this amendment will ensure that the correct amount of national living wage, relating to the time when the work was undertaken, is used to calculate whether a grace period applies.
- 7.7 Part of this amendment is also to remove reference to the £430 amount that is now no longer relevant.
- 7.8 As this amendment clarifies amendments made in 2017 and removes redundant references, this statutory instrument is being issued free of charge to all known recipients of the Universal Credit (Benefit Cap Earnings Exception) (Amendment) (Northern Ireland) Regulations 2017 (S.I. 2017/145)³.

Landlord Portal

- 7.9 These amendments provide for the Department to request, and landlords to provide, evidence regarding a claimant's housing costs where a change of circumstances has occurred.
- 7.10 This is done through the Landlord Portal. The Landlord Portal is an online tool which enables landlords to verify rent values for tenants who claim support for housing costs in Universal Credit.
- 7.11 The amendment replicates the data sharing powers for new claims and will provide a more efficient way of verifying a claimant's changes of circumstances in relation to housing costs, improving accuracy and helping to ensure that the claimant receives the correct entitlement as promptly as possible.

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.

9. Consolidation

- 9.1 This instrument will be informally consolidated in the Law relating to Social Security (Northern Ireland) or ("Blue Volumes"). It will be available to the public at no cost via the internet at: <https://www.communities-ni.gov.uk/services/law-relating-social-security> .

10. Consultation outcome

- 10.1 The Department for Work and Pensions presented the GB draft Regulations to the Social Security Advisory Committee (SSAC) on 8th April 2020. The Committee did not take the Regulations on formal reference.

11. Guidance

- 11.1 Guidance is being updated to support DfC staff and will be published on the Department's website.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

³ <http://www.legislation.gov.uk/nisr/2017/145/contents/made>

- 12.2 There is no significant impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because our assessment on business for using the landlord portal to report changes of circumstances is that it will have a positive impact on the claimant, and a net positive financial impact on Social Rented Sector landlords which is estimated to be under £5m.
- 12.4 Landlords' general view was that a poor customer journey in Universal Credit negatively impacts the landlord. The landlord portal was designed using feedback from stakeholders including external Social Rented Sector landlords. The intention of the landlord portal is to streamline reporting of information for Social Rented Sector landlords, and superseded reporting by email and regular post which was less secure, and less automated. We believe the measure will be a saving because the expanded use of the landlord portal continues to improve the claimant journey.
- 12.5 A change of circumstance will be a relatively rare event for Social Rented Sector claimants as any change of circumstance, in the absence of a new claim, will primarily be due to a change of address or an annual rent change. Most such claimants will therefore only be subject to one such change per year.

13. Regulating small business

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

14. Monitoring & review

- 14.1 There are no plans to formally review the impacts of these amendments.
- 14.2 The regulation does not include a statutory review.

15. Contact

- 15.1 Anne McCleary at the Department for Communities. Telephone: 02890 839332 or email: anne.mccleary@communities-ni.gov.uk can answer any queries regarding the instrument.
- 15.2 Anne McCleary, Director of Social Security Policy, Legislation and Decision Making Services, at the Department for Communities can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Will Quince, Minister for Welfare Delivery, at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.