

EXPLANATORY MEMORANDUM TO

THE UNIVERSAL CREDIT (PERSONS WHO HAVE ATTAINED STATE PENSION CREDIT QUALIFYING AGE) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2020

SR 2020 No. 119

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 Entitlement to Universal Credit ends when a single person or younger member of a mixed-age couple (where one partner is below and the other above pension age) reaches State Pension Credit qualifying age. At this point, claimants can make a claim to pension age income related benefits. This instrument improves the claimant journey as they move between these two benefit systems. The instrument also provides for the other scenarios when claimants over pension age are required to move between working age and pension age benefits. This is when a mixed-age couple forms, separates or suffers a bereavement.

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 territorial 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 2012*¹ 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 2016 Act.
- 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 instrument follows through on a commitment made by the Secretary of State for Work and Pensions in a [Written Ministerial Statement](#) dated 5 March 2020 and included in the March 2020 Budget.

7. Policy background

What is being done and why?

- 7.1 Entitlement to Universal Credit ends when a single person or younger member of a mixed-age couple reaches State Pension Credit qualifying age. From that age, claimants can claim pension age income-related benefits.
- 7.2 Currently, legislation provides for a part-month payment of Universal Credit to cover the period from the start of the monthly assessment period until the day State Pension Credit qualifying age is reached. This is subject to an advance claim to State Pension Credit being made.
- 7.3 To improve the current process, this instrument provides an alternative, which is available to all claimants (not just those who have made an advance claim to State Pension Credit) and is in line with the whole month approach essential to the overall design and policy of Universal Credit.

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

- 7.4 The new measure is more generous to claimants than the part month payment currently provided for in legislation.
- 7.5 The claimant will receive a payment of Universal Credit for the entire monthly assessment period in which State Pension Credit qualifying age is reached, so in effect there is a run-on of Universal Credit past that age, helping to smooth the transition between working age and pension age benefits. For a mixed-age couple this will apply when the younger partner reaches State Pension Credit qualifying age.
- 7.6 Entitlement to State Pension Credit, pension age Housing Benefit and State Pension remain unaffected and can start from the usual date that entitlement begins.
- 7.7 This final payment of Universal Credit will not be taken into account when calculating awards of State Pension Credit or pension age Housing Benefit. Nor will any payment of State Pension Credit or pension age Housing Benefit be taken into account in the calculation of the final Universal Credit payment.
- 7.8 The run-on provided for by this instrument will affect approximately 6,600 people in Northern Ireland over the next five years who will benefit by an average of £350 from this run-on payment compared to the current process in legislation.
- 7.9 The instrument also ensures for a smooth transition in the other scenarios when claimants of pension age are required to move between working age and pension age benefits.
- 7.10 When a pension age partner forms a mixed-age couple with a working age partner, the provisions allow a similar run-on of the older partner's pension age benefits into the period of the couple's joint Universal Credit entitlement.
- 7.11 When a mixed-age couple separates or suffers a bereavement, the instrument ensures the pension age partner can claim pension age benefits from when they lose Universal Credit entitlement.

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 13 May 2020. The Committee did not take the Regulations on formal reference.

11. Guidance

- 11.1 Official guidance for Universal Credit and State Pension Credit will be published both internally and on the Department's website in time for the legislation coming into operation.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 Funding was agreed with Treasury at the March 2020 Budget to cover any impact on the Department from this measure. There is no significant impact on the wider public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because there is no impact on business.
- 12.4 The Department has concluded that no benefit recipient with a protected characteristic will be adversely affected by these amendments. The new measure is more generous to claimants than the part month payment currently provided for in legislation.

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 If issues arise in its operation the Department will evaluate and take appropriate action.
- 14.3 The regulation does not include a statutory review clause.

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.