

EXPLANATORY MEMORANDUM TO

THE UNIVERSAL CREDIT (MANAGED MIGRATION AND MISCELLANEOUS AMENDMENTS) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2020

2020 No. 165

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 the Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 The purpose of this instrument is to correct a defect in regulation 4 of the Universal Credit (Managed Migration and Miscellaneous Amendments) Regulations (Northern Ireland) 2019¹ (“the 2019 Regulations”). These regulations intended to introduce, from 22nd July 2020, a two-week run-on of Income Support (IS), income-based Jobseeker’s Allowance (JSA(IB)) and income-related Employment and Support Allowance (ESA(IR)) for those whose awards of those benefits terminate as a result of their claim for Universal Credit (UC).
- 2.2 This run-on is intended to be achieved in respect of JSA(IB) or ESA(IR) by delaying, by two weeks, the date on which the awards of those benefits are abolished in these circumstances. However, we have identified that regulation 4 of the 2019 Regulations abolishes awards of JSA(IB) or ESA(IR) on the last day of the proposed run-on period rather than on the day after the last day of the run-on period.
- 2.3 The effect is that the period of the run-on for JSA(IB) or ESA(IR) is currently limited to a maximum of 13 days, rather than 14 days as intended. This amendment corrects the error and thereby restores the original policy intent as clearly set out to Parliament. Given that the fourteenth day after 22nd July 2020 (inclusive) is 4th August 2020, the current amendment on that date ensures that there is statutory authority to pay benefit for the full period of the run-on for JSA(IB) and ESA(IR) claimants.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 To ensure that there is statutory authority to pay all claimants for the full period of the run-on, as originally intended, these Regulations invoke the urgency provisions.
- 3.2 This rule will breach the 21-day rule as it will come into force on 4th August 2020.
- 3.3 The instrument is being made at the first opportunity following recognition of the defect it is correcting, which came to light upon the coming into force of the relevant provision on 22nd July 2020. It is being laid without delay, on the day of being made.

¹ <https://www.legislation.gov.uk/nisr/2019/152/contents/made>

- 3.4 The Department is bringing the instrument into force on 4th August 2020, the day on which the run-on currently provided for would otherwise end, thereby extending it for all claimants to the originally intended 14 days. The impact of delaying the coming into force of the instrument in order to comply with the 21-day rule would be that claimants whose claim to UC preceded correction of the defect by more than 14 days would lose one day's statutory entitlement to JSA(IB) or ESA(IR).

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)

- 3.5 As the rule 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 rule is Northern Ireland
- 4.2 The territorial application of this instrument is Northern Ireland

5. European Convention on Human Rights

- 5.1 As the rule is subject to negative resolution procedure and does not amend primary legislation no statement is required.

6. Legislative Context

- 6.1 The rule makes an amendment to regulation 4 of the Universal Credit (Managed Migration and Miscellaneous Amendments) Regulations (Northern Ireland) 2019 to restore the original policy intent and ensure that the two-week run-on of IS, JSA(IB) and ESA(IR) for those whose awards of those benefits terminate as a result of their claim for UC is paid for 14 days as intended.
- 6.2 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, to the extent agreed between them, a single social security system for the United Kingdom. Though certain aspects of social security were devolved to the Scottish Government under the Scotland Act 2016, the Minister for Communities and the Secretary of State for Work and Pensions continue to work together in order to ensure parity between the benefit system in Northern Ireland and those benefits which are reserved in Great Britain, or in England and Wales. Section 88 of the 1998 Act makes provision for financial adjustments to support the maintenance of these parity arrangements.
- 6.3 The [Welfare Reform Act 2012](#) provided, amongst other things, for the introduction of Universal Credit (UC) and Personal Independence Payments (PIP).
- 6.4 The [Welfare Reform and Work Act 2016](#) made further provision in connection with social security, including amendments in relation to the benefit cap, employment and support allowance, and universal credit. It also introduced loans for mortgage interest.
- 6.5 On 17th 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 9th December 2015 making provision corresponding to the Welfare Reform Act 2012. [The Welfare Reform and Work \(Northern Ireland\) Order 2016](#) was made on 12th October 2016 making provision corresponding to the social security provisions of the Welfare Reform and Work Act 2016.

- 6.6 In line with the consent given by the Northern Ireland Assembly in relation to the 2015 Act, and with the agreement of the Department for Communities, the Department for Work and Pensions is laying this instrument on behalf of Northern Ireland in order to deliver the changes equally across both Great Britain and Northern Ireland.

7. Policy background

What is being done and why?

- 7.1 This amendment corrects a defect in the 2019 Regulations in relation to the two-week run-on of JSA(IB) and ESA(IR) to restore the original policy intent.
- 7.2 The run-on was first introduced on 22nd July 2020. The fourteenth day after 22nd July (inclusive) is 4th August 2020. As this coincides with the coming-into-force date of the current amendment, this means that there is appropriate statutory authority to pay all claimant for the full period of the run-on for JSA(IB) and ESA(IR).

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 As this corrects an error in the original regulations to restore policy intent, consolidation is not being undertaken.

10. Consultation outcome

- 10.1 Given the urgency of these regulations, no consultation has been undertaken

11. Guidance

12. Guidance for DfC will not change, as this measure restores policy intent which is already reflected in guidance

13. Impact

- 13.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 13.2 There is no, or no significant, impact on the public sector.

13.3 An Impact Assessment has not been prepared for this instrument because there is no significant impact on business, or the private, voluntary or public sector.

14. Regulating small business

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

15. Monitoring & review

15.1 There are no plans to review the impacts of this regulation as it corrects a defect in the Universal Credit (Managed Migration and Miscellaneous Amendments) Regulations (Northern Ireland) 2019.

16. Contact

16.1 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.

16.2 John Ward at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.

16.3 Thérèse Coffey, Secretary of State at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.