

EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (CORONAVIRUS) (PRISONERS) REGULATIONS
(NORTHERN IRELAND) 2020

SR 2020 No. 63

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 make provision for those individuals on temporary release from prison due to the outbreak of COVID-19 in Northern Ireland to access means tested benefits during the period of that release.
- 2.2 The benefits affected are Universal Credit, State Pension Credit, Income Support, income based Jobseeker's Allowance, Employment and Support Allowance, and Housing Benefit.
- 2.3 This change provides the same financial support to these prisoners, while on temporary release, as other comparable claimants to these benefits, which helps both individuals and the wider economy weather the financial impacts arising from the Covid-19 outbreak.
- 2.4 The changes are also designed to support measures taken by the Department of Justice through the Prison and Young Offenders Centre Rules (Northern Ireland) 1995 to allow prison governors, on behalf of the Department of Justice, to release certain prisoners temporarily to help manage the incidence or transmission of coronavirus and to facilitate the effective running of prisons and young offender institutions for this purpose.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 These are emergency regulations in relation to the Government's response to Covid-19. These regulations will invoke the urgency provisions.
- 3.2 This SR will breach the 21day rule as it will come into force on the day after it is made. This is so financial support can be made available as quickly as possible to prisoners on temporary release who are making a new claim or have been awarded the above means tested benefits.
- 3.3 The Department is bringing the SR into force as soon as possible after it has been made and laid to ensure that it benefits as many prisoners on temporary release as soon as possible.

- 3.4 The impact of delaying the SR in order to comply with 21-day rule is that these prisoners will not receive the financial support they require while on temporary release.
- 3.5 Regulations 2, 3, 4 and 5 will expire by virtue of regulation 6, so the expiry date coincides with that of the Employment and Support Allowance and Universal Credit (Coronavirus) Regulations (Northern Ireland) 2020¹ and the Social Security (Coronavirus) (Further Measures) Regulations (Northern Ireland) 2020². This ensures these ‘Covid-related’ regulations are coordinated to end at the same time. As with these previous regulations, the current regulations also include an explicit requirement for the Secretary of State to keep the operation of the regulations under review. This commitment, allows for flexibility in the current fast-changing environment.

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)

- 3.6 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 provides 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 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

¹ <http://www.legislation.gov.uk/nisr/2020/33/contents/made>

² <http://www.legislation.gov.uk/nisr/2020/53/contents/made>

Government to implement 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 regulation or order.

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 in recognition of the urgency of the situation, 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 The instrument makes provision to cover prisoners on temporary release who will be impacted by the Covid-19 pandemic. This means allowing them to claim financial support so they can provide for themselves and their families while out of prison.

7. Policy background

What is being done and why?

7.1 As part of the Government's strategy of supporting people affected by Covid-19, the Department of Justice has made provision for the urgent temporary release of prisoners, where necessary, to allow for the safe running of the prison estate. This corresponds to that, by removing restrictions which otherwise prevent prisoners on temporary release from claiming means tested benefits.

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)

9. Consolidation

9.1 As this is a temporary measure consolidation is not being undertaken.

10. Consultation outcome

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

11. Guidance

11.1 Guidance will be issued to Department for Communities (DfC) staff urgently to reflect the changes in the statutory instrument.

12. Impact

12.1 This change does not negatively impact claimants. A full Impact Assessment has not been produced for this instrument as no, or no significant, impact on business, or the private, voluntary or public sector, is foreseen.

12.2 It is estimated that some 160 prisoners on temporary release will potentially benefit from this measure.

12.3 An Impact Assessment has not been prepared for this instrument because because no impact on business is foreseen.

13. Regulating small business

13.1 The legislation should not apply to small business and are beneficial for claimants.

14. Monitoring & review

14.1 DfC is firmly committed to evaluating and monitoring the impact of its policies. To do this the Department will constantly consider whether further changes are required in line with CMO guidance while the Covid-19 outbreak continues.

15. Contact

15.1 Anne McCleary at the Department for Communities can be contacted with any queries regarding the instrument: Telephone: 028 90823332 or email: annemccleary@communities-ni.gov.uk.

15.2 Anne McCleary, Director of Social Security Policy and Legislation Division, at the Department for Communities can confirm that this Explanatory Memorandum meets the required standard.

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