

**EXPLANATORY MEMORANDUM TO**  
**THE UNIVERSAL CREDIT (TRANSITIONAL PROVISIONS) (CLAIMANTS**  
**PREVIOUSLY ENTITLED TO A SEVERE DISABILITY PREMIUM)**  
**(AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2021**

**S.R. 2021 NO. 2**

**1. Introduction**

- 1.1 This Explanatory Memorandum has been prepared by the Department for Communities to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under Articles 9(2) and 48(1) and (2) and paragraphs 1(1) and 4(1) and (2)(d) of Schedule 6 to the Welfare Reform (Northern Ireland) Order 2015, and is subject to the negative resolution procedure.

**2. Purpose**

- 2.1 Legacy benefits are being replaced by Universal Credit (UC) and the two systems are structured differently from each other. Legacy benefits include a Severe Disability Premium (SDP) which is not directly replicated in UC. The gateway which prevents people in receipt of the SDP in legacy benefits from making a new claim to UC is being removed on 27<sup>th</sup> January 2021 and from this date this group of people will be able to make new claims to UC. To help with the financial transition to UC, previous SDP claimants will be eligible to be considered for a transitional SDP element. This Statutory Rule provides the criteria for these payments. In addition, the Rule outlines how this payment will be treated in a claimant's UC award.

**3. Background**

- 3.1 The Universal Credit (Managed Migration and Miscellaneous Amendments) Regulations (Northern Ireland) 2019 (S.R. 2019 No. 152(the 2019 Regulations)) provide for the removal of the SDP gateway on 27<sup>th</sup> January 2021. The SDP gateway prevents people receiving SDP from making a new claim to UC. Once the gateway is removed, people in receipt of SDP will be able to make new claims to UC.
- 3.2 The 2019 Regulations also introduced a SDP transitional payment for claimants entitled to SDP as part of their legacy award who had already moved to UC before the gateway came into effect on 16<sup>th</sup> January 2019 and for others who moved after that date but who were subsequently awarded SDP retrospectively. These payment provisions came into effect from 22<sup>nd</sup> July 2019. This was intended to provide transitional support to these claimants in acknowledgement of the decrease in financial award they would have experienced moving to UC prior to the introduction of the SDP gateway.
- 3.3 This Statutory Rule broadly maintains the principles of the 2019 Regulations providing for the award of SDP transitional payments to those people entitled to SDP before the SDP gateway came into effect. For these people, awards of SDP transitional payments were made as an ongoing monthly payment with arrears

payable as a lump sum to the date the claimant moved to UC. Once the gateway is removed, previous SDP recipients will be able to make new claims to UC and therefore regulations need amending to allow for these payments to be made at the time of UC claim, rather than as a retrospective award as the 2019 regulations provided.

- 3.4 The SDP transitional payment, an additional amount of UC, was initially paid separately from a claimant's UC award. From the 8<sup>th</sup> October 2020 these payments have been converted to a transitional SDP element and paid as part of an individual's UC award. This Statutory Rule refers to this payment as a transitional SDP element.
- 3.5 Eligibility for the transitional SDP element remains broadly the same as is set out for SDP transitional payments in the 2019 Regulations. However, this Statutory Rule widens eligibility to the transitional SDP element to both ex partners following a couple separation where SDP had been included in the legacy benefit award.
- 3.6 When a SDP recipient has a change of circumstances which prompts them to make a new UC claim, they can come into scope for the transitional SDP element. If they have no change of circumstances to prompt a new UC claim, they will remain on legacy benefits until the Department requests them to move to UC as part of the Department's managed migration process. In this situation, the claimant will be considered for the Transitional Element. This Statutory Rule prevents someone awarded the Transitional Element from receiving a transitional SDP element.

#### **4. Consultation**

- 4.1 There is no requirement to consult on these regulations.

#### **5. Equality Impact**

- 5.1 In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department conducted a screening exercise and concluded that the changes did not have any significant implications for equality of opportunity. In light of this, the Department considered that an equality impact assessment was not necessary.

#### **6. Regulatory Impact**

- 6.1 These Regulations do not require a Regulatory Impact Assessment as they do not impose a cost on business, charities, social enterprises or voluntary bodies.

#### **7. Financial Implications**

- 7.1 A breach of parity in this matter may incur financial costs, both in the loss of benefit savings and in administration costs, which would have to be met by the Northern Ireland Executive from the Northern Ireland block grant.

#### **8. Section 24 of the Northern Ireland Act 1998**

- 8.1 The Department has considered section 24 of the Northern Ireland act 1998 and is satisfied that the Rule –
  - (a) is not incompatible with any of the Convention rights;
  - (b) is not incompatible with Community law;
  - (c) does not discriminate against a person or class of person on the grounds of religious belief or political opinion; and

(d) does not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

**9. E U Implications**

9.1 Not applicable.

**10. Parity or Replicatory Measure**

10.1 These Regulations are equivalent to the Universal Credit (Transitional Provisions) (Claimants previously entitled to a severe disability premium) Amendment Regulations 2021 in Great Britain, which were made on 5<sup>th</sup> January 2021 and come into force on 27<sup>th</sup> January 2021.

**11. Additional Information**

11.1 Not applicable.