

EXPLANATORY MEMORANDUM

THE UNIVERSAL CREDIT (CHILDCARE COSTS) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2021

S.R. 2021 No. 249

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 17(1) and 48(1), (2) and (3) of the Welfare Reform (Northern Ireland) Order 2015 and is subject to the negative resolution procedure before the Assembly.

2. Purpose

- 2.1 This Statutory Rule makes provision for including an Adviser Discretion Fund (ADF) payment in a person's Universal Credit (UC) account for upfront childcare costs when deciding the award of the childcare costs element of UC.

3. Background

- 3.1 Support for the costs of childcare within UC are available to lone parents and to couples, where all members are either in work or are treated as in work, regardless of the number of hours they work. A claimant's maximum amount of UC will include a specific additional element where at least one dependent child requires registered childcare.
- 3.2 UC will pay up to 85% of a claimant's childcare costs. Those who have childcare costs that can be included as part of their UC award are required to pay the bill themselves and must submit receipts to the Department before they will be reimbursed at the end of the assessment period in which the costs were paid and the childcare was provided.
- 3.3 Childcare costs in UC are paid in arrears, and are based on the actual cost, improving accuracy and flexibility. However, this can act as a barrier to employment as many people do not have the resources to pay upfront childcare costs which many childcare providers require. The current policy in calculating the UC childcare costs element is to deduct from the person's account any "relevant support payments" made by the Department for the childcare costs. One such support payment is the Department's Adviser Discretion Payment ("ADF Payment").

- 3.4 The average cost of childcare in the Northern Ireland is £719 per month for a full time place. In addition to this many nurseries also charge deposits, registration fees and other fees in advance. For many, to pay these costs upfront is impossible. Although the Department's Budgeting Advances are available to assist in childcare costs, they are however loans which have to be repaid.
- 3.5 Where there is an award of an ADF Payment for upfront childcare costs [which is not refundable], a person will not be awarded the childcare costs element in their Universal Credit payment at the end of their assessment period. When faced with paying the second month of childcare costs the person will have to fund the childcare costs in advance themselves initially and then subsequently claim it in their Universal Credit claim in arrears. This obviously may result in the person falling into debt and possibly having to leave their employment.
- 3.6 In recognition of the challenging times people are facing due the COVID-19 Pandemic, and to ensure that ongoing future childcare costs do not cause financial distress for those awarded UC, the amendment to regulation 35 of the Universal Credit (Northern Ireland) Regulations 2016¹ will allow ADF childcare payments made by the Department to be included in the person's account when calculating the person's childcare costs element, i.e. the ADF upfront childcare payment will be disregarded.
- 3.7 The full amount of the UC childcare costs element following the payment of the ADF payment for upfront childcare costs will ensure that recipients will have sufficient resources to pay for the second and subsequent months of childcare in advance and then claim those costs in arrears from UC.
- 3.8 Including an ADF Payment in a person's UC account for upfront childcare costs is an essential part of ensuring the person remains in employment and does not face the choice of falling into debt or choosing to leave employment.

4. Consultation

- 4.1 There is no requirement to consult on the amendment.

5. Equality Impact

- 5.1 In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on the legislative proposals for these Regulations and has concluded that they do not have significant implications for equality of opportunity. In light of this, the Department considers that an Equality Impact Assessment is not necessary.

6. Regulatory Impact

- 6.1 This Order does not require a Regulatory Impact Assessment as it does not impose any new costs on business, charities or voluntary bodies.

¹ <https://www.legislation.gov.uk/nisr/2016/216/contents>

7. Financial Implications

7.1 None for the Department.

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 this Order –

- (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 ground 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. EU Implications

9.1 Not applicable.

10. Parity or Replicatory Measure

10.1 There is no corresponding Great Britain amendment to the Universal Credit Regulations 2013.