

**EXPLANATORY MEMORANDUM TO
THE LOANS FOR MORTGAGE INTEREST (AMENDMENT) REGULATIONS
(NORTHERN IRELAND) 2021**

S.R. 2021 No. 28

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 sections 134(2) and 171(1) and (3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and Articles 13 and 14(2)(b) of the Welfare Reform and Work (Northern Ireland) Order 2016, and is subject to the negative resolution procedure.

2. Purpose

- 2.1 These Regulations make minor drafting amendments to the Loans for Mortgage Interest Regulations (Northern Ireland) 2017 (S.R. 2017 No. 176) with respect to Domestic Violence, and to the Social Fund (Cold Weather Payments) (General) Regulations (Northern Ireland) 1988 (S.R. 1988 No. 368) with respect to Cold Weather Payments, to ensure these regulations meet the policy intent.

3. Background

- 3.1 The primary purpose of Support for Mortgage Interest (SMI) is to protect owner-occupiers receiving an income-related benefit from the threat of repossession. In April 2018, SMI changed from a benefit to an interest bearing loan. These Regulation make two minor changes to current regulations to correct drafting errors within the current regulations and ensure the regulations accurately reflect the policy intent with respect to SMI loans. The changes do not change current policy and are cost neutral.

- 3.2 Domestic violence – the current provision as drafted provides for someone to be treated as occupying two properties only where they have a liability to make owner-occupier payments on both. If fear of domestic violence or abuse forces someone to leave their mortgaged family home for any other accommodation, the current regulations do not allow them (for SMI loan purposes) to be treated as occupying the family home because they don't pay a mortgage on the refuge. However, the policy intent is to allow someone fleeing domestic violence to be treated as occupying their family home and, therefore, still qualify for SMI. This change will ensure that the Department can continue to protect victims of domestic violence against the threat of repossession until it is safe for them to return home.
- 3.3 Cold weather payments – the amendment will amend an error within regulation 1A of the Social Fund (Cold Weather Payments) (General) Regulations (Northern Ireland) 1988 (as amended by the Loans for Mortgage Interest Amendment Regulations (Northern Ireland) 2017). The current regulations as drafted, unintentionally broadened a condition for cold weather payments to include Pension Credit claimants. It was not intended for Pension Credit claimants to satisfy this second condition to be eligible for cold weather payments and so this change makes that clear. This is a small, technical amendment which will ensure that those of state pension age in receipt of SMI will retain entitlement to cold weather payments in line with policy intent.

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 has considered a screening exercise on the legislative proposals for these Regulations and as they merely make minor drafting changes to restore the original policy intention, has concluded that they do not have significant implications for equality of opportunity. Indeed, the changes will ensure that someone fleeing domestic violence will still qualify for SMI and those of state pension age in receipt of SMI will retain entitlement to cold weather payments. In light of this, the Department considers that an Equality Impact Assessment is not necessary.

6. Regulatory Impact

- 6.1 These Regulations do not require a Regulatory Impact Assessment as they have no significant impact on costs on business, charities or voluntary bodies.

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 these Regulations–
- (a) are not incompatible with any of the Convention rights,
 - (b) are not incompatible with Community law,
 - (c) do not discriminate against a person or class of person on the ground of religious belief or political opinion, and
 - (d) do 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 The corresponding Great Britain provisions are contained in the Loans for Mortgage Interest (Amendment) Regulations 2021 (S.I 2021/131) which were made on 5th February 2021 and which come into force on 15th March 2021. Parity of timing and substance is an integral part of the maintenance of single systems of social security, child support and pensions in line with section 87 of the Northern Ireland Act 1998.

11. Additional Information

- 11.1 Guidance will be issued to the Department for Communities staff prior to this Statutory Rule becoming operational.