

EXPLANATORY MEMORANDUM TO

THE HOUSING BENEFIT (PERSONS WHO HAVE ATTAINED THE QUALIFYING AGE FOR STATE PENSION CREDIT) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2021

S.R. 2021 No. 70

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 122(1)(d), 131(1), and 171(1) and (3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The purpose of this Statutory Rule is to add new personal allowance rates into the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006. These rates will be used to assess entitlement to Housing Benefit for people who reach state pension age on or after 1 April 2021.
- 2.2. The personal allowance rates used to assess entitlement to Housing Benefit (HB) for people over State Pension age currently incorporate an amount equivalent to the Savings Credit element in Pension Credit. The Savings Credit element of Pension Credit was abolished for people reaching State Pension age from 6 April 2016 when the new State Pension was introduced, but it was decided to retain the higher personal allowances in HB for a further five years. This Statutory Rule makes the changes needed to reflect that decision by introducing new personal allowance rates for people reaching State Pension age on or after 1 April 2021 that do not include the Savings Credit element.

3. Background

- 3.1. For pensioners who do not automatically qualify for maximum HB through receipt of the Guarantee Credit element of Pension Credit, HB is calculated by comparing their income with their “applicable amount” comprising a personal allowance for a single person or couple as appropriate, plus additional amounts for extra needs, where relevant. If their income exceeds their applicable amount, the maximum amount that may be awarded for their rent costs is reduced by 65% of the excess income. In “pension age” the personal allowances are currently based on the equivalent Pension Credit rates (the “Standard Minimum Guarantee” plus the maximum amount of the Savings Credit element of Pension Credit).
- 3.2. Savings Credit was intended to provide a modest reward for those aged 65 and over who had made some provision for retirement, for example through saving in an occupational pension. While income reduces the Guarantee Credit part of Pension Credit pound for pound, Savings Credit “gave back” up to 60% of income between a specified threshold and the Standard Minimum Guarantee, so ensuring an overall income above the level of the Guarantee Credit. Pensioners whose income exceeded the Guarantee Credit could still qualify for a payment of Savings Credit only.
- 3.3. To ensure any Savings Credit payments were not taken into account in the calculation of HB, the personal allowance for everyone over 65 was increased by the Savings Credit maximum, so raising the threshold at which income started to reduce the HB award. For ease of administration, the increased personal allowance rates applied irrespective of whether the pensioner was in receipt of Savings Credit, or was receiving less than the maximum.
- 3.4. The new State Pension was introduced on 6 April 2016 at a rate set above the level of the Standard Minimum Guarantee which the Government considered removed the need for a savings reward in Pension Credit. Accordingly, Savings Credit has not been available to people reaching State Pension age on or after that date, but it was decided to retain the higher HB personal allowances for the first five cohorts retiring onto the new State Pension to ensure that those with incomes only slightly above the Guarantee Credit would not see any impact on their HB.
- 3.5. As a consequence the HB personal allowance rates for those reaching State Pension age from 1 April 2021 will no longer include the Savings Credit element i.e. the rates

will be the same as the Standard Minimum Guarantee. This change does not apply to those who reach State Pension age before 1 April 2021 or to couples where one member reached State Pension age before that date. People affected by this change see a notional loss as they will receive less HB than if the rules hadn't changed.

3.6. Discretionary Housing Payments can be paid to those entitled to Housing Benefit who face a shortfall in meeting their housing costs. There is no limit to the length of time over which a Discretionary Housing Payment award may be made. It may be awarded for a short period to give a claimant time to deal with their financial circumstances or for an indefinite period until their circumstances change. The start and end dates of an award are decided by the Northern Ireland Housing Executive on a case-by-case basis.

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. There is no impact on business, charities or voluntary bodies or on the public sector.

7. Financial Implications

7.1. None anticipated.

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 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. These Regulations are equivalent to the Housing Benefit (Persons who have attained the qualifying age for state pension credit) (Amendment) Regulations 2021 in Great Britain which were made on 23rd February 2021 and come into force on 1st April 2021.

11. Additional Information

11.1. The Department for Communities will issue guidance to staff prior to this Statutory Rule becoming operational.

12. 21 Day Rule

12.1. The Department for Communities was unable to adhere to the 21 Day Rule in making this Statutory Rule. The Minister for Communities approved the making of this Statutory Rule on 8th March 2021, and the Committee for Communities was subsequently notified that the Department intended to make the Statutory Rule on 8th March 2021. The Committee considered the Statutory Rule at its meeting on 18th March 2021 and were content for the Rule to be made.