

EXPLANATORY MEMORANDUM TO

THE UNIVERSAL CREDIT AND EMPLOYMENT AND SUPPORT ALLOWANCE
(CLAIMANT COMMITMENT EXCEPTIONS) (AMENDMENT) REGULATIONS
(NORTHERN IRELAND) 2022

S.R. 2022 No. 14

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 paragraph 4A of Schedule 2 to, the Welfare Reform Act (Northern Ireland) 2007 and Articles 9(2) and 48(1) of the Welfare Reform (Northern Ireland) Order 2015, and is subject to the negative resolution procedure.

2. Purpose

2.1. This Statutory Rule amends the Universal Credit Regulations (Northern Ireland) 2016 and the Employment and Support Allowance Regulations (Northern Ireland) 2016 to add a further exception to the requirement to accept a claimant commitment for persons who are terminally ill. These changes to the regulations will create a streamlined and consistent process for people nearing the end of their life.

3. Legislative Context

3.1. Under existing regulations 16 of the Universal Credit Regulations (Northern Ireland) 2016 (S.R. 2016 No. 216) and regulation 45 of the Employment and Support Allowance Regulations (Northern Ireland) 2016 (S.R. 2016 No. 219) they provide that a person does not have to meet the requirement to accept a claimant commitment if the Department considers that the claimant lacks capacity to do so, or there are exceptional circumstances where it would be unreasonable to expect the person to accept a claimant commitment.

3.2. Currently Regulations define someone as being terminally ill when they are suffering from a progressive illness and expected to die within 6-months. The claimant commitment sets out what a claimant agrees to do in return for benefit. Terminally ill

claimants are not subject to work-related requirements and the claimant commitment is usually limited to reporting changes in circumstances.

- 3.3. This Statutory Rule will amend regulation 16 of the Universal Credit Regulations (Northern Ireland) 2016, and regulation 45 of the Employment and Support Allowance Regulations (Northern Ireland) 2016 by creating a specific exemption for terminally ill claimants from accepting a claimant commitment.

4. Background

- 4.1. To be entitled to receive Universal Credit (“UC”) and New Style Employment and Support Allowance (“NS ESA”), a claimant is legally required (as per the UC 2016 and the NS ESA 2016 regulations) to accept a claimant commitment. The exemption to have an accepted claimant commitment, was designed to allow for exceptional circumstances where it would not be appropriate to apply.
- 4.2. Terminal illness may qualify as an exceptional circumstance, but within the current parameters of the legislation, the decision to apply the exemption is left to the discretion of the work coach on a case by case basis, leaving some terminally ill claimants still being required to accept a claimant commitment.
- 4.3. This change will streamline and standardise the administrative process for terminally ill claimants when making a claim, or maintaining an existing claim, to UC and/or NS ESA, by removing the requirement to accept a claimant commitment.

5. Consultation

- 5.1 There is no requirement to consult on these Regulations.

6. Equality Impact

- 6.1. 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.

7. Regulatory Impact

7.1. The proposed Rule does not require a Regulatory Impact Assessment as it does not impose any new costs on business, charities or voluntary bodies or on the public sector.

8. Financial Implications

8.1. None for the Department.

9. Section 24 of the Northern Ireland Act 1998

9.1. 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.

10. EU Implications

10.1. Not applicable.

11. Parity or Replicatory Measure

11.1. These Regulations are equivalent to the Universal Credit and Employment and Support Allowance (Claimant Commitment Exceptions) (Amendment) Regulations 2022 (S.I. 2022/60) in Great Britain which come into force on 15th February 2022.

12. Additional Information

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