

EXPLANATORY MEMORANDUM TO
THE UNIVERSAL CREDIT (TRANSITIONAL PROVISIONS) (AMENDMENT)
REGULATIONS (NORTHERN IRELAND) 2022
S.R. 2022 No. 194

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 Article 48(1) and (2) of and paragraphs 1(1), 3(1)(a) to (c), 4(1), (2)(c) and (d) and 3(a) and 7 of Schedule 6 to, the Welfare Reform (Northern Ireland) Order 2015, and is subject to the negative resolution procedure.

2. Purpose

- 2.1. These regulations contain amendments in relation to the natural migration process¹ for legacy benefit claimants to move to UC and remove provisions that are no longer necessary following the full roll-out of Universal Credit (UC) across the North of Ireland. They also amend the Universal Credit (Transitional Provisions) Regulations (NI) 2016² ('the Transitional Provisions Regulations') to clarify or revise policy intent relating to the managed migration³ of claimants from existing benefits⁴ to UC.

3. Background

- 3.1 The Welfare Reform (NI) Order 2015 provided for the introduction of UC, a new working age income-related social security benefit, in the North of Ireland and the abolition of income-based Jobseeker's Allowance (JSA), income-related

¹ In these cases, where a claimant has a change of circumstances that would cause a new claim to a benefit UC is replacing, the claimant will need to make a new claim to UC if they wished to continue to receive welfare support.

² S.R.2016 No.226

³ Managed migration is where an existing benefit claimant who has had no relevant change of circumstance that would require a new claim to UC, is informed by the Department that all awards of their existing benefits are to terminate and that they will need to make a claim to UC.

⁴ Income-based Jobseeker's Allowance, income-related Employment and Support Allowance, Income Support, Housing Benefit, Working Tax Credit and Child Tax Credit.

Employment and Support Allowance (ESA), Income Support, Housing Benefit, Working Tax Credit and Child Tax Credit.

3.2 The Transitional Provisions Regulations that came into operation on 25th September 2017 provided for the introduction of UC to limited categories of claimants. A series of Commencement Orders also brought into operation provisions relating to UC, and repealed the legislation relating to JSA and ESA for UC claimants in specified postcodes.

3.3 The Universal Credit (Managed Migration and Miscellaneous Amendments) Regulations (Northern Ireland) 2019 added provision to the Transitional Provisions Regulations to provide for the migration of claimants to UC by the Department, where no relevant change of circumstances has taken place.

3.4 A pilot scheme was set up in GB in July 2019 to develop, test and adapt processes so claimants invited to move to UC could do so smoothly and effectively. Under the scheme, the number of awards of universal credit that could be made to persons to whom a migration notice could be issued was limited to 10,000, however, the scheme was suspended in March 2020 due to the Covid-19 pandemic. These regulations propose to amend the Transitional Provisions Regulations by removing the restriction in preparation for the resumption of Move to UC as well as containing amendments in relation to the natural migration process and the removal of provisions that are no longer necessary following the full roll-out of UC.

3.5 The Transitional Provisions Regulations contain the key provisions for claimants moving from existing benefits to UC, including provision for natural and managed migration. However, during the phased rollout of universal credit, the provisions in the Welfare Reform (NI) Order 2015 were commenced gradually. UC is fully rolled out and in order to support the next phase of managed migration the regulations are being simplified and clarified as follows:

- Abolition of the Department's discretion to suspend taking new UC claims in any area or specified category of case. This discretion on the grounds of safeguarding the efficient administration or to ensure the effective testing of the UC systems is no longer required because the system is fully developed;
- Making the exceptions when a UC claimant can claim Housing Benefit or Tax Credits clearer, e.g. those in temporary accommodation can claim Housing

Benefit and single people or members of a couple over state pension age who are able to claim Housing Benefit and Tax Credits.

- Removal of the requirement for the Department to be satisfied that the basic conditions of eligibility for UC relating to age, being in the North and not being in education are met before awards of Income Support, Housing Benefit or Tax Credits can be terminated when UC is claimed. This mirrors the approach taken in Commencement Orders for income-based Jobseeker's Allowance and income-related Employment and Support Allowance;
- Amendments so that when calculating the 2 week run on for those who do not claim UC or the transitional protection for those who do Move to UC, a rate rebate is not included in this calculation. UC does not pay rates and people in receipt of UC must apply for a rate rebate to the Land and Property Services;
- Resolves concerns relating to changes in couple status between the issuing of a migration notice and the new UC claim and makes provision for those who are being treated as a couple or members of a polygamous marriage, when they are issued with a migration notice, but are single for the purposes of a UC claim. This means that there will be consistency between when couples separate before being issued with a migration notice and the position for couples who separate after being issued with a migration notice. In both cases the claimant who is receiving the benefit payments can remain on that benefit until they make a new UC claim as per the time period specified in the notification. It also clarifies that if a claimant has a change in couple status, i.e. a couple separate or a single claimant forms a couple after being issued with a migration notice, they will not qualify for transitional protection;
- Ensures that a reassessment from Limited Capability for Work (LCW) to Limited Capability for Work-related Activity (LCWRA) is treated as an increase in the claimant's health related addition, therefore reducing any Transitional Protection (TP) by the amount of the difference between the LCW and the LCWRA, rather than treating it as a separate new payment which would reduce TP by the full amount. This amendment ensures that these people do not lose out if their health deteriorates;
- Clarifies the position for a sub-set of claimants who are in full-time education and would not meet the basic UC entitlement condition of "not receiving

education” when they are moved to UC. The current regulations provide an exemption from that condition until their course ends but the full-time student protection will be treated in the same way as other forms of transitional protection;

- Removes the ability for a managed migrating claimant to request a Discretionary Hardship Payment. This provision was only used to provide for a payment equivalent to the two-week run-on of income-related Employment and Support Allowance, and Income Support and income-based Jobseeker’s Allowance prior to the two-week run-on being deliverable. Since July 2020 the two-week run-on has been in place and so this provision can be removed; and
- Abolition of the restriction on the Department not to issue UC migration notices until the limit set by the UC programme’s test and learn process is met. This restriction has also been removed in GB regulations.

4. Consultation

4.1. These Regulations contain amendments specific to the North of Ireland. Regulations 47 and 54 of the Transitional Provision Regulations are amended in order to clarify the position that only a rent element is payable with the 2 week run-on of Housing Benefit when a claim to UC is made. UC does not pay a rate rebate as part of the UC calculation. On account of the specific NI amendments these regulations deviated from the GB version of the regulations and as a consequence were sent to SSAC for scrutiny. SSAC were content that the amendments were in order.

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. The Department has concluded that the proposals would not have significant implications for equality of opportunity and considers that an Equality Impact Assessment is 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 Universal Credit (Transitional Provisions) Amendment Regulations 2022 in Great Britain which were made on 4 July 2022 and come into force on 25 July 2022.

11. Additional Information

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