

EXPLANATORY MEMORANDUM TO

The Rate Relief (Amendment) Regulations (Northern Ireland) 2023

SR 2023 No. 39

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Finance ("the Department") to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under Article 30A of the Rates (Northern Ireland) Order 1977 (S.I. 1977/2157 (N.I. 28) ("the 1977 Order") and is subject to the negative resolution procedure.

2. Purpose

- 2.1. This draft Rule amends the Rate Relief Regulations (Northern Ireland) 2017 (S.R. 2017 No. 184) ("the 2017 Regulations"), among other things, it updates the 2017 Regulations so that the Rate Relief Scheme remains compatible with universal credit (UC). The 2017 Regulations currently provide that the UC award that is taken into account in the calculation of rate rebate should not include any payment under the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 (the Universal Credit (Transitional Provisions) Regulations). The Universal Credit (Transitional Provisions) Regulations have undergone numerous amendments since they were introduced. The draft Rule updates the 2017 Regulations to align with the Universal Credit (Transitional Provisions) Regulations as amended in line with this policy.
- 2.2. Regulation 2(2) amends Regulation 2 of the 2017 Regulations to update legislation references and amend cross references; consequential amendments and other amendments to cross-references have been made in regulations 2(3), (5), (6), (7), (8), (10) and (11). Paragraph (2)(e) provides that the Universal Credit (Transitional Provisions) Regulations apply unless otherwise stated; relevant references are then made in the draft Rule in regulation 2(2)(d), (5) and (6).
- 2.3. Regulation 2(4)(a) inserts a new regulation 5(1A) into the 2017 Regulations to allow rate rebate claims to be treated as made if the current rate rebate award is retrospectively disallowed where the decision maker is aware that there would be entitlement. If they are not aware of this at the time of the disallowance, the claimant is allowed 3 months in which to make any appropriate claims. This is to the benefit of claimants as it will reduce any potential overpayment that may arise from the disallowance of rate rebate.
- 2.4. When the rate rebate scheme was designed a one month delay between the UC award and its effect on rate rebate was made to allow time for the UC award to be determined before the rate rebate award was to be calculated. This was to prevent revisions of rate rebate awards if there was a delay with the UC details. At the start of a claim however there cannot be such a delay otherwise the claimant would lose out on a month of rate rebate.

This means that a claimant could be disallowed on annual review but qualify immediately under a new claim as the delay/effective date and the new claim date would coincide. Regulation 2(4)(a) also inserts a new regulation 5(1B) to allow a claim to be treated as made in these circumstances without the need for a new claim.

- 2.5. In most circumstances of UC, when a claimant's marital status changes any new claim for UC (with or without a partner) starts from the day after the previous claim ends. However, when two people who are entitled to UC form a couple there will be two different dates. The new UC claim starts from the earlier of the end dates. Regulation 2(4)(b) inserts new regulation 5(11A) to treat any UC award for the other partner as having ended to ensure that rate rebate is only paid once regardless of which one of them claims rate rebate.
- 2.6. Regulation 2(5) amends regulation 10 of the 2017 regulations. The amendment at sub-paragraph (a) is to clarify that UC must continue in order to maintain entitlement to rate rebate. The amendment at sub-paragraph (b) ensures that a two week "run-on" of the rent element of housing benefit on migration to UC does not preclude entitlement to rate rebate. The amendment at sub-paragraph (c) adds payment advances provided in the Universal Credit (Transitional Provisions) Regulations to those already included in the 2017 regulations which are not taken into account when calculating entitlement to rate rebate. It replaces a general reference to the Universal Credit (Transitional Provisions) Regulations with more specific references to the transitional element of UC that is not included as part of the UC award when calculating entitlement to rate rebate. It adds a reference to housing benefit overpayments to ensure that deductions for the recovery of overpayments of housing benefit from the UC award are not taken into account when calculating entitlement to rate rebate.
- 2.7. Regulation 2(6)(a) replaces regulation 13(1)(c) of the principal regulations as it is superfluous. It currently provides that if the UC information that applies at the relevant date changes for any reason there will be grounds for revision. It is superfluous because if that information changes it will be covered by regulation 13(1)(a) if there was an official error or regulation 13(1)(b) if it was used as a result of ignorance or a mistake as to a material fact. It is replaced with a ground that allows revision if liability for rates ends. This has been inserted to differentiate between a change in the amount of rates payable rather than a total cessation. Paragraph (6)(b) makes an amendment to clarify that when a claimant who has been entitled to rate rebate but only continues to qualify for UC because of a transitional protection ceases to be entitled to rate rebate. This is to ensure that everyone is treated the same in relation to the transitional element which is ignored when determining entitlement to rate rebate. It also makes reference to new regulation 5(11A) which provides for treating UC claims as having ended when two separate UC claimants become partners. Consequently paragraph (6)(c) inserts new regulation 13(1A) into the 2017 Regulations to clarify that when rates liability or UC ends so too does entitlement to rate rebate.

- 2.8. Regulation 2(7) of the draft regulations makes consequential amendments to regulation 14 to update the reference to the effective date of decisions as a consequence to the amendments to regulation 13.

3. Background

- 3.1. The development of a new scheme to administer rate rebate in NI was required to ensure that help with rates continued to be provided for claimants no longer entitled to claim housing benefit as a consequence of the phasing out of housing benefit in conjunction with the introduction of universal credit in NI.
- 3.2. The Rate Relief Regulations (Northern Ireland) 2017 came into operation on 27th September 2017 in line with the phased introduction of UC in NI. The Regulations provide that the new rate relief scheme is only available to claimants in receipt of UC and will rely on UC information to enable rate relief entitlement to be calculated.

4. Consultation

- 4.1. The then Department of Finance and Personnel (DFP) undertook two consultations during 2013 to consider modifications to the rate rebate rules that operate under housing benefit so that UC claimants could continue to get help with their rates following the introduction of UC in NI and the consequential phasing out of housing benefit. Following the delay in the introduction of UC in NI a third consultation, which was informed by the two earlier consultations, was undertaken in November 2014 to seek views on proposed options for a long term rate relief scheme.
- 4.2. Following careful consideration of the responses to the consultation the policy position for the long term rate relief scheme was finalised. Executive agreement for consequential adjustments to rate support arrangements for low income households of working age was obtained on 25th February 2016. This agreement allowed the Department to bring forward the necessary legislation to provide for the new rate relief replacement scheme to be introduced at the same time as the introduction of UC in NI.
- 4.3. The Rate Relief Regulations (Northern Ireland) 2017 came into operation on 27th September 2017 in line with the phased introduction of UC.
- 4.4. The draft Regulations amend the 2017 Regulations to ensure that they remain compatible with UC following amendments to the Universal Credit (Transitional Provisions) Regulations but the policy in relation to the impact of migration to UC on rate rebate has not changed.
- 4.5. Other amendments allow the relevant authority to treat claims as made in certain circumstances and so is to the benefit of claimants and tidies up cross-references. The Department is satisfied that further consultation was not necessary in the circumstances.

5. Equality Impact

- 5.1. This is a locally based scheme and the Department considers that there should be no disproportionate impact on any of the section 75 subgroups.

5.2. A full equality impact assessment was taken forward and published as part of the final consultation process when the scheme was first introduced.

6. Regulatory Impact

6.1. There is no impact on business, charities or voluntary bodies.

7. Financial Implications

7.1. None

8. Section 24 of the Northern Ireland Act 1998

8.1. The Department considers the Regulations to be compatible with section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1. There are no EU implications associated with this Rule.

10. Parity or Replicatory Measure

10.1. Not applicable; this scheme is unique to Northern Ireland.

11. Additional Information

11.1. Not applicable.