

**EXPLANATORY MEMORANDUM TO**

**THE SOCIAL SECURITY, UNIVERSAL CREDIT AND STATE PENSION**  
**(MISCELLANEOUS AMENDMENTS) REGULATIONS (NORTHERN IRELAND)**

**2023**

**S.R. 2023 No. 93**

**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 5(1)(a), (b), (c), (d), (j) and (l) and 165(1), (5) and (6) of the Social Security Administration Act (Northern Ireland) 1992, Articles 17(4) and 48(1) and (2) of, and paragraphs 1(1) and 4(1)(b), 4(2)(c) to (e), 4(3)(a) and 7 of Schedule 6 to, the Welfare Reform (Northern Ireland) Order 2015 and section 51(6) of the Pensions Act (Northern Ireland) 2015.

**2. Purpose, background and detail**

- 2.1. These Regulations make minor changes in order to correct, clarify and update the following Regulations:
- The Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations (Northern Ireland) 2016;
  - The Universal Credit Regulations (Northern Ireland) 2016;
  - The Universal Credit (Transitional Provision) Regulations (Northern Ireland) 2016;
  - The State Pension Regulations (Northern Ireland) 2015.

Amendment of regulation 29(5) of the Universal Credit Regulations (Northern Ireland) 2016.

- 2.2. Consequential amendments were made to the Universal Credit Regulations 2016 in 2017 to account for changes made in the Welfare Reform and Work (Northern Ireland) Order 2016. This Order abolished the award of the limited capability for work (LCW) element in Universal Credit (and also the work-related activity component in ESA) for claims made on or after 3 April 2017.
- 2.3. Paragraph (6) of regulation 29 of the Universal Credit Regulations (Northern Ireland) 2016 was omitted in error. Its omission means that it could be argued that claimants who are determined to have limited capability for work and work-related activity (LCWRA), having previously been determined as having LCW, could be required to again serve a further 3-month relevant period before the LCWRA element is awarded. Reinserting regulation 29(6) makes it clear that claimants who are determined as having LCW do not have to serve the 3-month relevant period before the LCWRA element is awarded.

Amendment of regulation 25(2) the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations (Northern Ireland) 2016

- 2.4. Universal Credit is assessed and paid monthly with entitlement based on a household's circumstances on the last day of the monthly assessment period. The Universal Credit system allows for the maximum period of one month backdating to be based on the length of an assessment period, with the date of claim becoming the last day of the first assessment period. This reflects the monthly assessment of Universal Credit. However, the Regulations provided for a maximum period of backdating of up to a month without setting out how this interacted with the monthly assessment period approach.
- 2.5. To accommodate this, a resource intensive clerical process was required where it appeared that a case could or should be backdated for longer than allowed for by the system (one assessment period). Assessment periods have to take account of, for example, the different number of days in each month and leap years and so "a month" does not automatically align with assessment period dates. This

amendment aligns the backdating provision with the approach specified in relation to the extension of the time to make a claim in Regulation 47 of the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 and allows for backdating for up to the length of an assessment period. This ensures alignment between the Regulations and the monthly assessment period approach and removes any potential ambiguity.

Amendment of regulation 7(1) of the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016

- 2.6. This regulation includes a typographical error and incorrectly cross-refers to regulation 27 of the Universal Credit Regulations (Northern Ireland) 2016. This cross reference is corrected to refer to regulation 25 of the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance Regulations (Northern Ireland) 2016.

Amendment of regulation 22(4)(b) of the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016

- 2.7. This amendment corrects an inaccurate cross-reference in regulation 22(4)(b) of these Regulations where it currently refers to regulation 28(1)(b) of the Universal Credit Regulations but should refer to regulation 28(1). The amendment will ensure any confusion or ambiguity is avoided.

Amendment of regulation 47(1)(b) of the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016

- 2.8. The above regulation clarifies the end date of the rate rebate of Housing Benefit and Housing Benefit (State Pension Credit) if no claim to UC has been made by the deadline day. Unlike the rent rebate, the rate rebate does not have a two week “run-on” in these circumstances.
- 2.9. In Northern Ireland, Housing Benefit consists of a rate rebate, payable in accordance with regulation 12 of the Housing Benefit Regulations (Northern

Ireland) 2006 and a rent rebate, payable in accordance with regulation 13 of the Housing Benefit Regulations (Northern Ireland) 2006.

- 2.10. Where Housing Benefit was previously referenced in the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 in relation to the 2 week “run-on” of Housing Benefit when a claim to Universal Credit is made, it could have been construed as meaning a payment in respect of both the rate rebate and a rent rebate.
- 2.11. The rates element was deliberately removed from the “run-on” by the Universal Credit (Transitional Provisions) (Amendment) Regulations (Northern Ireland) 2022 (S.R. 2022 No. 194). However, no date was specified for the end of the rates element. This regulation inserts provision in respect of the rates element alongside tax credit in regulation 47(1)(b) and ensures parity is retained with Great Britain.

Amendment of regulation 54(10) of the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016

- 2.12. The Universal Credit Housing Element is not paid to claimants with any housing costs arising from being in temporary or specified accommodation, rather, Housing Benefit provides support in those circumstances.
- 2.13 Some claimants who have moved into temporary or specified accommodation, for example due to domestic violence, can receive Housing Benefit for both that accommodation and their permanent home. As currently drafted, the Regulations could be misinterpreted and suggest that no Housing Benefit at all should be taken into account when considering whether Transitional Protection should be awarded when the claimant moves to Universal Credit.
- 2.14. This amendment removes any doubt and ensures the correct amount of Housing Benefit, i.e., that for their permanent home, will be taken into account when considering the award of Transitional Protection under regulation 54 (“the transitional element – total legacy amount”) of the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016.

Amendment of Schedule 1 to the Universal Credit (Transitional Provisions)  
Regulations (Northern Ireland) 2016

- 2.15. These Regulations contain provisions that allow HMRC to finalise entitlement to tax credits in the tax year when a person moves to Universal Credit rather than at the end of the tax year (as would typically be the case).
- 2.16. These amendments remove unnecessary references to a “part” year which may cause confusion and ambiguity.

Amendment of Schedule 2 to the Universal Credit (Transitional Provisions)  
(Northern Ireland) Regulations 2016.

- 2.17. The amendment clarifies that for Universal Credit couple claims, the highest rate of transitional Severe Disability Premium element (SDPTE), will be payable if the higher Severe Disability Premium (SDP) rate was payable in their previous legacy benefit (Income Support, Income Based Jobseeker’s Allowance or Income Related Employment and Support Allowance) and no person has since become a carer for either of them.
- 2.18. This ensures claimants, who would not have continued to receive the higher SDP rate had they remained on their legacy benefit, will not be awarded the higher SDPTE rate as part of their Universal Credit award.

Amendment of regulation 11 of the State Pension Regulations (Northern Ireland)  
2015

- 2.19. This regulation rectifies an omission by adding Universal Credit to the list of benefits which, if received during a period of deferral of State Pension, are not included in determining the period of deferral for incremental purposes.
- 2.20. The amendment clarifies that when a person defers their state pension and receives Universal Credit, or a partner receives an increase in Universal Credit in respect of that person, the days for which Universal Credit has been received, as with other

social security benefits, will not be counted when calculating the period of deferral to determine State Pension increments.

### **3. Consultation**

3.1. These Regulations contain Northern Ireland specific amendments which are not mirrored in the equivalent GB Regulations (the Social Security and Universal Credit (Miscellaneous Amendments) Regulations 2023). As a consequence, the Regulations were referred to the Social Security Advisory Committee (SSAC) for scrutiny at their meeting on 22nd March 2023. The committee did not take the Regulations on formal reference.

### **4. Equality Impact**

4.1. 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. An impact was identified on disabled category applicants which the department considered and deemed it to be justified.

### **5. Regulatory Impact**

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

### **6. Financial Implications**

6.1. None anticipated.

### **7. Section 24 of the Northern Ireland Act 1998**

7.1. The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied that the Rule complies with that provision.

## **8. EU Implications**

8.1. Not applicable.

## **9. Parity or Replicatory Measure**

9.1. These Regulations are broadly equivalent to the Social Security and Universal Credit (Miscellaneous Amendments) Regulations 2023 in Great Britain (2023/543). In line with Great Britain, they will come into operation on 29 June 2023.

9.2. The Northern Ireland Regulations make provision for two additional amendments to correct omissions in previous Regulations and the Social Security Advisory Committee is content with the amendments.

## **10. Additional Information**

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