

# NORTHERN IRELAND (WELFARE REFORM) ACT 2015

## EXPLANATORY NOTES

### What these notes do

These Explanatory Notes relate to the Northern Ireland (Welfare Reform) Act 2015 (c. 34) which received Royal Assent on 25 November 2015.

- These Explanatory Notes have been produced by the Northern Ireland Office in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Act will mean in practice; provide background information on the development of policy; and provide additional information on how the Act will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Act. They are not, and are not intended to be, a comprehensive description of the Act. So where a provision of the Act does not seem to require any explanation or comment, the Notes simply say in relation to it that the provision is self-explanatory.

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# Overview of the Act

- 1 This Act deals with:
  - providing a power by Order in Council to:
    - Legislate for welfare reform in Northern Ireland.
    - Confer power on the Secretary of State or on a Northern Ireland department to make further provision by regulations or order.

## Policy background

- 2 The Northern Ireland (Welfare Reform) Act 2015 is a piece of enabling legislation to allow for the delivery of welfare reform in Northern Ireland. Welfare is a devolved matter for Northern Ireland. The intention of the Act was to allow the delivery of the Government's welfare reforms in Northern Ireland, including those made in the Welfare Reform Act 2012 and those proposed in the Welfare Reform and Work Bill 2015, as well as the welfare-related flexibilities included in the Stormont House Agreement (SHA). The SHA was reached on 23 December 2014 following 11 weeks of talks between the UK Government, the five largest parties in the Northern Ireland Assembly, and the Irish Government on matters for which they have responsibility, in accordance with the three-stranded approach confirmed in the 1998 Belfast Agreement. Legislating at Westminster allowed for the most rapid means to deliver welfare reform in Northern Ireland.
- 3 The SHA committed the Northern Ireland parties to passing a Welfare Reform Bill that would implement the Welfare Reform Act 2012 alongside a series of 'top-up' measures. However, when it was debated in the Assembly in May 2015, the Assembly Bill did not gain the necessary cross-community support and failed to pass. After further cross-party talks, it was agreed on 17 November 2015 that the Government would legislate for welfare reform in Northern Ireland.
- 4 The intention of the legislation was to implement measures in the SHA to help place Northern Ireland's finances on a more sustainable footing, and in so doing help ensure the continued viability of Northern Ireland's devolved administration. In enabling the Government to legislate for welfare reform in Northern Ireland, the legislation was aimed at playing a crucial role in addressing the Northern Ireland Executive's financial difficulties. The policy objective of the Act is to implement the SHA by extending the Welfare Reform Act 2012 to Northern Ireland. There is a long standing 'parity' principle that the UK Government will only fund welfare in Northern Ireland up to the same levels as apply in Great Britain. Without welfare reform, welfare payments in Northern Ireland will continue to exceed those paid in Great Britain. The excess over parity levels was being deducted from the Northern Ireland block grant which was adding to the pressure on the budget of the devolved Executive. Following the agreement on 17 November 2015, the UK Government obtained the Northern Ireland Assembly's consent to pass legislation to implement welfare reform in Northern Ireland.
- 5 The Act itself does not implement welfare reform but allows for an Order in Council to be made. It is intended that the first Order in Council will replicate much of the Northern Ireland Assembly Welfare Reform Bill referred to above. It is intended that the Order will contain regulation-making powers and measures to implement welfare reform in Northern Ireland. These measures include: the reforms made in Great Britain by the Welfare Reform Act 2012; various flexibilities as agreed between the Department for Work and Pensions and the NI Department for Social Development, and the amendments agreed by the parties during

the passage of the Assembly's Bill; and provisions that allow for the Executive-funded additional measures to be introduced.

## Legal background

- 6 Key existing legislation in this area is the Welfare Reform Act 2012.

## Territorial extent and application

- 7 This Act extends to England and Wales, Scotland and Northern Ireland.
- 8 The Act will only apply (have a practical effect) in Northern Ireland except for consequential amendments which may be made by an Order in Council.

## Commentary on provisions of Act

### Section 1: Power to make provision in connection with social security, child support maintenance and arrangements for employment in Northern Ireland

- 9 Subsections (1) and (2) allow for provision about social security, child support maintenance and arrangements for employment in Northern Ireland to be made by the United Kingdom Government by Order in Council. Such an Order can also provide for further details to be set out in regulations or orders made by the Secretary of State or a Northern Ireland department. The provision does not prevent, for example, the Department for Social Development in Northern Ireland from making their own legislation on these matters in future provided that the Northern Ireland Assembly can pass such legislation.
- 10 Subsection (3)(a) to (d) will allow for an Order in Council made under this Act, and any regulations or orders made under an Order in Council, to: amend or repeal an enactment; apply any enactment as drafted or with relevant modifications; allow a person to exercise a discretion when dealing with any matter; and create or amend criminal offences or impose or amend penalties for non-compliance.
- 11 Subsection (3)(e) enables an Order in Council or orders or regulations to make different provision for different cases or purposes. For example, this could be used in the implementation and delivery of welfare reform if, as in the rest of the United Kingdom, Universal Credit is rolled out gradually in Northern Ireland.
- 12 Subsection (3)(f) enables an Order in Council or orders or regulations to make incidental, supplementary, consequential, transitory or transitional provisions or savings. For example, the 'consequential' part of the power will allow for provision to be made on any matter which is necessary in consequence of changes or reforms implemented under the Act. The 'savings' provisions can be used to limit the extent of a repeal and 'save' some provisions (i.e. keep them in force) in relation to certain cases/ classes/ jurisdiction.
- 13 Subsection (4) sets out the procedure for making the regulations or orders that are made under the powers contained in the Order in Council.
- 14 Subsection (5) provides that the Order in Council is subject to the affirmative resolution procedure.
- 15 Subsection (6) provides definitions.

### Section 2: Section 1: supplementary provision

- 16 Subsection (1) provides that Orders in Council made under section 1 are to be treated as an Act of the Assembly for the purposes of references in other enactments, except for the purposes of section 6 of the Northern Ireland Act 1998. "Enactments" are defined in subsection (3).

### Section 3: Extent, commencement, sunset and short title

- 17 This section sets out the territorial extent of the provisions in the Act, commencement on Royal Assent and the citation for the Act. It also provides that no Order in Council made under this power can be made after 31 December 2016.

## Commencement

18 Sections 1 to 3 came into force on Royal Assent.

## Related documents

19 The following documents are relevant to the Act and can be read at the stated locations:

- The Stormont House Agreement  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/390672/Stormont\\_House\\_Agreement.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/390672/Stormont_House_Agreement.pdf)
- The Stormont Agreement and Implementation Plan  
<https://www.gov.uk/government/news/a-fresh-start-for-northern-ireland>

## Annex A - Territorial extent and application

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion required?	Extends to Scotland?	Legislative Consent Motion required?	Extends to Northern Ireland?	Legislative Consent Motion required?
<b>Section 1</b>	No	No	No	Yes	No	Yes	Yes
<b>Section 2</b>	No	No	No	Yes	No	Yes	Yes
<b>Section 3</b>	No	No	No	Yes	No	Yes	Yes

## Annex B - Hansard References

20 The following table sets out the dates and Hansard references for each stage of the Act's passage through Parliament. As this legislation was subject to the fast-track procedure, the Act did not follow the standard passage through Parliament.

Stage	Date	Hansard Reference
<i>House of Commons</i>		
Introduction	19 November 2015	No debate
Allocation of time motion	23 November 2015	Vol. 602 Col. 1084
Second Reading	23 November 2015	Vol. 602 Col. 1103
Committee of the whole House	23 November 2015	Vol. 602 Col. 1146
Third Reading	23 November 2015	Vol. 602 Col. 1161
<i>House of Lords</i>		
Introduction	23 November 2015	Vol. 767 Col. 560
Second Reading	24 November 2015	Vol. 767 Col.674
Third Reading	24 November 2015	Vol. 767 Col. 688
Royal Assent	25 November 2015	House of Commons Vol. 602 Col. 1408
		House of Lords Vol. 767 Col. 689

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