

EXPLANATORY MEMORANDUM TO
THE UNIVERSAL CREDIT (NORTHERN IRELAND RECIPROCAL
ARRANGEMENTS) REGULATIONS 2020

2020 No. 677

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 These regulations give effect in Great Britain to reciprocal arrangements for Universal Credit between Great Britain and Northern Ireland. The intention of this is to extend existing arrangements that make provision for what is effectively a single system of social security for the whole of the United Kingdom, so that these arrangements also apply to Universal Credit.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.]

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is Great Britain.
4.2 The territorial application of this instrument is Great Britain.
4.3 Corresponding legislation for Northern Ireland is being made and laid in parallel to this instrument by the Department for Communities.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation no statement is required.

6. Legislative Context

- 6.1 Section 87 of the Northern Ireland Act 1998 (“the 1998 Act”) places a statutory duty on the Minister for Communities and Secretary of State for Work and Pensions to consult with one another with a view to securing (to the extent that it can be agreed) a single social security system for the United Kingdom.
6.2 The Welfare Reform Act 2012 provided for the introduction of a new working age income-related social security benefit, Universal Credit, and the abolition of income-

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

- 6.3 One of the ways in which parity is maintained is by the making of reciprocal arrangements for coordinating the operation of the relevant legislation relating to social security in Great Britain and Northern Ireland (including any differences in that legislation). These arrangements are given effect in Great Britain by regulations made by the Secretary of State under section 87(4) of the 1998 Act. Equivalent regulations for Northern Ireland are made under section 87(5) of the Act.

7. Policy background

What is being done and why?

- 7.1 Under the current devolution agreements, responsibility for social security in Northern Ireland rests with the Northern Ireland Assembly. This is set out in Section 4 of the Northern Ireland Act 1998, which covers what powers are excepted, reserved and transferred. Social security and child maintenance are both "transferred matters" and are the full responsibility of the devolved Government. Most statutory functions in relation to social security and child maintenance in Northern Ireland are conferred upon the Department for Communities.
- 7.2 Reciprocal arrangements for coordinating the operation of the relevant legislation in each jurisdiction (including any differences in that legislation) are to be given effect in Great Britain regulations under section 87(4).
- 7.3 Reciprocal arrangements exist for a number of other benefits, including Employment and Support Allowance, but do not yet cover Universal Credit. Universal Credit, which replaces six existing benefits including Employment and Support Allowance, was introduced in Great Britain, incrementally, from April 2013. Full implementation was completed throughout Great Britain in autumn 2018. Universal Credit was introduced in Northern Ireland from 2017.
- 7.4 The original intention was to introduce reciprocal arrangements for Universal Credit in 2017 to align with the roll out of Universal Credit in Northern Ireland. The protracted suspension of the Northern Ireland Assembly from January 2017 meant that the regulations could not be introduced.
- 7.5 Now that the Assembly has been restored, we are making these regulations to give effect to the reciprocal arrangements and ensure the effective coordination of Universal Credit provision between Great Britain and Northern Ireland. Northern Ireland will introduce similar regulations in parallel.
- 7.6 The memorandum setting out the reciprocal arrangements is set out in the Schedule to the Regulations. When people move from Northern Ireland to Great Britain they will become subject to the Great Britain regulations and the same will apply in reverse. In effect the reciprocal arrangements facilitate the movement of Universal Credit claimants by treating anything done in one jurisdiction as done in the other. This applies in particular to:
- claims (so that a Universal Credit claimant moving to Great Britain from Northern Ireland would not have to make a new claim);
 - residence and presence (so a temporary absence in another jurisdiction will not be counted as going abroad);

- decisions made by staff or tribunals (for example, so that a work capability assessment would not have to be repeated);
 - waiting times served.
- 7.7 The regulations themselves also allow for the relevant Great Britain legislation to be read with appropriate adaptations. Cross references in the Great Britain legislation to other Great Britain legislation include the equivalent Northern Ireland legislation so, for example, a care leaver who had been in care under the Northern Ireland legislation would be counted as a care leaver in Great Britain.
- 7.8 These arrangements are especially important for claimants who have claimed Universal Credit on the grounds of having a health condition or disability which impacts on their capability for work. Claimants who are determined by a Department for Work and Pensions' decision maker to have limited capability for work and work related activity are required to serve (with the exception of those who are terminally ill, as defined), a three month waiting period, known as the relevant period, before the additional amount of benefit awardable to those claimants becomes payable.
- 7.9 This legislation ensures that claimants who have served the relevant period in one jurisdiction will not be required to serve it again if they move to the other jurisdiction.
- 8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**
- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.
- 9. Consolidation**
- 9.1 Informal consolidated text of instruments is available to the public free of charge via the 'National Archive' website: www.legislation.gov.uk.
- 10. Consultation outcome**
- 10.1 A consultation has not been carried out for these regulations, as they effectively extend the scope of existing arrangements to include Universal Credit.
- 11. Guidance**
- 11.1 Departmental guidance will be available from 24 July 2020.
- 12. Impact**
- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 The impact on the public sector is negligible.
- 12.3 An Impact Assessment has not been prepared for this instrument because there is no, or no significant impact to business.
- 12.4 The Department has concluded that no benefit recipient with a protected characteristic will be adversely affected by these arrangements.
- 13. Regulating small business**
- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 This instrument is not subject to any formal monitoring or review.

15. Contact

15.1 Nina Young at the Department for Work and Pensions. Telephone 020 7449 5351 or email nina.young@dpw.gov.uk who can be contacted with any queries regarding the instrument.

15.2 Kerstin Parker, Deputy Director for Universal Credit policy, at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.

15.3 Justin Tomlinson, Minister of State for Disabled People, Health and Work can confirm that this Explanatory Memorandum meets the required standard.