

EXPLANATORY MEMORANDUM TO
THE WELFARE REFORM (NORTHERN IRELAND) ORDER 2015 (CESSATION
OF TRANSITORY PROVISION) ORDER 2020

2020 No. 927

1. Introduction

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

2. Purpose of the instrument

- 2.1 The Secretary of State may exercise the functions of a Northern Ireland department to make certain statutory instruments in Northern Ireland in relation to certain social security matters under Article 4(1) of the Welfare Reform (Northern Ireland) Order 2015. This instrument specifies that from 23 September 2020 this power will cease and such statutory instruments will be the responsibility of the Northern Ireland Department.

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 Northern Ireland.
4.2 The territorial application of this instrument is Northern Ireland.

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”)¹ places a statutory duty on the Northern Ireland Minister for Communities and the Secretary of State for Work and Pensions to consult with one another with a view to securing, to the extent agreed between them, a single social security system for the United Kingdom. Though certain aspects of social security were devolved to the Scottish Government under the Scotland Act 2016, the Minister for Communities and the Secretary of State for Work

¹ [Northern Ireland Act 1998](#)

and Pensions continue to work together in order to provide for parity between the benefit system in Northern Ireland and those benefits which are reserved in Great Britain, or in England and Wales. Section 88 of the 1998 Act makes provision for financial adjustments to support the maintenance of these parity arrangements.

- 6.2 Underpinning the parity principle is the argument that, as people in Northern Ireland pay the same rates of income tax and National Insurance contributions as people in Great Britain, they are entitled to the same rights and benefits paid at the same rate.
- 6.3 On 17 November 2015 “A Fresh Start: The Stormont Agreement and Implementation Plan”² was agreed by the main political parties in Northern Ireland. Included in this agreement was the approach agreed by the Northern Ireland Executive and UK Government to implementing welfare reform in Northern Ireland. The Northern Ireland (Welfare Reform) Act 2015³ provided a time-limited power for Her Majesty to legislate on social security, child support and certain matters related to employment and training in Northern Ireland by Order in Council. A legislative consent motion was passed in the Northern Ireland Assembly for that Act. Any such Order in Council could then confer power on the Secretary of State or a Northern Ireland department to make further provision regarding these matters by regulations or order.
- 6.4 The Welfare Reform (Northern Ireland) Order 2015⁴ was made on 9 December 2015 making provision corresponding to the Welfare Reform Act 2012. The Welfare Reform and Work (Northern Ireland) Order 2016⁵ was made on 12 October 2016 making provision corresponding to the social security provisions of the Welfare Reform and Work Act 2016.
- 6.5 Due to the absence of a Northern Ireland Executive in January 2017 and resultant Assembly election in March 2017, the Department for Work and Pensions retained the temporary powers provided for pursuant to the Northern Ireland (Welfare Reform) Act 2015⁶. As a Northern Ireland Executive has now again been formed and the Assembly elected in March 2017 is now functioning, the Department for Work and Pensions will cease to hold the existing temporary powers by means of this instrument.

7. Policy background

What is being done and why?

- 7.1 In January 2017 the absence of a Northern Ireland Executive resulted in there being no Ministers in Northern Ireland able to approve legislative changes.
- 7.2 In order to ensure the continuation of parity with Great Britain, DWP Ministers have used the temporary powers given pursuant to the Northern Ireland (Welfare Reform) Act 2015⁷ to make legislation on behalf of Northern Ireland, until such time as the Executive was restored and the Assembly returned. This has applied to secondary legislation made under the Welfare Reform (Northern Ireland) Order 2015 and the Welfare Reform and Work (Northern Ireland) Order 2016, and legislation made under

² [A Fresh Start: The Stormont Agreement and Implementation Plan](#)

³ [Northern Ireland \(Welfare Reform\) Act 2015](#)

⁴ [Welfare Reform \(Northern Ireland\) Order 2015](#)

⁵ [The Welfare Reform and Work \(Northern Ireland\) Order 2016](#)

⁶ [Northern Ireland \(Welfare Reform\) Act 2015](#)

⁷ [Northern Ireland \(Welfare Reform\) Act 2015](#)

older pre-existing Northern Ireland social security powers, as permitted by Article 4(1)(a) and (b) of the 2015 Order.

- 7.3 On 13 January 2020, the Executive and Assembly were restored. There is no longer a need for DWP Ministers and the UK Parliament to enact social security legislation on their behalf. The Secretary of State therefore needs formally to bring her temporary powers to an end. This instrument enables that to happen.

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' website⁸.

10. Consultation outcome

- 10.1 This measure has not been subject to public consultation.

11. Guidance

- 11.1 The appropriate guidance will be amended for staff in the Northern Ireland Department for Communities and the Department for Work and Pensions in advance of this instrument becoming operational.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because it has no impact on the private sector.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 The operation of the regulations will continue to be reviewed through the normal avenues.

15. Contact

- 15.1 Andrew Latto at the Department for Work and Pensions can be contacted with any queries regarding the instrument. Telephone: 020 7449 5452 or email: Andrew.Latto@dwp.gov.uk.
- 15.2 John Ward, Deputy Director, Department for Work and Pensions Legal Advisers in the Government Legal Department can confirm that this Explanatory Memorandum meets the required standard.

⁸ www.legislation.gov.uk

15.3 The Minister of State for Disabled People, Health and Work at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.