EXPLANATORY MEMORANDUM TO

THE WELFARE SUPPLEMENTARY PAYMENT (EXTENSION) REGULATIONS (NORTHERN IRELAND) 2022

2022 No.000

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 Article 137(5) of the Welfare Reform (Northern Ireland) Order 2015 ("the Order") and is subject to draft affirmative procedure.lete].

2. Purpose

2.1 These regulations amend the Welfare Supplementary Payments Regulations (Northern Ireland) 2016, the Welfare Supplementary Payment (Loss of Disability Living Allowance) Regulations (Northern Ireland) 2016, the Welfare Supplementary Payment (Loss of Disability-Related Premiums) Regulations (Northern Ireland) 2016 and the Welfare Supplementary Payment (Loss of Carer Payments) Regulations (Northern Ireland) 2016.

2.2 The purpose of the regulations is to remove the expiry date of 31 March 2020 from each of the specified welfare mitigation schemes and insert a new expiry date of 31 March 2025. This will have the effect of re-instating welfare supplementary payments for people who are affected by the Benefit Cap, the time limiting of Contributory Employment and Support Allowance, the loss or reduction of Disability Living Allowance on transition to Personal Independence Payment and any associated loss or reduction of disability-related premiums and carer payments [Free text.]

3. Background

3.1 The earlier regulations provide for Welfare Supplementary Payments, which were intended to provide financial support for people affected by specified changes to the welfare system brought forward by the Westminster Government. The regulations provide for the period of entitlement to Welfare Supplementary Payments including that no payments are to be made after 31 March 2020 in accordance with the commitment of the Northern Ireland Executive in "A Fresh Start the Stormont Agreement and Implementation Plan".

3.2 In the New Decade, New Approach Deal, there was a commitment by the Northern Ireland Executive to extend the existing welfare mitigation measures beyond 31 March 2020. To give effect to this commitment these regulations will remove the current termination date of 31 March 2020 from each of the earlier regulations. They will also make provisions for the treatment of the period between 31 March 2020 and the date the regulations come into operation (referred to as the "administrative period").

3.3 As the Department for Communities has continued to make payments under the sole authority of the relevant Budget Act during the administrative period the regulations will act to prevent duplication of payment for this period. They will also ensure that where an individual is entitled to a Welfare Supplementary Payment that is payable for a maximum period of one year that any period during the administrative period is counted towards the period of entitlement.

3.4 The regulations will introduce further amendments to omit references to the "administrative period" after a period of 13 months from the date the regulations come into operation. This will ensure that specific provisions will be removed after they cease to have any practical effect.

4. Consultation

4.1 These regulations will provide for the re-instatement of statutory payments under the specified welfare mitigation schemes. As it is considered that these are positive changes that will enable provision of continued support to the most vulnerable in society no consultation has taken place.

5. Equality Impact

5.1 In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on proposals for these regulations and concluded that they would not have significant implications for equality of opportunity. In light of this, the Department considers that an equality impact assessment is not necessary.

6. Regulatory Impact

6.1 These regulations do not require a Regulatory Impact Assessment as they impose only minimal costs on business, charities or voluntary bodies.

7. Financial Implications

7.1 The 2021/22 Budget included an allocation of £42.8 million to continue payment of the existing welfare mitigation schemes until 31 March 2022. The breakdown of costs (excluding administrative costs) is as follows: -

Welfare Supplementary Payment Scheme	Cost
Social Sector Size Criteria (the "Bedroom Tax")	£ 23m
Benefit Cap	£ 5.5m
Children transferring from DLA to PIP (rising 16s)	£ 3.7m
Loss of Carer Payments linked to "rising 16s"	£ 2.1m
Loss of Disability-related payments (on loss of DLA & ESA)	£ 4.3m

8. Section 24 of the Northern Ireland Act 1998

The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied the Rule—

(a) is not incompatible with any of the Convention rights,

(b) is not incompatible with Community law,

(c) does not discriminate against a person or class of person on the ground of religious belief or political opinion, and

8.1 (d) does not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

9.1 Not applicable....

10. Parity or Replicatory Measures

10.1 There is no equivalent provision being made for Great Britain. On 17 November 2015 "A Fresh Start the Stormont Agreement and Implementation Plan" was agreed by the main political parties in Northern Ireland. Included in this agreement was the approach agreed by the Northern Ireland Executive and HM Government to implementing welfare reform in Northern Ireland. The funding and legislation for this ended on 31 March 2020.

10.2 The extension of the schemes beyond this date was included in the New Decade, New Approach Deal as a commitment of the Northern Ireland Executive when the Northern Ireland Assembly returned in January 2020.

10.3 The extension of the Social Sector Size Criteria scheme is provided for in the Welfare Supplementary Payments (Amendment) Bill which was introduced to the Northern Ireland Assembly on the 14th December 2021.

11. Additional Information

11.1 Not applicable.