EXPLANATORY MEMORANDUM

THE WELFARE SUPPLEMENTARY PAYMENT (LOSS OF CARER PAYMENTS) REGULATIONS (NORTHERN IRELAND) 2016

S.R. 2016 No. xxx

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.

2. Purpose

2.1 These Regulations introduce welfare supplementary payments (Loss of Carer Payments Regulations) to mitigate impacts as defined in the document "A Fresh Start the Stormont Agreement and Implementation Plan" arising from the implementation of Welfare Reform.

2.2 The Regulations provide for mitigations on the introduction of Personal Independence Payment (as provided for in Part 5 of the Order).

3. Background

3.1 The Regulations provide for payments referred to as welfare supplementary payments. Their introduction has its basis in measures brought forward by the Westminster Government which included the introduction of Personal Independence Payment to replace Disability Living Allowance for working age claimants only i.e. those aged 16 – 64. Adherence to the normal parity provision for social security measures for single social security systems for the whole of the UK will see the introduction of similar provision in Northern Ireland from 20 June 2016. As a result there are carers in receipt of Carers Allowance, Carers Premium or an additional amount in State Pension Credit who will be impacted. The Northern Ireland Executive sought and agreed transitional protection for those impacted by the reforms for defined periods.

3.2 "A Fresh Start the Stormont Agreement and Implementation Plan" was agreed by the main political parties in Northern Ireland on 17 November 2015. This included agreement on the implementation of welfare reform in Northern Ireland. It also agreed that Professor Eileen Evason should lead a small working group to bring forward proposals for mitigating welfare reforms within an agreed financial envelope. The Executive agreed to implement the findings of the working group.

3.3 In its report the Welfare Reform Mitigations Working Group recommended that existing carers should receive a supplementary

payment to cover their financial loss for one year from the date entitlement ceases.

3.4 These Regulations make provision for these payments under Part 1 for the following categories:

a) As a result of loss of Carer's Allowance
b) As a result of loss of carer premium
c) As a result of loss of Income Support for carers
d) As a result of loss of additional amount in respect of carers under State pension Credit.

Regulation 3(3) stipulates that a claimant cannot be entitled to more than one supplementary payment under these regulations at a time.

3.5 Part 2 makes provision for those existing Carers Allowance claimants that lose entitlement to the benefit. In particular it establishes that to be eligible for a mitigation payment a claimant must be in receipt of Carer's Allowance at the date the severely disabled person they are caring for is assessed for Personal Independence Payment. The claimant must also lose entitlement to Carer's Allowance following the decision on entitlement to Personal Independence Payment.

3.6 Regulation 5 makes provision for the amount of the mitigation payment under Part 2. This is equal to the award of Carer's Allowance unless the person is in receipt of a contributory benefit whereby the welfare supplementary payment will be for the difference between the two amounts.

3.7 Payments will commence on the day immediately after the claimants entitlement to Carer's Allowance terminates and ends one year later or on the date the mitigation scheme ends (31 March 2020), whichever comes first and will be paid every four weeks in arrears. Provision is also included within Part 2 for welfare supplementary payments to cease in cases where Carer's Allowance is subsequently awarded.

3.8 Part 3 contains provisions for the award of mitigation payments to Jobseeker's Allowance, Income Support and Employment and Support Allowance claimants that lose entitlement to a carer premium. It establishes that to be eligible for a mitigation payment a claimant must be in receipt of a carer premium at the date the severely disabled person they are caring for is assessed for Personal Independence Payment. The claimant must also lose entitlement to the carer premium following the decision on entitlement to Personal Independence Payment.

3.9 Regulation 9 makes provision for the amount of the mitigation payment under Part 3. This is equal to the award of carer premium. If the premium paid is in respect of more than one person, the amount will be equal to the

amount of premium lost on the date entitlement to that portion of premium is lost.

3.10 Payments will commence on the day immediately after the claimants entitlement to carer premium terminates and ends one year later or on the date the mitigation scheme ends (31 March 2020), whichever comes first and will be paid every four weeks in arrears. Provision is also included within Part 3 for welfare supplementary payments to cease in cases where carer premium is subsequently awarded.

3.11 Part 4 contains provisions for the award of mitigation payments to Income Support claimants that lose entitlement to the benefit. In particular it establishes that to be eligible for a mitigation payment a claimant must be in receipt of Income Support, which has been awarded on the basis of providing care with an entitlement to Carer's Allowance, at the date the severely disabled person they are caring for is assessed for Personal Independence Payment.

3.12 Regulation 13 makes provision for the amount of the mitigation payment under Part 4. This is equal to the award of Carer's Allowance.

3.13 Payments will commence on the day immediately after the claimants entitlement to Income Support terminates and ends one year later or on the date the mitigation scheme ends (31 March 2020), whichever comes first and will be paid every four weeks in arrears. Provision is also included within Part 4 for welfare supplementary payments to cease in cases where Income Support (based on being a carer) is subsequently awarded.

3.14 Part 5 contains provisions for the award of mitigation payments to State Pension Credit claimants that lose entitlement to an additional amount in respect of the minimum guarantee for caring. It establishes that to be eligible for a mitigation payment a claimant must be in receipt of an additional amount (carer) at the date the severely disabled person they are caring for is assessed for Personal Independence Payment. The claimant must also lose entitlement to the additional amount (carer) following the decision on entitlement to Personal Independence Payment.

3.15 Regulation 17 makes provision for the amount of the mitigation payment under Part 5. This is equal to the award of the additional amount (carer). If the additional amount paid is in respect of more than one person, the amount will be equal to the amount of additional amount lost on the date entitlement to that portion of the additional amount is lost.

3.16 Payments will commence on the day immediately after the claimants entitlement to the additional amount (carer) terminates and ends one year later or on the date the mitigation scheme ends (31 March 2020), whichever comes first and will be paid every four weeks in arrears. Provision is also included within Part 5 for welfare supplementary

payments to cease in cases where additional amount (carer) is subsequently awarded.

3.17 Part 6 makes provisions for certain miscellaneous matters that will impact welfare supplementary payments under these Regulations. It contains provisions for the termination of mitigation payments including the outcome of an appeal not to award Personal Independence Payment or a subsequent award of Personal Independence Payment to the caree or if the caree dies.

3.18 Regulation 23 provides for reviewing a person's entitlement to a welfare supplementary payment.

3.19 A welfare supplementary payment is to be disregarded in the consideration of entitlement to social security benefits (regulation 24).

3.20 Regulation 25 defines entitlement by reference to residency and presence in Northern Ireland of the person or caree.

3.21 Regulation 26 allows periods of temporary absence of the person or caree from Northern Ireland to be deemed as presence for 4 weeks provided if at the beginning of the absence period that period was unlikely to exceed 52 weeks.

3.22 Regulation 27 allows temporary absence from Northern Ireland of the person or caree to be deemed as presence in Northern Ireland for the first 13 weeks of absence where a person is receiving medical treatment.

3.23 Regulations 28 and 29 provide that a welfare supplementary payment will not be paid where a person or caree is a resident in a care home, hospital or similar institution and the costs are being paid out of public funds.

3.24 Regulation 30 provides that a welfare supplementary payment will not be paid where a person or caree is imprisoned or detained in legal custody.

3.25 Regulation 29 provides that in the case of care homes, hospitals and prisons welfare supplementary payments will continue to be paid for the first 28 days before they cease in accordance with Regulations 28, 29 and 30.

4. Consultation

4.1 The working group set up under the leadership of Professor Evason has consulted widely on the Working Group's report and the Department is solely implementing its recommendations.

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 do 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 figures in the table below represent costs estimated by reference to existing cases.

Welfare Supplementary Payments for carers is based on providing protection for existing claimants for a period of one year in order that they do not experience financial disadvantage as a result.

Administration costs over the four years for all the mitigation measures are estimated to be £20m.

ITEM- WELFARE REFORM	**16/17**	**17/18**	**18/19**	**19/20**	**Total (£m)**
Carers	**2**	**7**	**7**	**2**	**18**

8. Section 24 of the Northern Ireland act 1998

8.1 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

(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 Measure

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 Executive and HM Government to implementing welfare reform in Northern Ireland.