EXPLANATORY MEMORANDUM TO

THE WELFARE SUPPLEMENTARY PAYMENT (UNIVERSAL CREDIT)

(SOCIAL SECTOR SIZE CRITERIA) REGULATIONS (NORTHERN IRELAND) 2025

2025 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(A) of the Welfare Reform (Northern Ireland) Order 2015 ("the Order") and is subject to draft affirmative procedure.

2. Purpose

2.1 The Statutory Rule will make provision for Welfare Supplementary Payments for people currently in receipt of Universal Credit and for those who move to Universal Credit in the future who are impacted by the Social Sector Size Criteria.

2.2 These regulations amend existing Welfare Supplementary Payment Regulations, which were introduced to mitigate impacts as defined in the document "A Fresh Start the Stormont Agreement and the implementation Plan" arising from the implementation of welfare reform. They are-

-the Housing Benefit (Welfare Supplementary Payment) Regulations (Northern Ireland) 2017.

2.3 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 the Welfare Supplementary Payment Extension Regulations (NI) 2022(S.R. No 25) removed the termination date of 31 March 2020 and replaced it with a new termination date of 31 March 2025 for all of the mitigation schemes except the Social Sector Size Criteria which was extended indefinitely.

3. Background

3.1 Earlier Regulations provided for payments referred to as Welfare Supplementary Payments. Their introduction was a response to measures brought forward by the Westminster Government including the introduction of the Social Sector Size Criteria that established that Housing Benefit and the housing costs element of Universal Credit is now restricted and is based on the number of bedrooms a household is deemed to require.

3.2 Similar social security measures were brought before the Northern Ireland Assembly in line with the principle of parity to maintain integrated social security systems for the whole of the United Kingdom. The Northern Ireland Executive sought and agreed transitional protection for those impacted by the welfare reforms for defined periods.

3.3 The implementation of welfare reform in Northern Ireland was included in "A Fresh Start the Stormont Agreement and Implementation Plan" as agreed by the main political parties in Northern Ireland on 17 November 2015. It was further agreed to appoint the late Professor Eileen Evason to lead a small working group to propose mitigations to the welfare reform package within an agreed financial envelope. The Northern Ireland Executive agreed to the adoption of the working group's recommendations.

3.4 The Assembly approved the Welfare Supplementary Payment (Extension) Regulations (Northern Ireland) 2022 S.R. No 25 on 31 January 2022 which removed the termination date of 31 March 2020 from each of the earlier regulations and inserted a new end date of 31 March 2025 for all the mitigation schemes except the Social Secor Size Criteria mitigation which was extended indefinitely. They also made provisions for the treatment of the period between 31 March 2020 and the date the regulations came into operation.

3.5 The Assembly also approved the Welfare Supplementary Payment (Amendment) Regulations (Northern Ireland) 2022 S.R. No 32 on 8 February 2022 which made further provisions to amend the Social Sector Size Criteria and Benefit Cap schemes to remove restrictions on entitlement.

3.6 These Regulations amend existing Regulations to ensure recipients of a Welfare Supplementary Payment in respect of the Social Sector Size Criteria continue to receive the payment when they claim Universal Credit. They also provide for Welfare Supplementary Payments to be paid to Universal Credit claimants who are subsequently affected by the Social Sector Size Criteria.

4. Administrative Payments

4.1 Since Universal Credit was introduced in September 2017, the Department has provided non-statutory welfare mitigation payments (Administrative Payments) to people claiming Universal Credit based on the policy detailed in the draft regulations. This policy mirrors that in the approved Welfare Supplementary Payment legislation apart from some provisions relating to the recovery of overpayments, which cannot be applied in the absence of proper statutory authority.

4.2 All administrative mitigation payments to people claiming Universal Credit have been made under the sole authority of successive Budget Acts. Administrative payments have been made on the same basis that Welfare Supplementary Payments would have been made had approval been given to the making of the draft Regulations

4.3 In bringing forward the appropriate legislative cover now these Regulations have had to, of necessity, make reference to those administrative payments.

5. Citation, commencement, and non-retrospection

5.1 These regulations come into operation on the day after the day they are made and no provision is to be regarded as having effect at any time before it came into operation.

6. Eligibility

6.1 Regulation 4 establishes that a person is entitled to a Welfare Supplementary Payment under these regulations if the person is affected by the social sector size criteria in the calculation of Universal Credit.

7. Amount

7.1 Regulation 5 sets out the amount of Welfare Supplementary Payment that a person is entitled to when affected by the social sector size criteria to ensure that a person will be entitled to the amount of Universal Credit payable if the deduction for social sector size criteria had not been made.

8. Period of Payment

8.1 Regulation 6 arranges for the commencement and payment schedule for the Welfare Supplementary Payment being made under these Regulations.

9. Recipient

9.1 Regulation 7 establishes that the Welfare Supplementary Payment must be paid to the person to whom the housing costs element of Universal Credit is payable.

10. Information sharing

10.1 Regulation 8 allows for the sharing of information between the Department and the Housing Executive or Housing Association with regards to Welfare Supplementary Payments and the management of tenant accounts.

11. General

11.1 Regulation 9 sets out the requirement for a person to inform the Department of any change of circumstances that affects entitlement to Universal Credit and in consequence entitlement to a Welfare Supplementary Payment.

11.2 Regulation 10 applies overpayment recovery provisions in the Welfare Supplementary Payment (Amendment) Regulations (Northern Ireland) 2017 to Welfare Supplementary Payments made to Universal Credit claimants under these Regulations.

11.3 Regulation 11 provides for sanctions to be disregarded when calculating Welfare Supplementary Payments.

11.4 Regulation 12 provides for procedures to review a decision on a Welfare Supplementary Payment.

11.5 Regulation 13 provides for Welfare Supplementary Payments to be disregarded when calculating entitlement to Universal Credit, any other social security benefit or Discretionary Support.

11.6 Regulation 14 provides for Welfare Supplementary Payments to be only paid to Northern Ireland residents and those who are temporarily absent from Northern Ireland.

11.7 Regulation 15 makes amendment to the Housing Benefit (Welfare Supplementary Payment) Regulations (Northern Ireland) 2017 to take account of the introduction of these Regulations.

12. Consultation

12.1 As this Rule will provide statutory authority for Welfare Supplementary Payments for all eligible Universal Credit claimants it is a positive measure. Therefore, no consultation has taken place.

13. Equality Impact

13.1 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.

14. Regulatory Impact

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

15. Financial Implications

15.1 The projected future funding requirement for the mitigations package, including proposals to extend the existing Welfare Supplementary Payment schemes, is £47.3m in 2025/26, £48.2m in 2026/27, increasing to £49.3m in 2027/28.

16. Section 24 of the Northern Ireland Act 1998

16.1 The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied the Rule complies with that provision

17. EU Implications

17.1 Not applicable.

18. Parity or Replicatory Measure

18.1 There is no equivalent provision being made in 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.

19. Additional Information

19.1 Not applicable.