EXPLANATORY MEMORANDUM TO

THE SOCIAL FUND AND SOCIAL SECURITY (CLAIMS AND PAYMENTS) (AMENDMENT) REGULATIONS (NORTHERN IERLAND) 2020

S.R. 2020 No. 148

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department for Communities to accompany the Statutory Rule (details above) which is to be laid before the Northern Ireland Assembly.

1.2. These Regulations are made 134(1)(a) and (2) and 171(1), (3), (4) and (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992, and sections 1(1), 5(1)(a), (j), and (r) and 165(1), (4) and (5), of the Social Security Administration (Northern Ireland) Act 1992.

2. Purpose

2.1. This Rule makes a number of minor amendments to Social Fund Maternity and Funeral Expenses (General) Regulations (Northern Ireland) 2005, the Social Fund Cold Weather Payments (General) Regulations (Northern Ireland) 1988 and the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987

2.2. For Funeral Expenses Payments, it removes a current anomaly, where a local council grave digger contracted by a local council cemetery can be paid for by Funeral Expenses Payment, but a private grave digger employed by a local council cannot.

2.3. For Cold Weather Payments the Department is changing the reference from “station” to “site” for the location where temperature is measured. The Department is also amending the meaning of “mean daily temperature” so that in respect of a day, the average of the maximum temperature and minimum temperature forecasted or recorded at a site for that day.

2.4. Changes are also being made to remove the requirement for a written application when a State Pension or State Pension Credit claimant dies with unpaid benefit outstanding.

3. Background

Legislative Context

3.1. The Social Fund Maternity and Funeral Expenses (General) Regulations (Northern Ireland) 2005 are being amended to allow a payment to be made for a private grave digger to be included as a necessary cost.

3.2. The amendments to the Social Fund Cold Weather Payments (General) Regulations (Northern Ireland) 1988 will change any reference in the

regulations from “station” to “site” to ensure the Department can take into account any changes to temperature measurement. In addition there is also a change to the definition of “mean daily temperature” to ensure the Department can take into account both forecasted and recorded temperature when required for administrative purposes.

3.3. Finally the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 will be amended to allow payment of arrears following a death to a person over the age of 16 who is the deceased person’s personal representative, legatee, next of kin or creditor without requiring a written application.

Policy Background

3.4. A minor change is being made to regulations in respect of Funeral Expenses Payment to extend eligibility to private gravediggers and mirror the current position with local council grave diggers.

3.5. The Cold Weather Payments amendments are changing the use of the term “station” for “site”. This does not oblige the Department to use totally new sites and locations but enables us to consider the review which has been undertaken by the Met Office and introduce any changes that we have evidence for that will improve the accuracy of temperature measurement. In addition the Department are changing the reference of “recorded” to “forecasted or recorded” to ensure the Department can take into account both forecasted and recorded temperature when required for administrative purposes.

3.6. The final amendment being made relates to what happens when a person in receipt of State Pension or State Pension Credit dies. This change removes the requirement in the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 for a written application where there is no surviving spouse or civil partner and makes the process more consistent with how the Department is interacting with its other customers.

3.7. The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 provide that an amount of State Pension and State Pension Credit payable to a deceased person which they had not obtained at the date of death may be paid to specified persons aged over 16 (such as next of kin, personal representatives or creditors of the deceased), provided that an application for the payment is made in writing within 12 months of the death.

3.8. Exceptions to this requirement for a written application were introduced in 2007. These exceptions apply where no administrator or executor had been appointed, the person wishing to receive the payment was a surviving spouse or civil partner of the deceased and that survivor was living with the deceased (or would have been living with the deceased if they were not in care).

3.9. This amendment extends the exception so that the Department can accept applications other than in writing from the person to whom the payment is due in certain circumstances, irrespective of whether the applicant is the surviving spouse or civil partner of the deceased. It also removes the

requirement for the survivor to have been living with the deceased. These changes make the process consistent with how the Department is increasingly interacting with its customers, makes the process for claiming easier for the customer and contributes to our aims of making services more compassionate.

3.10. Currently, where payment of outstanding benefit following the death of a State Pension or State Pension Credit recipient is due to a person who is not the spouse or civil partner of the deceased, a form is issued in order to verify their identity and meet the legislative requirement for a written application. This process is cumbersome and can cause delays in issuing the payment at a time when that money may be needed, for example to go towards the cost of the funeral or for costs relating to the care of the deceased prior to death.

3.11. The amendment allows applications for outstanding State Pension and State Pension Credit in these circumstances to be made without the need for a written application by a person other than the spouse or civil partner (for example a next of kin where there is no surviving spouse or civil partner). This will enable such payments to be made without unnecessary delay at what may be a distressing time for the person notifying a death and applying for the payment.

4. Consultation

4.1. No consultation has taken place as all changes are minor and are intended to support all claimants, improve the service offered and provide more accurate information.

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 considered that an equality impact assessment is not necessary.

6. Regulatory Impact

6.1. There is no, or no significant, impact on business, charities or voluntary bodies or on the public sector.

7. Financial Implications

7.1. The amendments made by this set of Regulations will generate on going savings due to making use of electronic applications. There may also be savings associated with fraud identification and prevention.

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 that these Regulations:

a) are not incompatible with any of the Convention rights;

b) are not incompatible with Community law;

c) do not discriminate against a person or class of person on the ground of religious belief or political opinion; and

d) do 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. The corresponding Great Britain Regulations are the Social Fund and Social Security (Claims and Payments) (Amendment) Regulations 2020 (S.I. 2020/600).

10.2. In line with the long-standing policy of parity in social security, the Social Fund and Social Security (Claims and Payments) (Amendment) Regulations (Northern Ireland) 2020 will come into operation on 22nd July 2020. Parity of timing and substance is an integral part of the maintenance of single systems of social security, pensions and child support provided for in section 87 of the Northern Ireland Act 1998.

11. Additional Information

11.1. Not applicable.