EXPLANATORY MEMORANDUM TO

THE SOCIAL FUND (CHILD FUNERAL FUND) (No. 2) REGULATIONS (NORTHERN IRELAND) 2022

S.R. 2022 No. 179

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 under the negative resolution procedure.

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

2. Purpose

2.1. The purpose of this statutory rule is to establish a Child Funeral Fund (CFF) for Northern Ireland.

2.2. Under the CFF arrangements, bereaved parents, guardians or carers will receive a one-off lump sum payment to families or funeral directors, regardless of the recipient's means.

2.3. The CFF will provide a one-off lump sum payment for basic costs of a funeral in the event of the death of a child under the age of 18, and still-born children born after 24 weeks gestation. The one-off lump sum payment may be paid directly to families or to funeral directors.

3. Background

Legislative Context

3.1. The CFF is to be delivered as part of the Social Fund under powers in section 134 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (the "1992 Act"). The 1992 Act provides for prescribed payments from the Social Fund for stipulated maternity, cold weather, winter fuel and funeral expenses in defined circumstances, and for payments to a third party for the provision of goods or services to the applicant.

3.2. Annually, in Northern Ireland there are approximately 170 deaths of children from birth up to and including age 17 and post-24 week still-births. The introduction of a CFF for Northern Ireland was a commitment set out in the New Decade New Approach agreement.

3.3. The purpose of this instrument is to ensure that the basic cost of a funeral of a child will be provided for by Departmental funding through a one-off lump sum payment.

3.4. The Department believes that legislation offers the only means of achieving comprehensive geographical coverage of provision, securing compliance from the sector, and establishing long term sustainability for these arrangements. Self-regulatory practices, for example through a memorandum of understanding, could not be relied upon to attain these key objectives, given the number of small business providers for whom it may not be viable to waive charges for the provision of the goods and services covered by the CFF under these arrangements.

3.5. To minimise the emotional and financial burden for the bereaved, the scheme has been developed so that a one-off lump sum payment can be made directly to families or funeral directors.

3.6. In keeping with the spirit of the scheme, this instrument reflects a minimal approach with regard to eligibility requirements (see Regulation 3), the conditions being only that the child is under 18 at the time of death or is still-born after the 24th week of gestation.

4. Consultation

4.1. Given the urgency of these regulations the Department for Communities has not undertaken a public consultation.

5. Equality Impact

5.1. In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department conducted a screening exercise on proposals for the Child Funeral Fund and concluded that it does not have significant implications for equality of opportunity and considered that an equality impact assessment was not necessary. The EQIA screening does not need reviewed in light of the proposed amendment.

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 annual cost of implementing and operating the CFF is estimated at around £434k (year 1); £622k (year 2) and £669k (year 3).

8. Section 24 of the Northern Ireland Act 1998

8.1 The Department considers the Statutory Rule to be compatible with section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1. Not applicable.

10. Parity or Replicatory Measure

10.1. This statutory rule applies to Northern Ireland only. A similar scheme was set up in England by S.I. 2019/1064.

11. Additional Information

11.1. Not applicable.