EXPLANATORY MEMORANDUM TO

THE SOCIAL FUND MATERNITY AND FUNERAL EXPENSES (GENERAL) AND SOCIAL SECURITY (CLAIMS AND PAYMENTS) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2023

S.R. 2023 No. 86

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 under sections 134 (1)(a) and 171(3) and (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and sections 5(1)(a) and 165(4) of the Social Security Administration (Northern Ireland) Act 1992.

2. Purpose

2.1. This Rule introduces three changes to the Sure Start Start Maternity Grant (SSMG), two of which follow the collapse of the Afghan Government on 15 August 2021 and the invasion of Ukraine by Russia on 24 February 2022. The first introduces an exemption to the rule that the Department for Communities only pays an SSMG where there are no other children in the claimant's household (the 'first child rule') for those fleeing from Afghanistan and Ukraine in specific circumstances. The second introduces a limited extension to the SSMG claim time limit. The final change removes the requirement for claimants to provide evidence of receiving (or having received) health and welfare advice regarding the baby or mother prior to claiming SSMG.

3. Background

Legislative Context

3.1. This Rule makes changes to the Social Fund Maternity and Funeral Expenses (General) Regulations (Northern Ireland) 2005 (S.R. 2005 No.506) ("2005 Regulations"). It also makes a specific change to Schedule 4 of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 (S.R. 1987 No.465) ("1987 Regulations").

3.2. This Rule makes changes using Regulations 2 and 3 of the Social Fund Maternity and Funeral Expenses (General) and Social Security (Claims and Payments) (Amendment) Regulations 2023. The first change to Sure Start Maternity Grant (SSMG) uses Regulation 3(3) to add a further exemption to the "first child only rule" related to those fleeing Afghanistan and Ukraine in specific circumstances. Under Regulation 2, a change is introduced to disapply the usual 6-month claim time limit so that it can be extended for those claiming SSMG immediately

following the evacuation and invasion. These changes are outlined in 4.1, 4.2 and 4.3.

3.3. This Rule also removes Regulation 5(4) from the "2005 Regulations" in order to remove the requirement that SSMG claimants SSMG claimants attain and certify maternal and /or child welfare and health advice. Claimants will still need to provide proof of confinement, birth, adoption or kinship care to qualify for SSMG and will be given more flexibility about how they demonstrate this, making the claim process easier. This change is outlined in 4.4.

4. Policy Background

What is being done and why?

Sure Start Maternity Grant: Afghanistan and Ukraine

4.1. This Rule introduces a further exemption to the 'first child only' SSMG eligibility rule, covering those individuals who were evacuated from Afghanistan in connection with the collapse of the Afghan government on 15 August 2021, as well as those who left Ukraine in connection with the invasion by Russia on 24 February 2022. This policy change allows the decision maker to disregard previous children under the age of 16 who were part of the family before they arrived in the UK. In the case of Ukraine, the change will also require them to have been residing in Ukraine immediately before 1 January 2022

4.2. The previous policy intention behind only usually allowing a SSMG for the first-born child is that it can be reasonably expected that items, such as a pram and other maternity items purchased for the first child, can be used for subsequent children. Because of the circumstances in which people were evacuated from Afghanistan following the collapse of the Afghan Government, and left Ukraine following the invasion by Russia, it is not likely that parents would have been able to bring maternity items with them and especially larger items such as a pram or a cot. Extending SSMG to these individuals recognises this and aligns with the broader approach of extending support to these groups via the welfare system, in recognition of the unique and compelling situation in both countries and commitments made by the UK Government.

Sure Start Maternity Grant: extension of claim time limit

4.3. Because in some cases, those who were evacuated from Afghanistan and left Ukraine would have arrived and given birth to a subsequent child in the UK more than 6 months before these regulations come into force, we have also introduced a specific disapplication of the Sure Start Maternity Grant (SSMG) time limit for such cases. The time limit will extend from 15 August 2021 in the case of those arrived from Afghanistan and 24 February 2022 in the case of Ukraine, until 6 months after these regulations come into operation. This will ensure that everyone who arrived in the UK from the relevant dates will benefit.

Sure Start Maternity Grant: Removal of health professional statement

4.4. As outlined in 3.3, this change relates to the removal of the requirement to provide a health professional statement as part of the claim process for a Sure Start Maternity Grant (SSMG). It is now accepted that the provision of the separate statement places an additional burden on health care staff, such as

doctors, nurses and midwifes, over and above other documentation required to verify a pregnancy or a birth. There will still be a requirement for a pregnancy to be certified, as well as confirmation of the earliest week of confinement, in order to qualify for a SSMG. In most cases this will be achieved via a claimant providing their MAT B1 form, which is already used to certify a pregnancy in respect of claims to Maternity Allowance, as well as Statutory Maternity Pay. A suitable letter completed by a qualified health professional such as a doctor, registered nurse or midwife that includes their appropriate medical registration would also be valid.

Explanations

What did any law do before the changes to be made by this rule?

4.5. Since 2020, an exemption was introduced following an Upper Tribunal case, that meant that those granted refugee status or humanitarian protection who already had children under the age of 16 when they arrived in the UK had those children excluded from the 'first child only' provision. That exemption did not apply to those not granted refugee status or humanitarian protection.

4.6. The usual maximum time limit for making a claim for SSMG is 6 months from the date of birth.

4.7. There was previously a requirement for a separate declaration by a health professional in respect of a claim to SSMG of health and welfare advice being given. An easement was made during COVID at the request of midwifes. Further enquiries with Department of Health and Social Care indicated that there was no objection at removal of the requirement on an ongoing basis and this Rule makes parity provision for Northern Ireland.

Why is being changed?

4.8. As set out in 4.2, the policy intention behind only usually allowing a SSMG for the first-born child is that it can be reasonably expected that items, such as a pram and other maternity items purchased for the first child, can be used for subsequent children. Because of the circumstances in which people were evacuated from Afghanistan following the collapse of the Afghan Government, and left Ukraine following the invasion by Russia, it is not likely that parents would have been able to bring maternity items with them and especially larger items such as a pram or a cot. Extending Sure Start Maternity Grant (SSMG) to these individuals recognises this and aligns with the broader approach of extending support to these groups via the welfare system, in recognition of the unique and compelling situation in both countries and commitments made by the UK Government.

4.9. The time limit for making a claim has been temporarily extended to ensure that those arriving around 15 August 2021 from Afghanistan and 24 February 2022 from Ukraine do not lose out because they are outside the 6 month time limit for making claims.

4.10. Removal of the requirement for a health professional statement will streamline the process for placing, and authorising, claims for SSMG. This will include using the MATB1, which is used for a claim to Maternity Allowance and Statutory Maternity Pay to verify pregnancy.

What will it now do?

4.11. A Sure Start Maternity Grant (SSMG) can be awarded for a first UK born child, or children of a multiple birth, for people fleeing Afghanistan or Ukraine due to the conflicts, if there are pre-flight children. The time limit for making a claim has been temporarily extended to ensure those arriving following the collapse of the Afghan government and invasion of Ukraine will be covered.

4.12. It will now be possible to use alternative ways to verify a claim for a SSMG including the MATB1, letter from a doctor or other medical professional, birth certificate for a child, evidence of an award of child element for Universal Credit or Child Benefit.

5. Consultation

5.1. As the Regulations make, in relation to Northern Ireland, only provision corresponding to provision contained in Regulations made by the Secretary of State for Work and Pensions in relation to Great Britain consultation with the Social Security Advisory Committee is not required.

5.2. No formal consultation has taken place.

6. Equality Impact

6.1. 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.

7. Regulatory Impact

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

8. Financial Implications

8.1. There are no, or no significant financial implications for the Department.

9. Section 24 of the Northern Ireland Act 1998

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

10. EU Implications

10.1 Not applicable.

11. **Parity or Replicatory Measure**

11.1. Replicatory measure can be found in the Great Britain instrument, the Social Fund Maternity and Funeral Expenses (General) and Social Security (Claims and Payments) (Amendment) Regulations 2023.

11.2. In line with the long-standing policy of parity in social security, the Social Fund Maternity and Funeral Expenses (General) and Social Security (Claims and Payments) (Amendment) Regulations (Northern Ireland) 2023 will come into operation on 8th June 2023. 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.

11.3. Due to time constraints and budget concerns, the Department will be unable to honour the 21 day rule in this instance, in order to maintain parity of timing with Great Britain.

12. **Additional Information**

12.1. Guidance will be issued to Department for Communities staff prior to this Statutory Rule coming into operation.