EXPLANATORY MEMORANDUM TO

THE SOCIAL FUND WINTER FUEL PAYMENT (AMENDMENT) REGULATIONS 2024

2024 No. 898

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

2.1 Emma Reynolds MP, Minister for Pensions at the Department for Work and Pensions, confirms that this Explanatory Memorandum meets the required standard.

2.2 Andrew Latto, Deputy Director for Devolution, Pensioner Benefits and Carer's Allowance at the Department for Work and Pensions, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Elisabeth Plunkett at the Department for Work and Pensions, telephone: 07795283722, email Elisabeth.plunkett@dwp.gov.uk, can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument amends the Social Fund Winter Fuel Payment Regulations 2024 (S.I. 2024/869)[1] ("the 2024 Regulations") to correct some minor errors in regulation 7(1) of, and Schedule 2 to, those Regulations. Paragraphs 6.1 to 6.5 set out the detail of the amendments.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales and Scotland.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales and Scotland.

5. Policy Context

What is being done and why?

5.1 The 2024 Regulations were made and laid on 22 August 2024 and come into force on 16 September 2024. Those Regulations link entitlement to winter fuel payments to receipt of certain qualifying means-tested benefits and tax credits. Some minor errors

[1] https://www.legislation.gov.uk/uksi/2024/869/contents/made.

have been identified in regulation 7(1) of, and Schedule 2 to, the 2024 Regulations. This instrument corrects those errors before the 2024 Regulations come into force.

What was the previous policy, how is this different?

5.2 There is no policy effect. This instrument makes no changes to those Regulations other than to correct minor errors.

6. Legislative and Legal Context

How has the law changed?

6.1 Regulation 7(1) of the 2024 Regulations makes provision for the revocation of Regulations set out in Schedule 2 to those Regulations. This is amended to refer to the revocation of Regulations and Orders as set out in that Schedule. The heading to Schedule 2 and the heading to the first column of that Schedule are amended to refer to the revocation of Regulations and Orders.

6.2 Schedule 2 to the 2024 Regulations is amended so that paragraph 32 of Schedule 3 to the Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc Provisions) Order 2005 (S.I. 2005/2877)[2] is revoked rather than paragraph 34.

6.3 Paragraph 32 of Schedule 3 to S.I. 2005/2877 amends the Social Fund Winter Fuel Payment Regulations 2000 (S.I. 2000/729)[3], which are themselves revoked by row 1 of Schedule 2 to the 2024 Regulations.

6.4 Paragraph 34 of Schedule 3 to S.I. 2005/2877 amends the Social Security (Loss of Benefit) Regulations 2001 (S.I. 2001/4022)[4]. The intention was not to revoke amendments made to the 2001 Regulations and so it is appropriate to correct the error by a further amending instrument.

6.5 Schedule 2 to the 2024 Regulations is further amended in order to correctly refer to article 10, rather than regulation 10, of the Health and Social Care Act 2008 (Miscellaneous Consequential Amendments) Order 2010 (S.I. 2010/1881)[5].

Why was this approach taken to change the law?

6.6 These amendments have been made by way of an amending SI rather than revoking and remaking the 2024 Regulations. This was considered the most appropriate and proportionate approach to correct the errors.

6.7 As the instrument corrects errors in the 2024 Regulations, it is being issued free of charge to all known recipients of that instrument.

7. Consultation

Summary of consultation outcome and methodology

7.1 No consultation was undertaken.

7.2 These Regulations will be considered by the Social Security Advisory Committee on 11 September 2024, alongside the 2024 Regulations. These regulations invoke the urgency provisions in the Social Security Administration Act 1992 and will be made without first submitting the instrument to the Social Security Advisory Committee.

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[2] https://www.legislation.gov.uk/uksi/2005/2877/contents.
[3] https://www.legislation.gov.uk/uksi/2000/729/contents.
[4] https://www.legislation.gov.uk/uksi/2001/4022/contents.
[5] https://www.legislation.gov.uk/uksi/2010/1881/contents/made.

8. Applicable Guidance

8.1 It is not necessary to issue any guidance on this instrument.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because it is correcting errors and has no impact on the private, public or voluntary sectors.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies beyond their existing obligations, because they are out of scope of the legislation.

9.3 The legislation has no impact on small or micro businesses.

9.4 There is no impact on the public sector because this instrument is correcting minor errors and has no effect on the Exchequer effects of the 2024 Regulations.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 This instrument will not be monitored or reviewed.

10.2 The instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 This instrument will breach the 21-day rule as it will come into force immediately before the 2024 Regulations, which come into force on 16 September 2024. This is because there are some minor errors in regulation 7(1) of, and Schedule 2 to, the 2024 Regulations and it is appropriate to correct these errors before the 2024 Regulations come into force. If the 21-day rule were to be complied with it would not be possible to amend the errors before the 2024 Regulations come into force. The effect of this would be that paragraph 34 of Schedule 3 to the Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc Provisions) Order 2005 would be incorrectly revoked.

12. European Convention on Human Rights

12.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").