EXPLANATORY MEMORANDUM TO

THE SOCIAL FUND WINTER FUEL PAYMENT (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2024

S.R. 2024 No. 189

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.

These Regulations are made under sections 134(2) and 171(1), and (3) to (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

2. Purpose

2.1. These Regulations amend the Social Fund Winter Fuel Payment Regulations (Northern Ireland) 2024 (S.R. 2024 No. 160) ("the 2024 Regulations") to correct minor errors in regulations 2(4) and 5(2) of those Regulations.

3. Background

Legislative Context

3.1. Regulation 2 of the 2024 Regulations provides that the Department must pay a Winter Fuel Payment to anyone who has reached State Pension age by the end of the qualifying week, is resident in Northern Ireland and in receipt of Pension Credit or other qualifying benefit. It also includes those awarded Working Tax Credit and Child Tax Credit.

3.2. When drafting provision for the definition of 'pensionable age' in regulation 2(4) of the 2024 Regulations, the wrong schedule number was cited in the reference to the Pensions (Northern Ireland) Order 1995. These Regulations amend regulation 2(4) of the 2024 Regulations by substituting 'Schedule 1' with 'Schedule 2'.

3.3. Regulation 5 of the 2024 Regulations allows for automated payments based on information held by the Department for Work and Pensions. It also allows for Winter Fuel Payments to be made if a household becomes entitled to a qualifying benefit or tax credit in the qualifying week where that entitlement is decided after 31 March 2025. This could happen, for example, when a claimant appeals a decision about benefit entitlement and a social security tribunal finds that they are entitled to a benefit (*see* regulation 5(2) of the 2024 Regulations).

3.4. When drafting provisions in regulation 5(2), regarding decisions on claimant appeals from the Commissioners for His Majesty's Revenue and Customs and from the Appeal Tribunals, the Department erroneously omitted reference to the Social Security Commissioners. These Regulations amend regulation 5(2) of the 2024 Regulations by inserting 'the Social Security Commissioners' in the appropriate place.

Policy Background

3.5. The 2024 Regulations were made and laid on 9 September 2024 and came into operation 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 have been identified in regulations 2(4) and 5(2) of the 2024 Regulations. This instrument corrects those errors.

3.6. There is no policy effect. This instrument makes no changes to the 2024 Regulations other than to correct some minor errors.

4. Consultation

4.1. 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.

4.2. No formal consultation has taken place.

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.

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. Not applicable.

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 the Rule complies with that provision.

9. EU Implications

9.1. Not applicable.

10. Parity or Replicatory Measure

10.1. Replicatory measure can be found in the Great Britain instrument, the Social Fund Winter Fuel Payment Regulations 2024.

10.2. In line with the long-standing policy of parity in social security, both the Social Fund Winter Fuel Payment Regulations 2024 and the 2024 Regulations came into

operation on 16 September 2024. 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.