EXPLANATORY MEMORANDUM TO

THE SOCIAL FUND WINTER FUEL PAYMENT REGULATIONS (NORTHERN IRELAND) 2025

S.R. 2025 No. 142

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, sections 5(1)(a) and (j), 5A(2) and 165(1), (4), (5) and (6) of the Social Security Administration (Northern Ireland) Act 1992, and Articles 16(1) and 74(1) of, and paragraph 3 of Schedule 4 to, the Social Security (Northern Ireland) Order 1998.

2. Purpose

2.1. These Regulations make provision for an annual Winter Fuel Payment to be paid to pensioner households in Northern Ireland from Winter 2025/26.

3. Background

Legislative Context

3.1. The Social Fund Winter Fuel Payment Regulations (Northern Ireland) 2024 and the Social Fund Winter Fuel Payment (Amendment) Regulations 2024 are revoked by these Regulations, which make provision for payment of a Winter Fuel Payment in prescribed circumstances. The legislation implements the policy decision to change the entitlement conditions for payment of a Winter Fuel Payment.

3.2. It might have been possible to amend the Social Fund Winter Fuel Payment Regulations (Northern Ireland) 2024 to achieve the policy, but it was considered much simpler and clearer to revoke and replace the existing regulations and make a free-standing set of regulations, in line with England and Wales.

Policy Background

3.3. Before 2024/25, the policy provided for a Winter Fuel Payment to be paid to all people resident in Northern Ireland who had reached State Pension age during the third week of September in any year. There were exceptions for those in prison, or who were in hospital or a nursing home for specified periods. This policy was originally introduced in 1997/98 through the Social Fund Winter Fuel Payment Regulations (Northern Ireland) 1998 to help pensioners with the cost of heating in Winter. The Social Fund Winter Fuel Payment Regulations (Northern Ireland) 2000 superseded the 1998 Regulations.

3.4. In Winter 2024/25, the policy on Winter Fuel Payments was changed so that Winter Fuel Payments were made to pensioners in receipt of a qualifying benefit

or tax credit. This was introduced through the Social Fund Winter Fuel Payment Regulations (Northern Ireland) 2024 and the Social Fund Winter Fuel Payment (Amendment) Regulations (Northern Ireland) 2024.

3.5. On 10 June 2025, the Department for Communities announced that the level of the means test would be increased. Winter Fuel Payments would be made to all pensioners in Northern Ireland, subject to Regulation 4 as described in paragraph 3.14. These would then be recovered through the tax system from those who are not in receipt of relevant means-tested benefits and who have a taxable income over £35,000.

3.6. These Regulations put into effect the first part of that policy by making Winter Fuel Payments universal, increasing the numbers entitled in Northern Ireland to approximately 336,000. Around 48,000 of these payments will then be recovered through the tax system, meaning around 288,000 pensioners will be net beneficiaries. The tax recovery provisions will be included in the Finance Bill to be introduced to the UK Parliament in Autumn 2025.

3.7. In 2024/25, Winter Fuel Payments were made to pensioners entitled to a qualifying means-tested benefit or tax credit in Northern Ireland. They were also made to people who in the qualifying week had reached State Pension age, were resident in a qualifying European Economic Area (EEA) state or Switzerland, were covered by the European Union Withdrawal Agreement or parallel agreements, had a genuine and sufficient link to the UK, and were in receipt of a benefit equivalent to the qualifying means-tested benefits and tax credits in Northern Ireland. The provisions for payments in the EEA and Switzerland expired on 1 April 2025. From Winter 2025/26, Winter Fuel Payments will not be made outside the United Kingdom.

3.8. These Regulations revoke and replace the previous legislation, the Social Fund Winter Fuel Payment Regulations (Northern Ireland) 2024 ("the 2024 Regulations") and the Social Fund Winter Fuel Payment (Amendment) Regulations (Northern Ireland) 2024 and make provision for the Winter Fuel Payment to be universal.

3.9. Regulation 2 provides that, subject to regulation 4, the Department must pay a Winter Fuel Payment to a person who has reached State Pension age in or before the qualifying week and is ordinarily resident in Northern Ireland.

3.10. Regulation 3 sets out the amount of a Winter Fuel Payment a person will receive. Broadly, Winter Fuel Payments are £200 for a household with someone of State Pension age and £300 for a household with someone aged 80 or over. Where the household is not in receipt of a relevant means-tested benefit, and there is more than one eligible person in the household, a shared payment will be made.

3.11. A single person living alone will receive £200 if aged between State Pension age and 79, or £300 if aged 80 or over.

3.12. Where no relevant means-tested benefit is in payment and there is more than one eligible person in the household, each person over State Pension age (regardless of their marital relationship, family or other connections to people in the same household) will receive £100 if aged between State Pension age and 79; £200 if they are the only person aged 80 or over in the household; or £150 if aged 80 or over and there are other people aged 80 or over in the household. If they are living permanently in residential care – defined as living there throughout the qualifying

week and the period of at least 12 weeks ending immediately before the qualifying week, disregarding any period of temporary absence - they will receive £100 if aged between State Pension age and 79, or £150 if aged 80 or over.

3.13. Where a relevant means-tested benefit is in payment, a couple where both partners are aged under 80 will receive £200; where either or both partners are aged 80 or over, the amount will be £300. This payment is made to the "lead claimant" of the relevant means-tested benefit except in the case of a couple where only one partner has reached State Pension age in the qualifying week, in which case the payment is made to that partner.

3.14. Regulation 4 sets out that a person will not be entitled to a Winter Fuel Payment if:

i) they are the partner of, and living with, a person who is in receipt of a relevant benefit during the qualifying week, because the partner will get the payment on behalf of both of them;

ii) they are in hospital getting free treatment for the whole of the qualifying week and have been receiving such treatment for more than 52 weeks ending immediately before the qualifying week, because they are receiving full state support for their living costs through the National Health Service;

iii) they are in prison serving a sentence for the whole of the qualifying week, because they are receiving full state support for their living costs through the prison service;

iv) they are in residential care permanently and are in receipt of a relevant means-tested benefit. This is because receipt of such a benefit means that their income is such that they are likely to receive state support for their living costs through the social care system;

v) they have not made a claim for a Winter Fuel Payment by 31 March following the qualifying week, subject to the exceptions set out in regulation 5 and described in paragraph 3.16.

3.15. Winter heating assistance is a devolved matter in Scotland, and Winter Fuel Payments are a reserved benefit in England and Wales. Regulation 4 ensures that a pensioner will not receive a duplicate payment if they move from Northern Ireland to England or Wales or Scotland during the qualifying week. In practice, it is the place of residence on the last day of the qualifying week which determines which payment is made – a Winter Fuel Payment from the Department for Communities in Northern Ireland, a Winter Fuel Payment from the Department for Work and Pensions (DWP) in England or Wales, or a Pension Age Winter Heating Payment from the Scottish Government.

3.16. Regulation 5 sets out the circumstances in which the Department may make a Winter Fuel Payment without a claim and allows for automated payments based on information held by the Department. Only a very small number of individuals who either do not have a State Pension or Departmental benefit record, for instance those who have deferred their State Pension, will need to claim a Winter Fuel Payment. Claims may be made up to 31 March following the qualifying week.

3.17. Those who do not wish to receive a Winter Fuel Payment may opt out of receiving an automatic payment either by contacting the Winter Fuel Payment Centre helpline or by using an online form available on nidirect.gov.uk.

3.18. Regulation 6 makes a consequential amendment to the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987.

3.19. Regulation 7 revokes the Social Fund Winter Fuel Payment Regulations (Northern Ireland) 2024 and the Social Fund Winter Fuel Payment (Amendment) Regulations (Northern Ireland) 2024.

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 2025.

10.2. In line with the long-standing policy of parity in social security, the Social Fund Winter Fuel Payment Regulations 2025 will come into operation on 15 September

2025. 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.