EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2021

S.R. 2021 No. 287

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department for Communities to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under paragraph 1(1) of Schedule 2, and paragraph 21 of Schedule 7, to the European Union (Withdrawal) Act 2018 and is subject to the negative resolution procedure.

2. Purpose

2.1. The Rule corrects a deficiency in existing legislation following EU exit and the end of the transition period. It amends the legislation in order to continue to make payments of the Christmas Bonus to eligible people in Switzerland.

3. Background

3.1. The Christmas Bonus is an annual payment of £10 made to people entitled to a qualifying benefit in the first week of December. It is currently paid as set out in section 144 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (the '1992 Act').

3.2. "Member" in the expression "member State" generally refers to membership of the EU. However, the European Economic Area Act 1993 section 2(1) extends the definition of "member State" in section 144 of the 1992 Act to include states in the European Economic Area (EEA). The EEA consists of the member states of the EU plus Iceland, Norway and Liechtenstein.

3.3 Switzerland is not part of the EEA. However, in 2001 Switzerland signed an agreement with the EU for the free movement of people. The agreement amended the definition of "member States" in the EU social security co-ordination regulations applicable throughout the EU to include Switzerland. Consequently, the Christmas Bonus was paid to people in Switzerland who satisfied the qualifying conditions.

3.4 Prior to the end of the EU Exit transition period, the Christmas Bonus was payable to eligible people resident in the UK, the EEA or Switzerland. However, as a result of EU exit, the EU social security co-ordination regulations that extended the payment of the Christmas Bonus to people in Switzerland were revoked on 31 December 2020, at the end of the transition

period. Currently, the only people in Switzerland who will be able to receive the Christmas Bonus are those people who are within the scope of the Withdrawal Agreement, the EEA EFTA Separation Agreement or the Swiss Citizens' Rights Agreement.

3.5. The Rule amends section 144 of the 1992 Act to ensure that the Christmas Bonus will continue to be payable to all eligible people in Switzerland. It also amends that section to make clear that the Bonus is payable to eligible people in the EEA.

4. Consultation

4.1. There is no requirement to consult on this Rule. It makes 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

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 the legislative proposals for these Regulations and has concluded that they do not have significant implications for equality of opportunity. In light of this, the Department considers that an Equality Impact Assessment is not necessary.

6. Regulatory Impact

6.1. The Rule does not require a Regulatory Impact Assessment as it does not impose any costs on business, charities or voluntary bodies.

7. Financial Implications

7.1. None.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Department is content that this Rule complies with section 24 of the Northern Ireland Act 1998 (Convention rights, etc.).

9. EU Implications

9.1. Not applicable.

10. Parity or Replicatory Measure

10.1. The corresponding Great Britain instrument is the Social Security (Amendment) Regulations 2021 (S.I. 2021/1152) which comes into force on 3 December 2021. Parity of timing and substance is an integral part of the maintenance of single systems of social security, child support and pensions in line with section 87 of the Northern Ireland Act 1998.