EXPLANATORY MEMORANDUM TO

The Social Security Benefits Up-rating (No. 2) Regulations (Northern Ireland) 2018

S.R. 2018 No. 169

1. Introduction

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

1.2. The Statutory Rule is made under sections 90, 113(1)(a) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992, sections 5(1)(q), 135(3) and 165(1), (4) and (5) of the Social Security Administration (Northern Ireland) Act 1992 and sections 20(1) and 51(6) of the Pensions Act (Northern Ireland) 2015 and is subject to the confirmatory resolution procedure.

2. Purpose

2.1. These Regulations revoke and re-enact the provisions of the Social Security Benefits Up-rating Regulations (Northern Ireland) 2018 which would otherwise cease to have effect by virtue of section 51(3) of the Pensions Act (Northern Ireland) 2015. These Regulations contain only provisions in consequence of the Social Security Benefits Up-rating (No. 2) Order (Northern Ireland) 2018 ("the Up-rating Order") and are one of a series of statutory rules relating to the annual up-rating of social security benefits and pensions.

3. Background

3.1. Regulation 1 provides for the title, commencement and interpretation.

3.2. Regulation 2 prevents any rate that is changed by the Up-rating Order from applying in cases where there is a question about its effect on a benefit that is already in payment that is still to be determined. This provision is intended to avoid incorrect payments of benefit where the increase is not payable, either in part or full. This may take place, for example, where an adjustment of a benefit is required because another benefit is also in payment under the overlapping benefit provisions. Overlapping benefit provisions prevent a person who is entitled to two or more benefits from being paid both of them in full.

3.3. Regulation 3 restricts the application of increases specified in the Up-rating Order where the beneficiary is not ordinarily resident in Northern Ireland. This provision follows the long-standing policy that benefits payable to people not ordinarily resident in Northern Ireland are not up-rated unless there is a legal obligation or reciprocal agreement to do so.

3.4. Regulation 4 raises by 3.0 per cent. (September 2017 Consumer Prices Index figure) the earnings limit for child dependency increases payable with a carer's allowance in transitionally protected cases. These increases were abolished by sections 1(3)(e) and 60 of, and Schedule 6 to, the Tax

Credits Act 2002 (c.21) but are saved for transitional cases by virtue of Article 2 of the Tax Credits Act 2002 (Transitional Provisions and Savings) Order (Northern Ireland) 2003.

3.5. Regulation 5 increases by 3.0 per cent. the amount of benefit that a person must be left with if they live in a care home and, because they find it difficult to budget for their care fees, the care home costs are paid direct from their benefit to the person or body charging for care. The 3.0 per cent mirrors the September 2017 figure for the annual growth in prices, as measured by the Consumer Prices Index.

3.6. Regulation 6 revokes the Social Security Benefits Up-rating Regulations (Northern Ireland) 2018.

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.

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 these legislative proposals and has concluded that the proposals do not have significant implications for equality of opportunity or good relations. In light of this, the Department considers that an equality impact assessment is not necessary.

6. Regulatory Impact

6.1. These Regulations do not require a Regulatory Impact Assessment as they do not impose a cost on business, charities, social enterprises or voluntary bodies.

7. Financial Implications

7.1. The total cost of the 2018/19 up-rating exercise is expected to increase the Department's annually managed expenditure by approximately £125 million.

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 the Rule—

(a) is not incompatible with any of the Convention rights,

(b) is not incompatible with Community law,

(c) does not discriminate against a person or class of person on the ground of religious belief or political opinion, and

(d) does not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

9.1. Not applicable.

10. Parity or Replicatory Measure

10.1. The corresponding Great Britain Regulations are the Social Security Benefits Up-rating Regulations 2018.

10.2. Parity of 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. To enable the provisions that were in place from April 2018 to continue in force it was necessary to make these subsequent Regulations during interregnum.

11. Additional Information

11.1. Not applicable.