EXPLANATORY MEMORANDUM TO

The Social Security Benefits Up-rating Regulations (Northern Ireland) 2021

S.R. 2021 No. 83

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 contain only provisions in consequence of the Social Security Benefits Up-rating Order (Northern Ireland) 2021 ("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 or decrease 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 and the two benefits are subject to 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 in benefits (including State Pension) 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 e.g. another Member State of the European Economic Area, Switzerland or a country or territory with which the United Kingdom has a reciprocal agreement that allows for up-rating.

3.4. Regulation 4 amends paragraph 2C of Schedule 2 to the Social Security Benefit (Dependency) Regulations 1977, an interpretation provision, to put beyond doubt the fact that child dependency increases paid with a carer's allowance can include an increase for a qualifying young person.

3.5. Regulation 5 increases by 0.5 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 0.5 per cent increase again mirrors the September 2020 CPI figure.

3.6. Regulation 6 revokes similar provisions in the Social Security Benefits Up-rating Regulations (Northern Ireland) 2020 ("the 2020 Regulations"). However, it does not affect the remaining amendments made by regulations 4 and 5 in the 2020 Regulations. These are: the amount which a person eligible for payment on Carer's Allowance can earn in the immediately preceding week without being deemed gainfully employed and losing their entitlement to Carers Allowance and the increase made to to the earnings limit for spouses or partners of people claiming increases of Carer's Allowance in respect of dependent children in transitionally protected cases.

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 2021/2022 up-rating exercise is expected to increase the Department's annually managed expenditure by approximately £91 million.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Department is satisfied that these Regulations comply with section 24 of the Northern Ireland Act 1998 (conventions rights, etc.).

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 2021.

10.2. In line with the long-standing policy of parity in social security, the Regulations will come into operation on the same date as the GB Regulations. 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.