EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (CORONAVIRUS) (PRISONERS) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2020

S.R. 2020 No. 227

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 sections 122(1)(a) and (d), 123, 129, 131(1), 133(2)(h) and (l) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992, Articles 6(5) and (12), 8(4), 9(4) and 36(2) of, and paragraph 12 of Schedule 1 to, the Jobseekers (Northern Ireland) Order 1995, sections 2(3), (4), (6) and (9), 3(8), 17(2)(a) and 19(1) to (3) of the State Pension Credit Act (Northern Ireland) 2002, sections 4(2) and (3), 24(1) and 25(2) of, and paragraph 6(8) of Schedule 1 to, the Welfare Reform Act (Northern Ireland) 2007, and Articles 7(2), 11(1), 13(1) and 48(1) and (2) of, and paragraph 5(1) of Schedule 1 to, the Welfare Reform (Northern Ireland) Order 2015 and is subject to the negative resolution procedure.

2. Purpose

2.1. These Regulations amend the Social Security (Coronavirus) (Prisoners) Regulations (Northern Ireland) 2020 (S.R. 2020 No. 63), extending their expiry date by 6 months, in response to the continuing outbreak of coronavirus in Northern Ireland. They will continue to make provision for individuals on temporary release from a prison in Northern Ireland due to the outbreak of COVID-19 in Northern Ireland to access means tested benefits during the period of that release.

2.2. The benefits affected remain Universal Credit, State Pension Credit, Income Support, income based Jobseeker's Allowance, income related Employment and Support Allowance, and Housing Benefit.

2.3. The changes are also designed to support measures taken by the Department of Justice to allow prison governors, on behalf of the Department of Justice, to release

certain prisoners temporarily to help manage the incidence or transmission of coronavirus and to facilitate the effective running of prisons and young offender institutions for this purpose. The most medically vulnerable prisoners (such as mothers and babies or people with severe underlying health conditions), where it is deemed too dangerous for them to remain in prison, are a priority group for such temporary release.

3. Background

3.1. As part of the Government's strategy of supporting people affected by Covid-19, the Department of Justice has made provision for the urgent temporary release of prisoners, where necessary, to allow for the safe running of the prison estate. Such temporary release will continue after 12 November 2020 in appropriate cases. This Statutory Rule responds to that, by extending the removal of restrictions which otherwise prevent prisoners on temporary release from claiming means tested benefits.

3.2. The effect of this Statutory Rule is to continue to provide the same financial support to these prisoners, while on temporary release, as other comparable claimants to these benefits, which helps these individuals weather the financial impacts arising from the Covid-19 outbreak.

4. Consultation

4.1. There is no requirement to consult on these Regulations.

5. Equality Impact

5.1. An equality impact assessment has not been carried out in relation to this Statutory Rule because of the need to make and lay urgently to provide support and give certainty to those affected by the Covid-19 pandemic.

6. Regulatory Impact

6.1. There is no impact on business, charities or voluntary bodies or on the public sector.

7. Financial Implications

7.1. None anticipated.

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 –

(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. These Regulations are equivalent to the Social Security (Coronavirus) (Prisoners) Amendment Regulations 2020 in Great Britain which were made on 21st October 2020 and come into force on 12th November 2020.

11. Additional Information

11.1. Guidance will be issued to Department for Communities staff prior to this Statutory Rule becoming operational.