EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (INFORMATION-SHARING IN RELATION TO WELFARE SERVICES ETC.) (AMENDMENT) (REGULATIONS) 2021

2021 No. 1129

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Work and Pensions, and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The purpose of this instrument is to correct an error in Part 3 of the Social Security (Information-sharing in relation to Welfare Services etc.) Regulations 2012[1] (the '2012 Regulations') to ensure that local authorities, authorities that administer housing benefit (including their service providers and persons exercising functions on their behalf) and social landlords, can use or supply information they hold for prescribed purposes relating to both welfare services[2] *and* housing benefit in accordance with powers in section 131(3) of the Welfare Reform Act 2012[3] (the '2012 Act').

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The territorial extent and application of this instrument is Great Britain (England, Wales and Scotland).

5. European Convention on Human Rights

5.1 As this instrument is subject to negative resolution procedure, and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 This is the fourth set of regulations being made using the powers in section 131 of the Welfare Reform Act 2012. They are being made in order to correct an error in Part 3 of the 2012 Regulations, caused by previous amendments made by the Social Security (Information-sharing in relation to Welfare Services etc.) (Amendment) Regulations 2013[4].

6.2 The effect of those amendments was to restrict local authorities, and others who hold information for a prescribed purpose, to only use and supply information held for prescribed purposes relating to welfare services. This instrument amends the 2012

[1] https://www.legislation.gov.uk/uksi/2012/1483/contents
[2] See section 131(12) of the Welfare Reform Act 2012 for a definition of 'welfare services'.
[3] https://www.legislation.gov.uk/primary+secondary?title=welfare%20reform%20act%202012
[4] https://www.legislation.gov.uk/uksi/2013/41/contents/made

Regulations to ensure that relevant organisations can also lawfully use or supply information that they hold for prescribed purposes relating to housing benefit.

7. Policy background

What is being done and why?

7.1 In the absence of anybody spotting the unintended consequences of the legislative changes made in 2013, LAs have continued to hold and re-use for other purposes the information that the Department for Work and Pensions has continued to share with them, for the purposes of Housing Benefit administration.

7.2 The fact that LAs have continued to do so means that they have been operating at legal risk, without knowing it.

7.3 The administration of other local welfare services would be impossible without doing so. It is therefore the intention, and has always been the intention, of both the Department for Work and Pensions and LAs that they should be able to do so.

7.4 This new Statutory Instrument will therefore correct for the unintended consequences of the 2013 legislative changes.

7.5 This instrument is therefore necessary as, currently, the purposes relating to housing benefit are effectively deprived of any legal effect, and any data processing based on them is likely to be unlawful.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act 2018.

9. Consolidation

9.1 None.

10. Consultation outcome

10.1 Local authorities were consulted via the Department for Work and Pensions' statutory consultation forum, the Practitioners' Operations Group, in May 2021. The representatives in attendance were content with the proposed amendments and pleased that the error was being corrected.

10.2 Colleagues in the devolved administrations of Scotland, Wales and Northern Ireland were consulted in June 2021. All confirmed they were content with the proposed amendments.

10.3 The Information Commissioner's Office was consulted in accordance with Article 36(4) of the UK GDPR in August 2021. They had no objections to the proposal.

11. Guidance

11.1 Given the limited nature of the legislative change, no guidance will be issued.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because there is no impact on businesses.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 There are no plans to monitor and review the impact of these amendments.

15. Contact

15.1 Paul Selby at the Department for Work and Pensions, telephone: 07917 068701 or email: paul.selby@dwp.gov.uk, can be contacted with any queries regarding the instrument.

15.2 Clare Elliott, Deputy Director for Local Authority Partnership, Engagement and Delivery, at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.

15.3 Baroness Stedman-Scott, Minister for Lords, at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.