EXPLANATORY MEMORANDUM TO

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

S.R. 2021 No. 289

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. This Statutory Rule is made under Articles 121(3) and 123(2) of the Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006 (N.I. 1) and is subject to the negative resolution procedure.

2. Purpose

2.1. This Rule amends the Social Security (Information-sharing in relation to Welfare Services etc.) Regulations (Northern Ireland) 2016 (the 2016 Regulations) to ensure that the Northern Ireland Housing Executive (NIHE) and registered housing associations, can use or supply information they hold for prescribed purposes relating to both welfare services and housing benefit in accordance with powers in section 121(3) of the Welfare Reform (Northern Ireland) Order 2015.

3. Legislative Context

3.1. This set of regulations is being made using the powers in section 121 of the Welfare Reform (Northern Ireland) Order 2015 and are being made in order to correct an error in Part 3 of the 2016 Regulations.

3.2. The effect of regulation 6 of the 2016 Regulations was to restrict the NIHE, 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 2016 Regulations to ensure that relevant organisations can also lawfully use or supply information that they hold for prescribed purposes relating to housing benefit.

4. Background

4.1. In the absence of anybody spotting the error in the 2016 Regulations, the NIHE has continued to hold and re-use for other purposes the information that the Department for Communities has continued to share with them, for the purposes of Housing Benefit administration.

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

4.3. 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 Communities and NIHE that they should be able to do so.

4.4. This new Statutory Rule will therefore correct for the error in the 2016 Regulations.

4.5. This Statutory Rule 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.

5. Consultation

5.1 There is no requirement to consult on these Regulations.

6. Equality Impact

6.1. In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department conducted a screening exercise and concluded that the changes did not have any significant implications for equality of opportunity. In light of this, the Department considered that an equality impact assessment was not necessary.

7. Regulatory Impact

7.1. The proposed Rule does not require a Regulatory Impact Assessment as it does not impose any new costs on business, charities or voluntary bodies or on the public sector.

8. Financial Implications

8.1. None for the Department.

9. Section 24 of the Northern Ireland Act 1998

9.1. 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.

10. EU Implications

10.1. Not applicable.

11. Parity or Replicatory Measure

11.1. These Regulations are equivalent to Social Security (Information-sharing in relation to Welfare Services etc.) (Amendment) Regulations 2021 (S.I. 2021 No. 1129) in Great Britain which comes into force on 8th November 2021.

12. Additional Information

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