EXPLANATORY MEMORANDUM TO

The Social Security (Jobseeker's Allowance and Employment and Support Allowance) (Waiting Days) (Amendment) Regulations (Northern Ireland) 2014

S.R. 2014 No. 235

1. Introduction

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

1.2 The Statutory Rule is made under powers conferred by the Jobseekers (Northern Ireland) Order 1995 and the Welfare Reform Act (Northern Ireland) 2007, and is subject to the negative resolution procedure.

1.3 The rule is due to come into operation on 27 October 2014.

2. Purpose

2.1 This rule makes amendments to the Jobseeker's Allowance Regulations (Northern Ireland) 1996 and Employment and Support Allowance Regulations (Northern Ireland) 2008 to increase the number of "waiting days" served following a new claim to Jobseeker's Allowance (JSA) or Employment and Support Allowance (ESA) from 3 days to 7 days. Waiting days are the days at the start of a claim in respect of which claimants (who otherwise satisfy the conditions of entitlement) are not entitled to benefit.

2.2 The changes will apply to new claims made in respect of a waiting period which starts on or after 27 October 2014.

3. Background

3.1 Under primary legislation, claimants are not entitled to JSA or ESA for a prescribed number of "waiting days" at the beginning of a jobseeking period or a period of limited capability for work. The prescribed number of days has been set at 3 since the introduction of these benefits.

3.2 The principle behind the waiting days policy is that benefits are not intended to provide financial support for very brief breaks in employment or periods of sickness. Many people come to benefits directly from employment, and increasing numbers are monthly paid. Their final earnings are disregarded in the assessment of their benefit, so it is reasonable to expect them to use those earnings to budget for an initial period of unemployment.

3.3 The increase in waiting days is therefore designed to discourage people from claiming benefit when they have only a short gap between jobs or a short period of sickness. If, on the other hand, claimants have no job to go to, the increase in waiting days may encourage them to claim benefit more quickly so that they do not lose out on their entitlement and can access labour market support at the earliest opportunity.

3.4 The intention to increase the number of waiting days to 7 was announced by the Chancellor of the Exchequer on 26 June 2013 and was confirmed in the Budget Statement of 19 March 2014 that this would apply to ESA as well as JSA. In accordance with the Chancellor's announcement, these Regulations will increase the prescribed waiting days for both JSA and ESA from 3 to 7.

3.5 Apart from the increase in the prescribed number of waiting days, these Regulations introduce no change to the waiting days policy. The requirement to serve waiting days will therefore continue to apply to claimants receiving either the contributory or income-based elements of JSA or ESA.

3.6 Claimants who are exempt from waiting days under current rules will continue to be exempt. These exemptions generally apply where a claimant or partner has received a prescribed benefit within the last 12 weeks. In addition, exemptions apply to JSA claimants who are under 18 years old and in severe hardship, and to ESA claimants who are terminally ill.

3.7 Our analysis indicates that approximately 59% of Jobseeker's Allowance (JSA) claimants and 50% of Employment and Support Allowance (ESA) claimants will serve waiting days at the start of their award, because they are not in one of the exempt groups. The change will have the effect of reducing the value of their first benefit payment by an average of £37 for JSA claimants and £41 for ESA claimants.

3.8 Claimants that are most at risk of financial hardship can make a claim for a Crisis Loan from the Social Fund. These loans are interest-free and are repaid through deductions from subsequent benefit payments. Where entitlement to such an advance exists, it can provide a way of smoothing the impact of the increase in waiting days across a longer period.

4. Consultation

4.1 In accordance with section 174(1) of the Social Security and Administration Act 1992, Social Security Advisory Committee discussed the corresponding Great Britain Regulations at their meeting on 17 May 2014 and decided to take the regulations on formal referral and conducted a consultation exercise with a broad range of organisations and individuals between 23 May and 13 June 2014. The Committee subsequently delivered its report on 1 July 2014 to the Department for Work and

Pensions. The report and the Secretary of State's response were laid before Parliament on 1 September at the same time as the GB statutory instrument. The Secretary of State accepted some of the Committee's recommendations but decided to proceed with the regulations. His judgement was that the potential risks of the policy were outweighed by the benefits that could be derived from re-investment of the financial savings.

5. Equality Impact

5.1 In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department for Social Development conducted an Equality Impact screening exercise on the planned introduction of the increase to waiting days from 3 to 7 which concluded that the proposals do not have any impact on equality of opportunity. The new waiting days policy will apply equally to all claimants regardless of religious belief, political opinion, race, sexual orientation, gender or disability.

6. Regulatory Impact

6.1 These Regulations do not require a Regulatory Impact Assessment as they do not impose any additional costs or savings on business, charities or voluntary bodies.

7. Financial Implications

7.1 No financial implications.

8. Section 24 of the Northern Ireland Act 1998

8.1 The Department has also considered its obligations under section 24 of the Northern Ireland Act 1998. It is the Department's judgement that Social Security (Jobseeker's Allowance and Employment and Support Allowance) (Waiting Days) (Amendment) Regulations (Northern Ireland) 2014 are not incompatible with the Convention rights, are not incompatible with Community law, do not discriminate against any person or class of person on the ground of religious belief or political opinion and do not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. E.U. Implications

9.1 Not applicable.

10. Parity or Replicatory Measure

10.1 The Regulations mirror the Great Britain Regulations which come into force on 27 October 2014.

11. Additional Information

11.1 Not applicable