EXPLANATORY MEMORANDUM

THE SOCIAL SECURITY (MISCELLANEOUS AMENDMENTS NO. 3) REGULATIONS (NORTHERN IRELAND) 2010

S.R. 2010 No. 81

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 sections 70(8) and 171(1) the Social Security Contributions and Benefits (Northern Ireland) Act 1992, sections 5(1)(b), (j), (l), (m) and (q), 13A(2)(b) and 165(1) and (4) to (6) of the Social Security Administration (Northern Ireland) Act 1992 and Articles 11(6) and 74(1) and (3) of the Social Security (Northern Ireland) Order 1998 and is subject to the negative resolution procedure.

2. Purpose

2.1 These Regulations make minor and technical amendments to the Social Security (Invalid Care Allowance) Regulations (Northern Ireland) 1976, the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 and the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 to clarify existing policy intention and address defects or anomalies.

2.2 Regulation 2 amends the Social Security (Invalid Care Allowance) Regulations (Northern Ireland) 1976 to increase, from £95 to £100, the amount of weekly earnings a person can receive without being treated as gainfully employed for the purposes of entitlement to carer's allowance.

2.3 Regulation 3 amends the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 to-

reflect the policy intention and practice that where pension is paid in advance it is payable for the whole week even if the person dies during the week and to ensure that where pension is paid in arrears, that any up-rating takes effect from the correct date;

amend the definition of "benefit week" to reflect that, from April 2010, state pension credit for new claimants will be paid in arrears;

ensure that, after April 2010, disability living allowance and attendance allowance, where they are paid with state pension, can be paid over the same period;

provide that arrears of service charges for certain premises provided and maintained by virtue of Article 4(2) of the Probation Board (Northern Ireland) Order 1982 may be included in payments that may be made to third parties;

reduce from £0·55 to £0·45 the fee which qualifying lenders pay for the purpose of defraying administrative expenses incurred by the Department in making payments in respect of mortgage interest direct to those lenders.

2.4 Regulation 4 amends the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 to provide for the supersession of decisions in certain circumstances and remove an anomaly in relation to the effective date for late notification of a change of circumstances in a claim to attendance allowance and disability living allowance.

2.5 Regulation 5 makes consequential revocations.

3. Consultation

3.1 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 they do not have to be submitted to the Social Security Advisory Committee.

4. Equality Impact

4.1 In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on proposals for these Regulations and concluded that, as they make minor or technical amendments, they do not have significant implications for equality of opportunity. In light of this, the Department considered that an equality impact assessment is not necessary.

5. Regulatory Impact

5.1 These Regulations do not require a Regulatory Impact Assessment as they do not impose a cost on business, charities or voluntary bodies.

6. Financial Implications

6.1 The Regulations do not have any financial implications.

7. Section 24 of the Northern Ireland act 1998

7.1 The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied 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.

8. EU Implications

8.1 Not applicable.

9. Parity or Replicatory Measure

9.1 The corresponding Great Britain Regulations are the Social Security (Miscellaneous Amendments) Regulations 2010 (S.I. 2010/510) and come into force on 1st, 6th and 12th April 2010. 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.