EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (RESIDENCE IN AN EEA STATE OR SWITZERLAND) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2025

S.R. 2025 No. 183

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 70(4), 71(6) and 171(1) and (3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and Article 82(3) of the Welfare Reform (Northern Ireland) Order 2015 and is subject to the negative resolution procedure.

2. Purpose

2.1 This Statutory Rule makes minor amendments to regulations providing for Carer's Allowance, Disability Living Allowance, and Personal Independence Payment ("disability and carer benefits") to enable the continued payment of these benefits to a small cohort of claimants residing in a European Economic Area (EEA) state or Switzerland. The EEA states are comprised of all the European Union (EU) member states plus the three European Free Trade Association (EFTA) states of Iceland, Liechtenstein and Norway.

3. Background

3.1 Following the United Kingdom's (UK) withdrawal from the EU, EU Regulations no longer apply, except for individuals in scope of the Withdrawal Agreement or the equivalent agreements with the EEA EFTA states or Switzerland. It was always the intention of both the UK and the EU that citizens who were exercising free movement rights under EU law, in both the UK and the EU, before the end of the transition period would see no change in their rights. The 31st December 2020 was the last day of the transition period before EU law ceased to apply to the UK from 11pm that day.

3.2 These Regulations provide additional protection for a very small cohort of claimants to whom a relevant EU Regulation applied on 31st December 2020, who were residing in an EEA state or Switzerland and who were also in receipt of one of the qualifying disability or carer benefits on that day. For the purposes of these Regulations "a relevant EU Regulation" refers to Council Regulation (EC) No 1408/71 of the Council of 14th June 1971 on the application of social security schemes to employed persons and their families moving within the Community, and Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29th April 2004 on the coordination of social security systems.

3.3 This cohort of claimants were inadvertently not covered by the Withdrawal Agreement or the equivalent agreements with the EEA EFTA states or Switzerland, which provided for the continued application of the EU Regulations to those in scope of those agreements. Other individuals who exercised free movement rights under EU law by moving freely between states before the end of the transition period benefit from protections under these agreements and it was not intended that this cohort should be excluded from similar protections.

3.4 To ensure that this cohort would continue to receive their benefit payments after the end of the transition period, payments were made on an extra-statutory basis, with funding being sought from His Majesty's Treasury on an annual basis. These extra-statutory payments were agreed to allow time to secure a long-term solution. These Regulations therefore provide a statutory footing for the continuation of disability and carer benefits claims for this cohort (where there was a live claim on 31st December 2020) and for the ongoing payment of benefit.

3.5 This Rule amends the following regulations:

- The Social Security (Invalid Care Allowance) Regulations (Northern Ireland) 1976 (S.R. 1976 No. 99);
- The Social Security (Disability Living Allowance) Regulations (Northern Ireland) 1992 (S.R. 1992 No. 32); and
- The Personal Independence Payment Regulations (Northern Ireland) 2016 (S.R. 2016 No. 217).

3.6 The amendments to the above regulations allow individuals to whom a relevant EU Regulation applied and who were residing in an EEA state or Switzerland at the end of the transition period, who were in receipt of disability or carer benefits at that time, to continue receiving these benefits. The claimants must have been eligible to have received these benefits continuously since the end of the transition period. The amendments do not introduce new policy but simply allow these claims and payments to continue on a legislative basis.

3.7 This Rule enables this cohort to maintain their entitlement for their current benefit claim only. It does not confer entitlement if they re-claim following a change in circumstances, for example, where they start work in, or receive a state pension from, an EU member state.

4. Consultation

4.1 There is no requirement to consult on these Regulations.

5. Equality Impact

5.1 In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on the legislative proposals for these Regulations and has concluded that they do not have significant implications for equality of opportunity. In light of this, the Department considers that an Equality Impact Assessment is not necessary.

6. Regulatory Impact

6.1 These Regulations do not require a Regulatory Impact Assessment as there is no significant impact on costs on business, charities or voluntary bodies.

7. Financial Implications

7.1 There are no significant financial implications for the Department.

8. Section 24 of the Northern Ireland Act 1998

8.1 The Department is content that these Regulations comply with section 24 of the Northern Ireland Act 1998 (Convention rights, etc.).

9. EU Implications

9.1 This Rule relates to the withdrawal of the UK from the EU, in that Title III (Coordination of Social Security Systems) of the Withdrawal Agreement does not explicitly include EU citizens who were resident in the EU at the end of the transition period. These Regulations provide a legislative basis for the continuation of claims for, and payments of disability and carers benefits to, the affected cohort.

10. Parity or Replicatory Measure

10.1 The Great Britain Regulations are the Social Security (Residence in an EEA State or Switzerland) (Amendment) Regulations 2025 (S.I. 2025/1198), which come into force on 10th December 2025.

11. Additional Information

11.1 Not applicable.