EXPLANATORY MEMORANDUM

THE SOCIAL SECURITY (SUSPENSION OF PAYMENT OF BENEFITS AND MISCELLANEOUS AMENDMENTS) REGULATIONS (NORTHERN IRELAND) 2012

S.R. 2012 No. 140

1. Introduction

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

1.2 The Rule is made under sections 5(1)(hh) and (j) and (2A) and 165(1) and (4) to (6) of the Social Security Administration (Northern Ireland) Act 1992 and Articles 10(1)(a), 22, 74(1), (3), (5) and (6) of the Social Security (Northern Ireland) Order 1998 and is subject to the negative resolution procedure.

2. Purpose

2.1 The Rule amends the current rules relating to the time given to a claimant to provide information or evidence regarding the payment of benefit before payment is suspended and to ensure that, where a State Pension award is terminated for failure to provide information, that award can be re-instated from the date that it was originally terminated where the information is provided at a later date.

2.2 It also corrects a drafting defect in Housing Benefit Regulations to provide that sums paid under a decision can be offset against arrears of entitlement where that decision has been superseded.

3. Background

3.1 Legislation currently allows the Department to suspend the payment of benefit in certain circumstances. Suspension may be immediate where the Department has reason to doubt the claimant's entitlement however where there is insufficient information to lead to such a conclusion the regulations require a number of successive waiting periods before payment may be suspended. The claimant must first be allowed a reasonable time to comply with the request for information or evidence then be given notice that he must provide the information or evidence within a further month, or else face suspension of his benefit. This period can be extended at the Department's discretion if the claimant needs longer to comply with the request. In practice the overall effect of these combined periods could be that six to eight weeks elapses between the date when information or evidence is requested, and the date when any suspension of payment is imposed.

3.2 The change provides that the notice regarding the possible suspension of benefit is given at the same time as the information or evidence is requested and reduces the period in which the information or evidence must be provided from one month to two weeks. This will ensure cases can be addressed and resolved quickly.

3.3 The amendment does not change the Department's power to suspend payment immediately where there is already sufficient information to do so or its discretion to extend the period in which a claimant must provide the requested information if the claimant needs a longer period to comply.

3.4 In cases where entitlement to State Pension has been terminated for failure to provide information or evidence and there is more than 12 months between termination of the award and further contact by the claimant, there could be a period where no State Pension is paid. The amendment addresses this by enabling an award of State Pension to be reinstated from the date it was originally terminated.

3.5 Housing benefit rules provide that sums paid under a decision can be offset against arrears of entitlement where the decision is revised (i.e. changed with effect from the date of the original decision). The Rule corrects a drafting defect in Housing Benefit Regulations to ensure that the same offsetting rules apply where a decision has been superseded (i.e. changed from a date which is later than the date of the original decision).

4. Consultation

4.1 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 consultation with the Social Security Advisory Committee is not required.

5. Equality Impact

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

5. Regulatory Impact

6.1 This Order does not require a Regulatory Impact Assessment as it does not impose a cost on business, charities or voluntary bodies.

7. Financial Implications

7.1 None.

8. Section 24 of the Northern Ireland act 1998

8.1 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.

9. EU Implications

9.1 Not applicable.

10. Parity or Replicatory Measure

10.1 The corresponding Great Britain Regulations are the Social Security (Suspension of Payment of Benefits and Miscellaneous Amendments) Regulations 2012. 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.