EXPLANATORY MEMORANDUM TO

THE UNIVERSAL CREDIT (CORONAVIRUS) (RESTORATION OF THE MINIMUM INCOME FLOOR) REGULATIONS (NORTHERN IRELAND) 2021

S.R. 2021 NO. 209

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 Articles 27(2) and 48(1) and (2) of, and paragraph 4(1), (3)(a) and (4) of Schedule 1 to, the Welfare Reform (Northern Ireland) Order 2015, and is subject to the negative resolution procedure.

2. Purpose

2.1 The purpose of these regulations is to give the Department flexibility to manage the re-introduction of the Gainful Self-Employment (GSE) test, the Minimum Income Floor (MIF) and Start-Up periods from 31st July 2021 for self-employed Universal Credit (UC) claimants. This will cover a 12 month period until 31st July 2022.

3. Background

What is being done and why?

3.1 The Department for Communities (the Department) has decided that, as the economy is starting to reopen and restrictions on businesses are eased, plans should be in place for the reintroduction of the Gainful Self-Employment (GSE) test, the Minimum Income Floor (MIF) and Start-Up periods from 31st July 2021 until July 31st 2022 for self-employed UC claimants.

3.2 The aim of this policy change is to support economic recovery by ensuring claimants have the support they need to restart their businesses. It will therefore provide for the reintroduction of GSE tests and the MIF while allowing the current easements to be continued in appropriate cases.

3.3 Regulation 2(1) provides for the further extension of regulation 2 of the Social Security (Coronavirus) (Further Measures) Regulations (Northern Ireland) 2020, apart from subparagraphs (1)(c) and (d) (discretion to treat a person as not in gainful self-employment and discretion to extend a start-up period). The Department may still reduce the MIF (but in more limited circumstances), delay determining whether a claimant is in gainful self-employment (a precondition for the MIF) or ease conditionality for self-employed claimants.

3.4 Regulation 2(2) provides for the claimants who had been determined to be in gainful self-employment on 13th March 2020 when the general MIF suspension first came into operation. For these claimants the MIF has been reduced to zero (either at the outset or, if they were in a 12-month start-up period, on the expiry of that 12 months).

The Department is to restore the MIF, but only after determining that the claimant continues to be in gainful self-employment. Claimants must be given at least one full Assessment Periods (AP) notice before the MIF is applied. If a claimant had been in a start-up period on 13th March 2020 a period equal to the balance of the start-up period outstanding on that date will be granted before restoring the MIF. This is subject to regulation 2(3).

3.5 Regulation 2(3) allows for cases where the MIF may still be reduced to zero but only for those who are still financially impacted by COVID Government restrictions (and can demonstrate this). The Department can award up to two-month's discretionary suspension of the MIF, assessed on a case by case basis, reviewed at the end of the two months. Up to a maximum of 3 suspensions, adding up to 6 months in total can be awarded.

3.6 Under regulation 2(4) the Department can choose to withdraw this discretion should public economic conditions improve to such a point where it is no longer appropriate to suspend the MIF. Any MIF suspension awarded prior to withdrawal date will not be affected.

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 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.

6. Regulatory Impact

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

7. Financial Implications

7.1 None anticipated.

8. Section 24 of the Northern Ireland Act 1998

The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied that the Rule is in compliance with that provision.

9. E U Implications

9.1 Not applicable.

10. Parity or Replicatory Measure

10.1 These Regulations are equivalent to the Universal Credit (Coronavirus) (Restoration of the Minimum Income Floor) Regulations 2021 in Great Britain, which were made on 8th July 2021 and come into force on 31st July 2021.

11. Additional Information

11.1 Guidance will be issued to Department for Communities staff prior to this Statutory Rule becoming operational.