EXPLANATORY MEMORANDUM TO

THE UNIVERSAL CREDIT (TRANSITIONAL PROVISIONS) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2026

S.R. 2026 No. 4

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 Article 48(1) and (2) of, and paragraphs 1(1) and 4(1) and (2) of Schedule 6 to, the Welfare Reform (Northern Ireland) Order 2015 and is subject to the negative resolution procedure.

2. Purpose

2.1. Short Notice Migration Notice: The amendment to Regulation 45 of the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 ("the Transitional Regulations") will shorten the notice period of Migration Notices (MNs) to less than three months for some claimants in receipt of legacy benefits - income-related Employment and Support Allowance (ESA(IR)), Income Support (IS), income-based Jobseeker's Allowance (JSA(IB)) and working age Housing Benefit (rent only) (wHB), where the notice period would otherwise run beyond the abolition date for the relevant legacy benefit.

2.2. It will apply to those who are identified as eligible to be moved to Universal Credit (UC), through Managed Migration (MM), with less than three months before the abolition of the specified legacy benefits. This will enable them to be issued with a MN, the deadline for which reflects the closure of the relevant benefit and allows them to be considered for Transitional Protection (TP). Without this change, those who become eligible for MM with less than three months' notice risk not receiving TP.

2.3. Failed Stop Notice: Without this legislation some claimants, due to a previous system issue, would not be entitled to TP and, for ESA(IR), not have their Work Capability Assessment (WCA) decision carried over into UC. New regulation 64A treats the claimant as having continued to be entitled to various legacy benefits until they make a subsequent claim to UC, as long as that claim is made within a month of the Department notifying them to do so. Doing so allows the WCA to be carried over into the UC claim and the claimant to be eligible for TP.

3. Background

3.1. Regulation 45 prescribes that a MN must be issued with a minimum of three months' notice for legacy benefit claimants, as set out in paragraph 2.1.

3.2. The Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 18) (Abolition of Benefits) Order 2025 abolishes IS and JSA(IB) from 1st April 2026. The Commencement Order to set a date for ESA(IR) and wHB

abolition will be brought forward at a later date. The vast majority of claimants have now been invited to move to UC under MM. There may be a small number of claimants whose entitlement to legacy benefit is reinstated with less than three months until the closure date, for example, following a successful appeal.

3.3. Under the current legislation these claimants could only receive a MN with a deadline after legacy benefits close. If a claimant were to make a claim for UC after the closure of their legacy benefit, they could not benefit from TP.

3.4. This policy amendment seeks to strengthen the original policy intent of providing TP for these claimants.

3.5. Legislation to close the relevant legacy benefits has not yet been brought forward for all legacy benefits, therefore these regulations do not prescribe a specific deadline date for Short Notice Migration Notices (SNMNs). The dates for the SNMNs will be aligned to the relevant closure date, once in place. Where a combination of ESA(IR), IS, JSA(IB) and wHB are in payment, the applicable date will be the date of the earliest abolition date for the legacy benefits in payment, as happened when tax credits closed.

3.6. This change is intended to accommodate claimants whose legacy benefit comes back into payment following a successful dispute but is not limited to this group, to allow for any unforeseen circumstances. This creates an additional safety net for claimants and will enable more claimants to be assessed for and potentially receive TP for their legacy benefit entitlement.

3.7. These regulations therefore amend regulation 45 of the Transitional Regulations to ensure that recipients of certain social security benefits that are soon to be abolished, and who are issued MNs shortly before the abolition, can access the TP for which the Transitional Regulations provide. The amendment does this by aligning the deadline day set out in the MN with the abolition of the relevant benefit. Where a person is the recipient of wHB and another legacy benefit, the timing of the MN is to be determined by the abolition of the other legacy benefit.

3.8. By law when a claimant makes a claim for UC, any legacy benefit they receive is terminated from the date of the UC claim, even if the UC claim is unsuccessful. A gap in the process meant that the legal requirement was not met in some cases. This meant that where a UC claim was unsuccessful due to identity not being verified, only tax credits awards were terminated, any other legacy award continued incorrectly. This has now been rectified, and the legal requirement met with all legacy awards terminated when a UC claim is made.

3.9. For some claimants, terminating the remaining benefits from the correct date will create a gap between the legacy benefit ending and any subsequent UC claim. Due to this gap, they would not be entitled to TP, and in addition for Employment and Support Allowance (ESA), the WCA decision would not be carried over. This would require the claimant to undertake a new WCA and serve a new waiting period before any health-related addition was included in the UC award. The lack of TP and health-related addition could mean a financial drop on moving to UC.

3.10. Inserting the new regulation 64A into the Transitional Regulations provides for those claimants who would otherwise be disadvantaged by an error to be treated as being entitled to their legacy benefit up to the date before any subsequent UC claim is made. This allows them to benefit from regulation 19(1)(a), 20(1)(a), paragraph 3(a) of Schedule 2 and paragraph 4 of Schedule 3 thereby enabling a WCA decision to be carried over from ESA and eligibility for the Severe Disability Premium transitional element if the criteria is met.

3.11. It is important to highlight that no Northern Ireland cases have been identified in the impacted cohort and the Department has included this provision as a precautionary measure.

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 do not have any significant implications for equality of opportunity or good relations. In light of this, the Department considered that an equality impact assessment is not necessary.

6. Regulatory Impact

6.1. The proposed Rule does not require a Regulatory Impact Assessment as it does not impose any new costs on business, charities or voluntary bodies.

7. Financial Implications

7.1. No implications are expected for Annually Managed Expenditure and any additional impact on Departmental Expenditure Limit costs is anticipated to be minimal.

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. Not applicable.

10. Parity or Replicatory Measure

10.1. This Statutory Rule makes provision corresponding to the Universal Credit (Transitional Provisions) (Amendment) Regulations 2026 in Great Britain (S.I. 2026 No. 6).

11. Additional Information

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

11.2. 21 Day Rule: This Statutory Rule will breach the 21-day rule. This is necessary to align with the corresponding legislation put in place by the Department for Work and Pensions for Great Britain. Parity of timing and substance is an integral part of the maintenance of single systems of social

security, pensions and child support provided for under section 87 of the Northern Ireland Act 1998.