EXPLANATORY MEMORANDUM TO

THE WELFARE SUPPLEMENTARY PAYMENT (UNIVERSAL CREDIT) REGULATIONS (NORTHERN IRELAND) 2025

S.R. 2025 No. 60

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 137(5) of the Welfare Reform (Northern Ireland) Order 2015 ("the Order") and is subject to draft affirmative procedure.

2. Purpose

2.1 These regulations amend existing Welfare Supplementary Payment Regulations, which were introduced to mitigate impacts as defined in the document "A Fresh Start the Stormont Agreement and the implementation Plan" arising from the implementation of welfare reform. They are-

-the Welfare Supplementary Payments Regulations (Northern Ireland) 2016,

-the Welfare Supplementary Payment (Loss of Disability-Related Premiums) Regulations (Northern Ireland) 2016,

-the Welfare Supplementary Payment (Loss of Carer Payments) Regulations (Northern Ireland) 2016 and

-the Welfare Supplementary Payment (Amendment) Regulations (Northern Ireland) 2017.

2.2 In the New Decade, New Approach Deal, there was a commitment by the Northern Ireland Executive to extend the existing welfare mitigation measures beyond 31 March 2020.To give effect to this commitment the Welfare Supplementary Payment Extension Regulations (NI) 2022(S.R. No 25) removed the termination date of 31 March 2020 and replaced it with a new termination date of 31 March 2025 for all of the mitigation schemes except the Social Sector Size Criteria.

2.3 These Regulations provide a statutory basis for Welfare Supplementary Payments to be paid to eligible people who are claiming Universal Credit and for those who move to Universal Credit in the future.

2.4 They also make amendments to the existing Welfare Supplementary Payment Regulations in respect of the Benefit Cap, the time limiting of Contributory Employment and Support Allowance and the introduction of Personal Independence Payment (as provided for in parts 3, 5 and 6 of the Order).They make provision for the case of a person who becomes entitled to Universal Credit at a time when the person is already receiving a Welfare supplementary Payment which is linked to another benefit.

3. Background

3.1 Earlier Regulations provided for payments referred to as Welfare Supplementary Payments. Their introduction was a response to measures brought forward by Westminster with regards to welfare reform. Similar social security measures were brought before the Northern Ireland Assembly in line with the principle of parity to maintain integrated social security systems for the whole of the United Kingdom. The Northern Ireland Executive sought and agreed transitional protection for those impacted by the welfare reforms for defined periods.

3.2 The implementation of welfare reform in Northern Ireland was included in "A Fresh Start the Stormont Agreement and Implementation Plan" as agreed by the main political parties in Northern Ireland on 17 November 2015. It was further agreed to appoint the late Professor Eileen Evason to lead a small working group to propose mitigations to the welfare reform package within an agreed financial envelope. The Northern Ireland Executive agreed to the adoption of the working group's recommendations.

3.3 The Assembly approved the Welfare Supplementary Payment (Extension) Regulations (Northern Ireland) 2022 S.R. No 25 on 31 January 2022 which removed the termination date of 31 March 2020 from each of the earlier regulations and inserted a new end date of 31 March 2025. They also made provisions for the treatment of the period between 31 March 2020 and the date the regulations came into operation.

3.4 The Assembly also approved the Welfare Supplementary Payment (Amendment) Regulations (Northern Ireland) 2022 S.R. No 32 on 8 February 2022 which made further provisions to amend the Social Sector Size Criteria and Benefit Cap schemes to remove restrictions on entitlement. In 2024 the NI Executive agreed to extend the Welfare Supplementary Payments as they currently operate until 31 March 2028.

3.5 These Regulations amend existing Regulations to ensure recipients of a Welfare Supplementary Payment continue to receive the payment when they claim Universal Credit. They also provide for Welfare Supplementary Payments to be paid to Universal Credit claimants who are subsequently affected by welfare reforms.

3.6 A separate set of regulations will deal with Universal Credit claimants affected by the Social Sector Size Criteria.

4. Administrative Payments

4.1 Since Universal Credit was introduced in September 2017, the Department has provided non-statutory welfare mitigation payments (Administrative Payments) to people claiming Universal Credit based on the policy detailed in the draft regulations. This policy mirrors that in the approved Welfare Supplementary Payment legislation apart from some provisions relating to the recovery of overpayments, which cannot be applied in the absence of proper statutory authority.

4.2 All administrative mitigation payments to people claiming Universal Credit have been made under the sole authority of successive Budget Acts. Administrative payments have been made on the same basis that Welfare Supplementary Payments would have been made had approval been given to the making of the draft Regulations.

4.3 In bringing forward the appropriate legislative cover now these Regulations have had to, of necessity, make reference to those administrative payments.

5. Citation, commencement, and cessation

5.1 These regulations come into operation on the day after the day they are made.

6. Benefit Cap

6.1 Regulation 4 sets out information sharing requirements for the purposes of Discretionary Housing Payments.

7. Time Limits on Contributory Employment and Support Allowance

7.1 Regulation 5 amends Part 3 of the Welfare Supplementary Payments Regulations (Northern Ireland) 2016 and provides to continue to pay, or resume the payment of, the contributory Employment Support Allowance Welfare Supplementary Payment if a claimant claims Universal Credit and is determined to have limited capability for work. The Welfare Supplementary Payment will continue at the rate that was payable prior to the award for Universal Credit, or in the case of a resumption of the Welfare Supplementary Payment at a rate to which the person was entitled before entitlement ceased. Payment will continue for the remainder of the year from the date Welfare Supplementary Payments originally commenced or until the person no longer has limited capability for work, whichever is the first to occur.

7.2 Regulation 5 further provides to apply the effective dates of changes of circumstances in Universal Credit claims to Welfare Supplementary Payments. It also allows the Department to vary the frequency of Welfare Supplementary Payments where Universal Credit is in payment and to disregard Welfare Supplementary Payments in the assessment of entitlement to Universal Credit.

8. Loss of Carer Payment Welfare Supplementary Payments

8.1 Regulation 6 amends the Welfare Supplementary Payment (Loss of Carer Payments) Regulations (Northern Ireland) 2016 to provide to continue to pay loss of carer payment Welfare Supplementary Payments where a claim to Universal Credit is made. It also provides to give couples in joint claims to Universal Credit joint entitlement to the Welfare Supplementary Payment. Payment will be made at whichever is the lesser of the rate of the carer element in Universal Credit or the amount of the Welfare Supplementary Payment prior to the Universal Credit claim or the coming into operation of these Regulations. Welfare Supplementary Payments will cease if a person becomes entitled to a carer element in the Universal Credit award.

8.2 It also allows the Department to vary the frequency of Welfare Supplementary Payments where Universal Credit is in payment. Where a person who is entitled to a Welfare Supplementary Payment becomes entitled to an award of Universal Credit which includes the carer element in respect of that person the Welfare Supplementary Payment will cease. Provision is made to disregard Loss of Carer Welfare Supplementary Payments in the assessment of entitlement to Universal Credit.

9. Loss of Disability-Related Premiums Welfare Supplementary Payments

9.1 Regulation 7 amends the Welfare Supplementary Payment (Loss of Disability-Related Premiums) Regulations (Northern Ireland) 2016 to provide for a person to continue to receive the Welfare Supplementary Payment for the loss of a disability-related premium if they become entitled to Universal Credit. If the person ceases to receive

Universal Credit and does not make a claim to State Pension Credit then the Welfare Supplementary Payment will cease.

9.2 It also provides to give couples in joint claims to Universal Credit joint entitlement to the Welfare Supplementary Payment and allows the Department to vary the frequency of Welfare Supplementary Payments where Universal Credit is in payment.

10. Recovery of overpayments of Welfare Supplementary Payments

10.1 The regulations in this part amend the Welfare Supplementary Payment (Amendment) Regulations (Northern Ireland) 2017 ("the Amendment Regulations").

10.2 Regulation 11 amends regulation 8 of the Amendment Regulations to enable recovery of an overpayment of a Welfare Supplementary Payment that has been made to a landlord to be recovered from the claimant or a person nominated on behalf of the claimant in addition to the landlord and the landlord's agent.

10.3 Regulation 12 amends regulation 9 of the Amendment Regulations .and provides for deductions for overpayments to be taken from Welfare Supplementary Payments at the same rate as current benefit overpayments.

10.4 Regulation 13 amends the title and inserts a new paragraph (A1) in Regulation 10 of the Amendment Regulations to provide for deductions when there is an overpayment and there is no entitlement to Universal Credit. It also inserts regulation 10A into the Amendment Regulations this provides for deductions from relevant benefits at a rate equal to the rates which apply to deductions from those benefits.

10.5 Regulation 14 amends regulation 11 of the Amendment Regulations to exclude recovery from earnings as a method to recoup the debt for persons with entitlement to Universal Credit and remove that stage in the sequence of means to recover debt for such cases.

10.6 Regulation 15 amends regulation 6 of the Amendment Regulations and provides for the recovery of a Welfare Supplementary Payment by means of off-setting the outstanding amount from any arrears of a relevant benefit and not only those benefits for which a Welfare Supplementary Payment is payable.

11. Benefit Cap

11.1 Regulation 18 provides for Universal Credit claimants who are subsequently affected by a Benefit Cap reduction to be eligible for a Welfare Supplementary Payment if they reside with a child or qualifying young person for whom they are responsible.

11.2 Regulation 19 stipulates the amount of the Welfare Supplementary Payment payable as being equal to the amount of the benefit cap reduction.

11.3 Regulation 20 provides to make Welfare Supplementary Payments every four weeks in arrears from the date of the first benefit cap reduction from Universal Credit or from the date of coming into operation of the Regulations. The payment will be made to the claimant, or a person appointed on their behalf.

11.4 Regulation 21 provides for the Welfare Supplementary Payment to cease if Universal Credit is no longer reduced by the Benefit Cap.

12. Loss of Carer Element

12.1 Regulation 25 provides for claimants to be eligible for a loss of carer element Welfare Supplementary Payment if a claimant is caring for someone who is reassessed from Disability Living Allowance to Personal Independence Payment and is not entitled to the daily living component resulting in the carer losing the carer element in their Universal Credit award.

12.2 Regulation 26 provides for the amount of a Welfare Supplementary Payment to be calculated with reference to the amount of the carer element in Universal Credit. The amount payable in any period will be converted from a monthly to a four weekly amount.

12.3 Regulation 27 defines the period for which Welfare Supplementary Payments are to be payable. Payments are to be paid four weekly in arrears. In a case where the carer element ceases after the coming into operation of the Regulations the Welfare Supplementary Payment is payable from the day after the carer element ceases, for one year .or up to 31 March 2028, whichever is the first to occur. Where the cessation of the carer element happened before the coming into operation of the Regulations payment of the Welfare Supplementary Payment begins on the day on which the Regulations come into operation and ends one year after the day when the carer element ceased. Payments will be made to the claimant or to a person appointed on their behalf.

12.4 Regulation 28 provides for Welfare Supplementary Payments to cease if a claimant is awarded the carer element of Universal Credit or Carer's Allowance.

12.5 Regulation 29 provides to cease Welfare Supplementary Payments if the person the claimant is caring for is no longer in receipt of a loss of Disability Living Allowance Welfare Supplementary Payment. Welfare Supplementary Payments can recommence if leave is granted to appeal to the Commissioner from a decision of the Appeal Tribunal to award or refuse Personal Independence Payment or the person being cared for becomes entitled to a conflict related loss of Disability Living Allowance Welfare Supplementary Payment.

12.6 Regulation 30 provides to cease Welfare Supplementary Payments if the person being cared for ceases to be entitled to Personal Independence Payment or they are awarded the daily living component of Personal Independence Payment.

12.7 Regulation 31 provides for payment of Welfare Supplementary Payments pending appeal against refusal of Personal Independence Payment under the loss of Disability Living Allowance Regulations.

12.8 Regulation 32 provides to terminate Welfare Supplementary Payments on the death of the carer or the person being cared for.

12.9 Regulation 33 provides to allocate the Welfare Supplementary Payment appropriately if a couple separate.

12.10 Regulations 34 and 35 provide to cease Welfare Supplementary Payments if a claimant is a care home resident or a hospital in-patient for more than 28 days.

12.11 Regulation 36 provides for the Welfare Supplementary Payment to be recalculated if a person ceases to be entitled to Universal Credit and is entitled to a contributory benefit by reference to the amount of the Welfare Supplementary Payment payable

immediately before that entitlement, or as the case may be, to the amount of any administrative payment payable at that time.

13. Contributory Employment and Support Allowance

13.1 Regulation 37 provides for Welfare Supplementary Payments to be paid if a claimant in receipt of Universal Credit is subsequently affected by the time limiting of contributory Employment And Support Allowance if they had been in receipt of contributory Employment and Support Allowance when time limiting was introduced and they are deemed to have had a continuous claim until the date on which they were affected by time limiting.

13.2 Regulation 38 provides for the Welfare Supplementary Payment to be paid at the rate of contributory Employment and Support Allowance that was payable when time limiting occurred except when the amount included the support component, in which case the Welfare Supplementary Payment would be calculated based on the work-related activity component.

13.3 Regulation 39 defines the period for which Welfare Supplementary Payments are to be payable. Payments are to be paid four weekly in arrears. In a case where the contributory employment and support allowance ceases after the coming into operation of the Regulations the Welfare Supplementary Payment is payable from the day after entitlement to the allowance ceases, for one year .or up to 31 March 2028, whichever is the first to occur. Where the cessation of the contributory employment and support allowance happened before the coming into operation of the Regulations payment of the Welfare Supplementary Payment begins on the day on which the Regulations come into operation and ends one year after the day when the allowance ceased. Payments will be made to the claimant or to a person appointed on their behalf.

13.4 Regulation 40 provides to cease Welfare Supplementary Payments if the claimant becomes entitled to a further award of contributory employment and support allowance effective from the date of entitlement.

13.5 Regulation 41 provides for the Department to supply Her Majesty's Revenue and Customs information relating to contributory Employment Support Allowance Welfare Supplementary Payments.

14. General

14.1 Regulation 42 provides to require claimants to report any change in their circumstances which may affect their Welfare Supplementary Payment, where it is reasonable to do so.

14.2 Regulation 43 applies overpayment recovery provisions in the Welfare Supplementary Payment (Amendment) Regulations 2016 to Welfare Supplementary Payments made to Universal Credit claimants.

14.3 Regulation 44 provides for sanctions to be disregarded when calculating Welfare Supplementary Payments.

14.4 Regulation 45 provides for a person to request a review of a decision on a Welfare Supplementary Payment.

14.5 Regulation 46 provides for Welfare Supplementary Payments to be disregarded when calculating entitlement to Universal Credit, any other social security benefit or Discretionary Support.

14.6 Regulation 47 provides for Welfare Supplementary Payments to be only paid to Northern Ireland residents and those who are temporarily absent from Northern Ireland.

14.7 Regulation 48 provides for Welfare Supplementary Payments to cease if a claimant or person being cared for is imprisoned or detained in legal custody for more than one month.

15. Consultation

15.1 As this Rule will provide statutory authority for Welfare Supplementary Payments for all eligible Universal Credit claimants it is a positive measure. Therefore no consultation has taken place.

16. Equality Impact

16.1 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 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.

17. Regulatory Impact

17.1 These Regulations do not require a Regulatory Impact Assessment as they impose only minimal costs on business, charities or voluntary bodies.

18. Financial Implications

18.1 The projected future funding requirement for the mitigations package, including proposals to extend the existing Welfare Supplementary Payment schemes, is £47.3m in 2025/26, £48.2m in 2026/27, increasing to £49.3m in 2027/28.

19. Section 24 of the Northern Ireland Act 1998

19.1 The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied the Rule—

(a) is broadly compatible with any of the Convention rights,

(b) is broadly compatible 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.

20. EU Implications

20.1 Not applicable.

21. Parity or Replicatory Measure

21.1 There is no equivalent provision being made in Great Britain.

On 17 November 2015 "A Fresh Start the Stormont Agreement and Implementation Plan" was agreed by the main political parties in Northern Ireland. Included in this agreement was the approach agreed by the Executive and HM Government to implementing welfare reform in Northern Ireland.

22. Additional Information

22.1 Not applicable.