

EXPLANATORY MEMORANDUM

THE SOCIAL SECURITY (CROATIA) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2013

S.R. 2013 No. 167

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department for Social Development to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under powers conferred by sections 122(1)(a) and (d), 131(1) and (2) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992, Article 6(5) and (12) and Article 36(2) of, paragraph 11 of Schedule 1 to, the Jobseekers (Northern Ireland) Order 1995, and now vested in it, sections 1(5)(a) and 19(1) and (3) of the State Pension Credit Act (Northern Ireland) 2002 and sections 4(3) and 25(2) of the Welfare Reform Act (Northern Ireland) 2007 and is subject to the negative resolution procedure.

2. Purpose

- 2.1 The Social Security (Croatia) (Amendment) Regulations (Northern Ireland) 2013 amend a range of income-related benefits regulations as a consequence of the accession to the European Union on 1st July 2013 of Croatia.
- 2.2 The Regulations amend the Income Support (General) Regulations (Northern Ireland) 1987, the Jobseeker's Allowance Regulations (Northern Ireland) 1996, the State Pension Credit Regulations (Northern Ireland) 2003, the Housing Benefit Regulations (Northern Ireland) 2006, the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006, the Employment and Support Allowance Regulations (Northern Ireland) 2008 and the Social Security (Immigration and Asylum) Consequential Amendments Regulations (Northern Ireland) 2000.
- 2.3 The amendments provide nationals of Croatia who are subject to the worker authorisation scheme established by the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013 and who are treated as workers pursuant to those Regulations with access to income-related benefits.
- 2.4 Regulation 1 provides for citation and commencement.
- 2.5 Regulations 2 to 7 amend, respectively:—
 - Regulation 21AA of the Income Support (General) Regulations (Northern Ireland) 1987;
 - Regulation 85A of the Jobseeker's Allowance Regulations (Northern Ireland) 1996;

Regulation 2 of the State Pension Credit Regulations (Northern Ireland) 2003;

Regulation 10 of the Housing Benefit Regulations (Northern Ireland) 2006;

Regulation 10 of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006; and

Regulation 70 the Employment and Support Allowance Regulations (Northern Ireland) 2008

2.6 Regulation 8 makes consequential amendment to the Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000.

2.7 Regulation 9 makes consequential revocations.

3. Background

3.1 Under the provisions of the Treaty of Accession of 9 December 2011, Croatia will accede to the European Union on 1 July 2013. The Accession Treaty contains a derogation which allows Member States to restrict entry to their labour markets.

3.2 The European Union (Accessions) Act 2006 implements the Accession Treaty in UK law. In exercise of his powers under that Act and the European Communities Act 1972, the Home Secretary has laid regulations (“the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013”) implementing transitional arrangements concerning the free movement of Croatian workers. These will take effect from the date of accession and last for five years, with the possibility of extension for a further two years.

3.3 The Home Office regulations establish a worker authorisation and worker registration scheme for workers from Croatia nationals. The authorisation arrangements are similar to those applicable to nationals of Bulgaria and Romania and create a work-permit type scheme restricting the employment of Croatian nationals.

3.4 Croatian nationals subject to the work authorisation requirement will be able to commence employment in the UK only if they obtain authorisation from the UK Border Agency. While working in accordance with the scheme, they will be treated as workers within the definition of “qualified person” in regulation 6(1) of the Immigration (European Economic Area) Regulations 2006 and have a right to reside in the UK as “workers”.

3.5 The income-related benefits regulations require claimants to be habitually resident in the Common Travel Area (the United Kingdom, the Channel Islands, the Isle of Man and the Republic of Ireland) in order to qualify. Any claimant who is not habitually resident in the Common Travel Area is a “person from abroad” or, for State Pension Credit purposes, is treated as not in Northern Ireland. People without a relevant right to reside in the Common

Travel Area cannot be treated as habitually resident and cannot qualify for income-related benefits.

- 3.6 The proposed amendments insert a new category of persons who are exempt from the habitual residence test; namely, nationals of Croatia who are subject to the worker authorisation scheme and who are treated as workers under that scheme.

4. Consultation

- 4.1 The Social Security Advisory Committee was consulted in respect of regulations 5 and 6 and agreed that the regulations should not be formally referred. Otherwise the regulations make, in relation to Northern Ireland, provision corresponding to provision contained in Regulations made by the Secretary of State for Work and Pensions in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992, are not subject to the requirement of section 149(2) for prior reference to the Social Security Advisory Committee.

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 proposals and concluded that the proposals do not have significant implications for equality of opportunity.

6. Regulatory Impact

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

7. Financial Implications

- 7.1 The Regulations are not expected to give rise to any significant cost.

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 These amendments will be made in light of Croatia's accession to the European Union on 1 July 2013 and are within the scope of the derogation permitted by the Treaty of Accession.

10. Parity or Replicatory Measure

- 10.1 The corresponding Great Britain Regulations are the Social Security (Croatia) Amendment Regulations 2013 and come into force on 1 July 2013. 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.