

EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (NORTHERN IRELAND RECIPROCAL
ARRANGEMENTS) REGULATIONS 2016

2016 No. 287

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 These Regulations give effect in Great Britain to a new Memorandum of Reciprocal Arrangements between Great Britain and Northern Ireland. The intention of the arrangements is to continue the position in the existing arrangements whereby there is, in effect, a single system of social security for the whole of the United Kingdom.

3. Matters of special interest to Parliament

Matters of Special Interest to the Select Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to the negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 Section 87 of the Northern Ireland Act 1998 Act <http://www.legislation.gov.uk/ukpga/1998/47/contents> places a duty on the Minister for Social Development in Northern Ireland and the Secretary of State for Work and Pensions to consult with one another with a view to securing a single social security system for the United Kingdom (“the parity principle”). Section 88 of the 1998 Act makes provision for financial adjustments to support the maintenance of these parity arrangements.
- 4.2 Underpinning the parity principle is the argument that, as people in Northern Ireland pay the same rates of income tax and National Insurance contributions as people in Great Britain, they are entitled to the same rights and benefits paid at the same rates. Also, when people move between the two territories, they should be able to enjoy the same entitlement to benefit generated by their National Insurance contributions and should not have to make another claim to the same benefit or return home if they wish to appeal an entitlement decision made in their home territory.
- 4.3 The parity principle is achieved by the making of reciprocal arrangements between Great Britain and Northern Ireland covering social security. These arrangements are then given effect in Great Britain by regulations made by the Secretary of State under section 87(4) of the 1998 Act.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is Great Britain
- 5.2 The territorial application of this instrument is Great Britain.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation no statement is required.

7. Policy Background

What is being done and why

- 7.1 Under the current devolution arrangements responsibility for social security in Northern Ireland rests with the Northern Ireland Assembly.
- 7.2 The principle of parity in social security was reflected in the 1998 Act where provision was made in section 87 to ensure that the social security systems in the two jurisdictions in Great Britain and Northern Ireland could continue to work, in effect, as a coherent single system. This is achieved through the drawing up of a Memorandum of Reciprocal Arrangements (the “Memorandum”) between the two jurisdictions.
- 7.3 The current Memorandum is contained in Schedule 1 to the Social Security (Northern Ireland Reciprocal Arrangements) Regulations 1976, S.I. No. 1003 SI 1976/1003 <http://www.dwp.gov.uk/docs/a9-8831.pdf>. Although these Regulations were made under an earlier repealed enabling power they continue in force as if made under section 87(4) of the 1998 Act.
- 7.4 As the current Memorandum contains many obsolete references, the opportunity is being taken to draw up a new one.
- 7.5 The new Memorandum largely replicates the existing one. But it will also include the new state pension under Parts 1 of the Pensions Act 2014 <http://www.legislation.gov.uk/ukpga/2014/19/contents/enacted/data.htm> and the Pensions Act (Northern Ireland) 2015 <http://www.legislation.gov.uk/nia/2015/5/contents> so that the parity principle will apply to both the ‘new’ and ‘old’ state pensions. It will also include Employment and Support Allowance and Personal Independence Payment, so that the parity principle will apply to claims and awards of those benefits.

- 7.6 This instrument revokes the 1976 Regulations, and gives effect to the new Memorandum in Great Britain. The new Memorandum will be given legal effect in Northern Ireland through regulations made by the Department for Social Development under section 87(5) of the 1998 Act.

Consolidation

- 7.7 As the regulations give effect to a new Memorandum of Reciprocal Arrangements and revoke previous regulations, consolidation is not relevant.

8. Consultation outcome

- 8.1 Public consultation has not been carried out on these Regulations, as they are merely continuing and extending the existing reciprocal arrangements.

9. Guidance

- 9.1 No specific guidance concerning these Regulations is required because they maintain long existing arrangements.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 The impact on the public sector is negligible. The purpose of this instrument is solely to continue the existing memorandum to maintain the parity principle in social security between Great Britain and Northern Ireland.
- 10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

- 12.1 This legislation is not subject to any formal monitoring and review.

13. Contact

- 13.1 Trevor Pendergast at the Department for Work and Pensions, Telephone: 020 7449 5639 can answer any queries regarding Employment and Support Allowance, Clare Glass Telephone 020 7449 7119 can answer queries on State Pension and Phil Joseph Telephone 020 7449 5289 can answer queries regarding Personal Independence Payment.