

Ms Emer Boyle
Communities Committee Clerk
Room 430
Parliament Buildings
Ballymiscaw
Stormont
Belfast
BT4 3XX

Dear Emer,

**THE SOCIAL SECURITY (MISCELLANEOUS AMENDMENTS) REGULATIONS
(NORTHERN IRELAND) 2026**

The Department for Communities proposes to make a Statutory Rule under powers conferred by the Social Security Contributions and Benefits (Northern Ireland) Act 1992, the Social Security Administration (Northern Ireland) Act 1992, the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997, the Welfare Reform (Northern Ireland) Order 2015, the State Pension Credit Act (Northern Ireland) 2002 and the Welfare Reform Act (Northern Ireland) 2007. The Statutory Rule is subject to the negative resolution procedure before the Assembly.

Purpose of the Statutory Rule

The proposed Statutory Rule is a parity measure, which will make several miscellaneous amendments to Northern Ireland social security legislation. The amendments correspond to provisions being brought forward in Great Britain by the Department for Work and Pensions in the **Social Security (Miscellaneous Amendments) Regulations 2026** and are intended to maintain parity with the GB social security framework as far as appropriate in Northern Ireland.

The Statutory Rule will make technical and policy amendments to provisions relating to Universal Credit, Pension Credit, Housing Benefit, Employment and Support Allowance, Personal Independence Payment transitional provisions and benefit overpayment recovery. The amendments clarify policy intent, address drafting inconsistencies, respond to relevant legal judgments and ensure that certain redress payments are disregarded for the purposes of income-related benefits.

It is proposed that the Statutory Rule will come into operation on **30 October 2026**.

Detail

The proposed Statutory Rule will make the following amendments.

- **Universal Credit and Mileage Allowance Relief**

The Universal Credit Regulations (Northern Ireland) 2016 will be amended to clarify that unreimbursed mileage allowance should not result in a recalculation of Universal Credit and should instead be dealt with through HMRC's Mileage Allowance Relief process. This reflects the existing policy intent and operational position that Mileage Allowance Relief is administered through the tax system rather than Universal Credit.

This is a clarificatory amendment and does not introduce a new operational process. There is no significant impact from this amendment because there is no process in place for customers to claim unreimbursed mileage allowance via Universal Credit. The amendment seeks to clarify this policy position in statute.

- **Universal Credit Transitional Protection**

The Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 will be amended to address how the Universal Credit Transitional Element is eroded where entitlement to the Carer's Element, Limited Capability for Work or Limited Capability for Work and Work-Related Activity begins or ends in the same assessment period.

The amendment addresses the interaction between the Universal Credit transitional element and the rules which prevent the Carer's Element and a health-related element from being paid to the same claimant in the same assessment period. Where entitlement to the Carer's Element, Limited Capability for Work element or Limited Capability for Work and Work-Related Activity element begins or ends, causing another of those elements to be removed, or an underlying

entitlement to come into payment, the amendment will ensure that transitional element erosion is calculated by reference to the net increase between the two elements.

This prevents a claimant experiencing a double loss by both losing one element and having their transitional protection eroded by the full value of another. The corresponding DWP provision follows an Upper Tribunal decision and is intended to put the effect of that decision into legislation, while extending the same protective approach to similar circumstances.

- **Disregard of payments under the Republic of Ireland Mother and Baby Institutions Payment Scheme**

The Mother and Baby Institutions Payment Scheme, established by the Irish Government, provides financial redress to people who spent time in Mother and Baby and County Home Institutions between 1922 and 1998. The Scheme opened on 20 March 2024 and is expected to accept applications until March 2029, with many of the potential applicants living in the UK.

Social security legislation will be amended to provide for payments made under the Scheme to be disregarded indefinitely as income and / or capital, as appropriate, for relevant income-related benefit purpose. These payments will also be exempted from compensation recovery, ensuring recipients do not lose or have reduced entitlement to benefits because of receiving a redress payment.

The Statutory Rule will amend the following legislation to provide for the disregards:

- 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 Universal Credit Regulations (Northern Ireland) 2016.

- **Pension Credit — temporary absence abroad**

The Statutory Rule will amend the State Pension Credit Regulations (Northern Ireland) 2003 to correct a drafting omission in the Social Security (Habitual Residence, Past Presence and Temporary Absence) (Amendment) Regulations (Northern Ireland) 2025 (“the 2025 Regulations”).

The 2025 Regulations amended the Pension Credit Regulations to allow entitlement to Pension Credit to continue for up to 26 weeks of a temporary absence abroad, where, due to the outbreak of a crisis in a country or territory, the UK Government has issued advice to people to leave and / or arranged for their evacuation.

One of the conditions for entitlement to the 26-week extension is that, at the time the advice is issued or evacuation arranged, the person is already entitled to Pension Credit whilst in that country or territory under one of the other permitted period provisions.

This condition was applied in relation to a claimant's absence abroad but was inadvertently not applied in relation to the absence abroad of members of the claimant's household. The proposed amendment corrects that omission to provide that the same condition applies to the claimant and to members of the claimant's household.

- **Recovery of fraud-related overpayments from Pension Credit**

The Social Security (Overpayments and Recovery) Regulations (Northern Ireland) 2016 will be amended to correct an inconsistency in the maximum deduction rate that applies where certain fraud-related overpayments are recovered by deduction from Pension Credit. The amendment increases the maximum rate from 25% to 40% of the standard personal allowance for relevant fraud-related overpayments, aligning the Pension Credit provision with the wider recovery framework.

The 40% maximum rate reflects the established policy intent for fraud-related overpayment recovery, but the specific Pension Credit provision was not updated when the wider change was made. The amendment will therefore correct a drafting oversight and align the Pension Credit provision with the wider fraud overpayment recovery framework.

The practical impact of the amendment is expected to be limited. As of August 2026, 27 Pension Credit recipients were repaying fraud-related benefit overpayments through deductions from Pension Credit. Of these, 7 were repaying at the current maximum fraud recovery rate of 25%, while the remaining 20 were repaying at either the standard rate or a lower rate. To date no fraud-related overpayment has been recovered from Pension Credit at a rate exceeding the existing 25% statutory maximum. The amendment does not create a new recovery power or remove existing safeguards: affordability, vulnerability and hardship considerations remain unchanged, and the 40% rate remains a maximum rather than an automatic deduction rate.

- **Personal Independence Payment transitional provisions**

The Statutory Rule will amend the Personal Independence Payment (Transitional Provisions) Regulations (Northern Ireland) 2016, to clarify the effect of a negative determination made during the transfer from Disability Living Allowance (DLA) to Personal Independence Payment (PIP).

Where a transfer claimant fails to provide requested information or evidence or fails to attend or participate in a required consultation, a negative determination may be made. If the Department or an appeal tribunal subsequently accepts that the claimant had good reason for that failure, the amendment provides that the negative determination is to be treated as not having been made and the claimant's DLA entitlement is reinstated as if the determination had never been made.

The amendment follows conflicting Upper Tribunal decisions and legislates for an approach under which DLA is reinstated and remains in payment until a substantive PIP entitlement decision is made.

Its purpose is to remove ambiguity, provide clarity for claimants, decision-makers and tribunals, maintain continuity of payment and reduce the risk of financial hardship while the claimant returns to the normal PIP transfer process.

Previous engagement with the Committee

None on the above-mentioned subject matter.

Financial Implications

Financial impacts have been identified for three of the parity measures being addressed by the proposed Statutory Rule: the disregard of payments under the Republic of Ireland Mother and Baby Institutions Payment Scheme, the UC Transitional Protection amendment and the PIP transitional provisions amendment.

The Department has secured the necessary approvals from the Department of Finance regarding the Northern Ireland AME implications of these parity measures. AME costs are expected to remain below £1m per annum and will be met in full by HM Treasury.

Consultation

DWP submitted the corresponding GB proposals to the Social Security Advisory Committee in accordance with section 172 of the Social Security Administration Act 1992. The Department

has considered the material provided to SSAC in developing the corresponding Northern Ireland Regulations.

The GB material notes that consultation with local authority associations was being undertaken in respect of the disregard of payments under the Republic of Ireland Mother and Baby Institutions Payment Scheme, as that measure impacts Housing Benefit legislation. There was no requirement for formal consultation on the other measures in the GB package, which are largely technical, clarificatory or protective in nature.

The Department does not consider that separate public consultation is required in Northern Ireland. The proposed Statutory Rule maintains parity with the corresponding GB social security provisions, and the policy substance has been considered the Social Security Advisory Committee, which includes members from Northern Ireland.

Compliance with Section 24 of the Northern Ireland Act 1998

The Department is content that the Statutory Rule complies with section 24 of the Northern Ireland Act 1998 (Convention rights, etc.) and is compatible with Article 2(1) of the Windsor Framework.

Consideration by the Executive

Not required for this Statutory Rule.

Equality Impact

In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on these legislative proposals and has concluded that they do not have any significant implications for equality of opportunity or good relations. In light of this, the Department considers that an Equality Impact Assessment is not necessary.

Regulatory Impact

The proposed Statutory Rule does not require a Regulatory Impact Assessment as it does not impose a cost on business, charities or voluntary bodies.

Rural Needs Impact

A Rural Needs Impact Screening has been undertaken for this Statutory Rule, and the Department is satisfied that it will not have an undue impact on rural communities. No negative impacts have been identified, and no mitigation measures are necessary.

Data Protection Impact

A Data Protection Impact Assessment has been undertaken for this Statutory Rule, and the Department is satisfied that there are no causes for concern with regards to the protection of the Department's or the public's data. No mitigation measures are necessary.

Child Rights Impact

A Child Rights Impact Assessment has not been deemed necessary for this Statutory Rule as the measures are largely technical or clarificatory in nature.

Position in Great Britain

The corresponding GB Statutory Instrument is the Social Security (Miscellaneous Amendments) Regulations 2026, which includes measures that correspond with those detailed above.

The Statutory Instrument includes a further measure relating to the Universal Credit, Personal Independence Payment and Employment and Support Allowance (Amendment) Regulations 2026. That measure corrects a GB-specific technical error in the territorial extent of a provision relating to PIP. This is to properly reflect the devolution of responsibility for disability benefits to Scotland. As that provision has no application in Northern Ireland, it is not replicated in this Statutory Rule.

It is anticipated that DWP will make and lay the corresponding GB Regulations on 7 October 2026. In line with the long-standing parity principle under section 87 of the Northern Ireland Act 1998, the Department proposes to make the corresponding Statutory Rule as soon as possible thereafter to come into operation at the same time as DWP.

Proposed timing of consideration of the SL1

These are parity social security measures, and the Statutory Rule should come into operation on the same date as the corresponding GB Statutory Instrument.

As the GB Statutory Instrument is expected to be laid on 7 October it will not be possible for the Department to provide a final draft of the Statutory Rule and Explanatory Memorandum for the

full four-week SL1 scrutiny period while complying with the 21-day rule and maintaining parity with the DWP coming into operation date of 30 October 2026.

In light of these circumstances, the Minister has made the following statement:

“I am satisfied that ensuring the orderly making of this parity social security legislation in line with DWP timeframes gives rise to exceptional circumstances which require deviation from the normal processes and timeframes set out in the Guidance for Departments on Delegated Legislation.

I would be grateful if the Committee would agree to consider the SL1 in the requested shortened timeframe in light of these exceptional circumstances. It is my intention to make the Statutory Rule to align as closely as possible with the DWP timetable for the corresponding GB Regulations and to bring the Northern Ireland Regulations into operation on 30 October 2026.”

Proposed operational date

It is proposed that the Statutory Rule will come into operation on **30 October 2026**.

When the Statutory Rule, together with the Explanatory Memorandum, has been laid at the Assembly Business Office, the Business Office will submit copies to the Committee.

You will wish to bring this matter to the attention of the Communities Committee.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Laura Coffey', with a stylized flourish at the end.

Laura Coffey
Departmental Assembly Liaison Officer
Private Office