

WELFARE SUPPLEMENTARY PAYMENTS (AMENDMENT) BILL

EXPLANATORY AND FINANCIAL MEMORANDUM

INTRODUCTION

1. This Explanatory and Financial memorandum has been prepared by the Department for Communities in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.
2. The Memorandum needs to be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. So where a clause or part of a clause does not seem to require an explanation or comment, none is given.

BACKGROUND AND POLICY OBJECTIVES

3. Over several years the United Kingdom Government has made a number of significant changes to the welfare system in Great Britain. Following talks between the Northern Ireland political parties in 2015 most of these changes are also now introduced in Northern Ireland, including the Social Sector Size Criteria. This introduced size criteria into Housing Benefit for working-age claimants in the social rented sector with effect from 20 February 2017. A corresponding provision was included in Universal Credit from it was first introduced in Northern Ireland on 27 September 2017.
4. This means that Housing Benefit and the housing costs element of Universal Credit is now restricted and is based on the number of bedrooms a household is deemed to require. For those Housing Executive and Housing Association tenants who are found to be under-occupying their properties, an appropriate percentage reduction will be made to the eligible rent when calculating entitlement to Housing Benefit or the Universal Credit housing element.
5. As part of the Fresh Start Agreement the Northern Ireland Executive agreed to introduce a package of financial support for people affected by welfare reforms. Acting on the recommendations of the Welfare Reform Mitigations Working Group, chaired by Professor Eileen Evason, a range of Welfare Supplementary Payment schemes were subsequently developed and introduced. These are delivered under legislation that was approved by the Assembly.
6. The legislation to make the existing Welfare Supplementary Payments came to an end on 31st March 2020. In “The New Decade, New Approach” deal that accompanied the return of the Assembly in January 2020 there was a commitment that the Executive would extend the existing welfare mitigation measures beyond March 2020. From this date the Department for Communities has continued to make payments under the sole authority of the relevant Budget Act.

7. The Bill will substitute a new end date of 31st March 2025 to replace the current date of 31st March 2020, as set out in Article 137A of the Welfare Reform (Northern Ireland) Order 2015, in respect of mitigation payments for the Social Sector Size Criteria. This will provide for an extension of this Welfare Supplementary Payment scheme and is in line with the political commitment established in “The New Decade, New Approach” deal.
8. The Bill will also require the Department for Communities to conduct a review and report on Welfare Supplementary Payments schemes under both Articles 137 and 137A to inform future decisions on a further extension of the schemes beyond 31st March 2025 (but noting that Article 137 does not contain a fixed end date as Article 137A as being amended by the Bill does).

CONSULTATION

9. No consultation has been carried out in relation to the substitution of a new end date for the mitigation scheme for the Social Sector Size Criteria.

OPTIONS CONSIDERED

10. The impact of not extending mitigation for the Social Sector Size Criteria was highlighted in a Northern Ireland Housing Executive Research Unit report published in November 2018 that concluded the ending of the mitigation would lead to an increase in rent arrears and household poverty in general.
11. This report also highlighted a clear mismatch between the size and type of social housing stock required to avoid Social Sector Size Criteria deductions and the profile of the existing stock. The unavailability of smaller dwellings will mean that many people will be unable to move property to avoid any reduction in their benefit entitlement.
12. The latest official data shows that 36,400 households in Northern Ireland were affected by Social Sector Size Criteria deductions in the 2020/21 financial year. It is estimated that a failure to provide for an extension of this mitigation scheme will directly impact on approximately 36,000 households each year. Due to the nature of the social sector housing stock available in Northern Ireland and the negative impact the cessation of this mitigation would have on households, the option of not continuing with mitigating payments was considered, but not selected to be taken forward.
13. The preferred option of the Department for Communities and the Executive has remained the extension of the current mitigation scheme that ensures financial support is given to those affected by the Social Sector Size Criteria. The guarantee of this support also serves to ensure revenue for the social housing sector provided by the Housing Executive and Housing Associations. Therefore no other options have been considered.

OVERVIEW

14. The Bill contains four clauses. Clause 1 substitutes a new end date of 31st March 2025 for qualifying for mitigation payments in respect of the Social Sector Size Criteria.

Clause 2 provides that payments cannot be made under Article 137A for any period between 31st March 2020 and the date on which the Act come into operation. Clause 3 provides for the Department for Communities to report on the operation of payments made under both the mitigation schemes under Articles 137 and 137A. Clause 4 deals with commencement of and the short title for the Bill.

COMMENTARY ON CLAUSES

Clause 1: End date for qualifying for particular payments

Clause 1 extends the period specified in Article 137A. This means that mitigation payments in respect of the Social Sector Size Criteria will be able to be made to persons where their entitlement to Housing Benefit or Universal Credit is affected any time during the period 2nd January 2017 to 31st March 2025.

Clause 2: Deemed effect of certain pre-existing provisions

Clause 2 clarifies that Article 137A and any regulations made thereunder have had continuous effect from 31st March 2020 (subject to the amendment made by the Bill). However, no payments are to be made under the amended Article 137A for the period between 31st March 2020 and the date on which the Act comes into operation. This will ensure that a person who has already received non-statutory mitigation payments during this period cannot become entitled to further payments under Article 137A in respect of the same period.

Clause 3: Monitoring and reporting as to statutory arrangements

Clause 3 requires the Department for Communities to monitor and report on the operation of the welfare mitigation schemes under both Article 137 and Article 137A. The report is to be laid in the Assembly no later than 31st March 2025 (which is the end of the period in Article 137A as extended by the Bill). The report must include an evaluation of the need to amend, revoke or introduce new legislation in respect of the various welfare mitigation schemes. In particular, this will include a view on the provision of a statutory extension of each of the mitigation schemes.

FINANCIAL EFFECTS OF THE BILL

15. Latest forecasts estimate that a continuation of mitigation under Article 137A for the Social Sector Size Criteria will result in expenditure of approximately £25m per year.

HUMAN RIGHTS ISSUES

16. The provisions of this Bill are compatible with the Convention on Human Rights.

EQUALITY IMPACT ASSESSMENT

17. A screening exercise was undertaken on the proposal to extend the Social Sector Size Criteria in accordance with Section 75 of the Northern Ireland Act 1998 and did not identify any issues adversely affecting any Section 75 groups.

SUMMARY OF THE REGULATORY IMPACT ASSESSMENT

18. No Regulatory Impact Assessment has been carried out as this Bill is to extend the provision for a scheme of financial assistance and it will have no impact in terms of costs on business, charities or voluntary bodies.

DATA PROTECTION IMPACT ASSESSMENT/DATA PROTECTION BY DESIGN

19. The Article 36(4) Enquiry Form in relation to the General Data Protection Regulation (GDPR) has been completed as part of the process of consulting with the Information Commissioner's Office (ICO). Due to the content of this Bill a Data Protection Impact Assessment is not required at this time.

RURAL NEEDS IMPACT ASSESSMENT

20. A rural needs impact assessment has been carried out and there will be no difference in the impact between people living in urban or rural areas.

LEGISLATIVE COMPETENCE

21. At Introduction the Minister for Communities had made the following statement under section 9 of the Northern Ireland Act 1998:

"In my view the Welfare Supplementary Payments (Amendment) Bill would be within the legislative competence of the Northern Ireland Assembly."