

EXPLANATORY MEMORANDUM TO
THE HOUSING BENEFIT AND UNIVERSAL CREDIT HOUSING COSTS
(EXECUTIVE DETERMINATIONS) (MODIFICATION) REGULATIONS
(NORTHERN IRELAND) 2021

S.R. 2021 NO. 014

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 sections 122(1)(d), 129(A)(2) and 171(1) and (3) to (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and Articles 16(4), 38(1) and 48(2) of the Welfare Reform (Northern Ireland) Order 2015, and is subject to the negative resolution procedure.

2. Purpose

- 2.1 This Statutory Rule amends the Housing Benefit (Executive Determinations) Regulations (Northern Ireland) 2008 and the Universal Credit Housing Costs (Executive Determinations) Regulations (Northern Ireland) 2016 (“the Executive Determinations Regulations”) to make changes to how the Northern Ireland Housing Executive (NIHE) will determine Local Housing Allowance (LHA) rates which will apply for 2021/22. It provides for LHA rates in 2021/22 to be retained at the same cash levels as applied from April 2020.

3. Background

- 3.1 The LHA scheme was introduced in 2008 as a way of calculating the maximum amount of Housing Benefit (HB) and the housing costs element of Universal Credit (UC) payable for claimants in the private rented sector. It applies to the majority of tenants claiming HB and all tenants claiming UC in that sector.
- 3.2 In March 2020, as part of its response to the coronavirus pandemic, the Department amended the Executive Determinations Regulations to increase LHA rates to cover the lowest 30 percent of local rents from April 2020. In November 2020 the Government committed to maintaining rates at the same cash levels in the next financial year. This Statutory Rule delivers that commitment for 2021/22.

4. Consultation

- 4.1 There is no requirement to consult on these regulations.

5. Equality Impact

- 5.1 In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department conducted a screening exercise and concluded that the changes did not have any significant implications for equality of opportunity. In light of this, the Department considered that an equality impact assessment was not necessary.

6. Regulatory Impact

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

7. Financial Implications

- 7.1 A breach of parity in this matter may incur financial costs, both in the loss of benefit savings and in administration costs, which would have to be met by the Northern Ireland Executive from the Northern Ireland block grant.

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 that 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 grounds 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. E U Implications

- 9.1 Not applicable.

10. Parity or Replicatory Measure

- 10.1 These Regulations are equivalent to the Rent Officers (Housing Benefit and Universal Credit Functions (Modification) Order in Great Britain, which were made on 10 December 2020 and come into force on 28 January 2021.

11. 21 Day Rule

- 11.1 The Department for Communities was unable to adhere to the 21 Day Rule in making this Statutory Rule. The Minister for Communities approved the making of this Statutory Rule on 26th January 2021, after carefully considering the impacts on private rental sector tenants subject to Local Housing Allowance rules in light of competing budgetary pressures coupled with the ongoing coronavirus pandemic.