

EXPLANATORY MEMORANDUM TO

The Housing Benefit (Executive Determinations) (Amendment) Regulations (Northern Ireland) 2009

S.R. 2009 No. 328

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 sections 122(1)(d), 129A(2) and 171(1) and (3) to (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and is subject to the negative resolution procedure.
- 1.3. The rule is due to come into operation on 12 October 2009.

2. Purpose

- 2.1. The purpose of the Regulations is to amend the Housing Benefit (Executive Determinations) Regulations (Northern Ireland) 2008 (“the Executive Determinations Regulations”) to restore a provision which was erroneously removed by the Housing Benefit (Executive Determinations) (Amendment) Regulations (Northern Ireland) 2008.

3. Background

- 3.1. Under local housing allowance arrangements, entitlement to housing benefit is calculated by reference to the local housing allowance rates determined by the Northern Ireland Housing Executive (“the Executive”) for the broad rental market area in which the property is situated. The Executive collects market evidence of rents in these areas and then sets rates for each category of dwelling for which it is required to determine a local housing allowance. Local housing allowance rates are set at the median level of rents collected and the rates are published monthly so that prospective tenants can know in advance the maximum level of rent which can be met by housing benefit.
- 3.2. The Housing Benefit (Executive Determinations) (Amendment) Regulations (Northern Ireland) 2008, which came into operation on 5 January 2009, substituted the definition of “broad rental market area” to clarify the way in which the Executive constructs these Areas. However, those Regulations also erroneously removed a provision which enabled the Executive to include rents from other comparable areas when compiling a list of rents for a category of dwelling. This ‘extrapolation’ provision could be used when the Executive was not satisfied that the broad rental market area contained a sufficient number of dwellings to enable it to determine a local housing allowance rate for a particular category of dwelling.
- 3.3. The Executive Determinations Regulations require each broad rental market area to contain sufficient privately rented premises to ensure that, in the Executive’s opinion, the local housing allowance rates it sets for

each category of dwelling are representative of the rents that a landlord should be reasonably expected to obtain in the area. It should therefore not normally be the case that the Executive needs to draw on evidence from outside the area. However, if in any month it has insufficient data for dwellings in a particular category, an extrapolation provision enables the Executive to use data from other similar areas to arrive at a local housing allowance rate. The extrapolation provision should be needed rarely and sustained use would indicate that a review of the broad rental market area boundaries should be considered. If local housing allowance rates are set using insufficient data, the published rates could fluctuate erratically from month to month.

- 3.4. The proposed amendment restores an extrapolation provision (the wording will differ from the original provision to take account of the substituted definition of "broad rental market area"). This is a minor technical amendment to restore the policy intention and does not reflect a change of policy.

4. Matters of Special Interest to the Social Development Committee

- 4.1. None.

5. Consultation

- 5.1. There was no statutory requirement to consult on the equivalent Great Britain Order or for its reference to the Social Security Advisory Committee. The Social Security Advisory Committee agreed that it did not require the proposed Regulations to be formally referred.

6. Position in Great Britain

- 6.1. The Regulations mirror the Great Britain Order and are in keeping with the principal of parity between Northern Ireland and Great Britain in social security matters.

7. Equality Impact

- 7.1. In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department conducted a screening exercise of the proposals. It concluded that the proposals do not have significant implications for equality of opportunity and therefore considered that an equality impact assessment was not necessary.

8. Regulatory Impact

- 8.1. These Regulations do not require a Regulatory Impact Assessment as they do not impose any additional costs or savings on business, charities or voluntary bodies.

9. Financial Implications

- 9.1. None.

10. Section 24 of the Northern Ireland Act 1998

- 10.1. The Department has considered its obligations under section 24 of the Northern Ireland Act 1998 and is satisfied that the Rules: are not incompatible with the Convention rights; are not incompatible with Community law; do not discriminate against a person or class of person on

the ground of religious belief or political opinion; and do not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

11. EU Implications

11.1. Not applicable.

12. Additional Information

12.1. Not applicable.