

EXPLANATORY MEMORANDUM TO
THE UNIVERSAL CREDIT HOUSING COSTS (EXECUTIVE DETERMINATIONS)
REGULATIONS (NORTHERN IRELAND) 2016

S.R. 2016 No. 222

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Social Development (Northern Ireland) (“The Department”) on behalf of the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 These regulations require the Northern Ireland Housing Executive to determine broad rental market areas and local housing allowance rates to be used in calculating entitlement to the housing costs element of Universal Credit for tenants renting in the private sector.

3. Matters of special interest to Parliament

Matters of special interest to the Joint 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](#) places a statutory duty on the Minister for Social Development 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. 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.
- 4.3 [The Welfare Reform Act 2012](#) introduced a number of reforms including Universal Credit, Personal Independence Payment, the Jobseeker’s Allowance Claimant Commitment and a cap on the amount of benefits working age people can receive..
- 4.4 On 17 November 2015 “[A Fresh Start: The Stormont Agreement and Implementation Plan](#)” was agreed by the main political parties in Northern Ireland. Included in this agreement was the approach agreed by the Executive and HM Government to implementing welfare reform in Northern Ireland. [The Northern Ireland \(Welfare Reform\) Act 2015](#) provides a power for Her Majesty to legislate on social security, child support and certain matters related to employment and training in Northern Ireland by Order in Council. Any such Order in Council may then confer power on the

Secretary of State or a Northern Ireland department to make further provision regarding these matters by regulations or order. [The Welfare Reform \(Northern Ireland\) Order 2015](#) (“the 2015 Order”) was made on 9 December 2015 and regulations stemming from the Order, to implement in Northern Ireland an equivalent to the various welfare reforms set out in the Welfare Reform Act 2012, are now being brought forward.

- 4.5 The 2015 Order provides for the introduction in Northern Ireland of a new working age income-related social security benefit, Universal Credit, and the abolition of income-based Jobseeker’s Allowance, income-related Employment and Support Allowance, Income Support, Housing Benefit, and Child and Working Tax Credits. This instrument provides for determinations relating to Universal Credit housing costs.
- 4.6 [The Housing Benefit \(Executive Determinations\) Regulations \(Northern Ireland\) 2008](#) (S.R. 2008 No. 100) provide for determinations by the Northern Ireland Housing Executive (“the Executive”) relating to housing benefit. It was decided to provide for housing costs under Universal Credit by way of a new set of regulations.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is solely to Northern Ireland.
- 5.2 The territorial application of this instrument is Northern Ireland.
- 5.3 These regulations replicate for Northern Ireland the legislation that applies to Great Britain.

6. European Convention on Human Rights

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

7. Policy background

What is being done and why

- 7.1 This statutory instrument seeks to update many of the determinations carried out by the Executive in connection with Housing Benefit as set out in the Housing Benefit (Executive Determinations) Regulations (Northern Ireland) 2008 (S.R. 2008 No. 100). These regulations cover the private rented sector only. In summary the determinations updated relate to:

Determining Broad Rental Market Areas

- 7.2 The Regulations require the Executive to determine broad geographical areas containing sufficient properties to enable it to determine local housing allowances for various categories of dwelling. When setting areas the Executive should have regard to facilities and services for the purposes of health, education, recreation, personal banking and shopping to take account of the distance of travel, by public and private transport, to and from those facilities and services.

Determining Local Housing Allowance rates

- 7.3 The Regulations require the Executive to make local housing allowance determinations each year for each broad rental market area. Schedule 1 sets out the method of calculating the local housing allowance. This will be the local housing allowance determined for that category of dwelling or accommodation on 30th January 2015, or the rent at the 30th percentile where that rent is lower than that allowance.
- 7.4 These determinations are required to calculate the amount of a person's housing costs element for universal credit where their landlord is not a provider of social housing or registered social landlord. These Regulations will come into force at the same time that Universal Credit is implemented in Northern Ireland. In 2016/17 the Executive use the rates set by reference to the Housing Benefit (Executive Determinations) Regulations (Northern Ireland) 2008 (S.R. 2008 No. 100).
- 7.5 This instrument differs from the [Rent Officers \(Universal Credit Functions\) Order 2013](#) (S.I. 2013/382), which applies in Great Britain, in that there is no provision to extend the existing role of the Executive in relation to the social rented sector. In Northern Ireland social housing is provided by the Northern Ireland Housing Executive and registered housing associations. The Department for Social Development in Northern Ireland approves Executive rents¹, while registered housing associations are responsible for determining their own rents. It is not intended that the Department for Social Development in Northern Ireland should ask the Executive to determine if rent payments for accommodation in the social rented sector (their own properties and those provided by housing associations) are reasonable.

Consolidation

- 7.6 This instrument will be informally consolidated in the NI equivalent of the GB Law Relating to Social Security (or "Blue Volumes"), as the legislation applies only to Northern Ireland. It will be available to the public at no cost via the internet at: <https://www.dsdni.gov.uk/services/law-relating-social-security>

8. Consultation outcome

- 8.1 No public consultation has been undertaken as there has been no change in the policy to update local housing allowances in NI.
- 8.2 Informal discussions have taken place with the Executive to discuss the impact on their roles of the introduction of Universal Credit. These discussions will be ongoing and will involve the Department for Social Development.

9. Guidance

- 9.1 Where determinations are being replicated, the Executive already provides existing guidance available to the public and to benefits advisors. This guidance will be updated before the coming into force date to reflect the determination by the Executive of broad rental market areas and local housing allowance rates to be used in calculating entitlement to the housing costs element of Universal Credit for tenants renting in the private sector.

¹ Executive rents are rents set by the Northern Ireland Housing Executive

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies as this enables the continuation of Local Housing Allowance currently operating under Housing Benefit to operate under Universal Credit.
- 10.2 There are no significant costs to the public sector for this specific element of Universal Credit as it is currently operating under Housing Benefit.
- 10.3 An Impact Assessment has not been prepared for this instrument, for overarching Universal Credit an Impact Assessment has been prepared. However the impact on households of this instrument will not change from that of its operation under Housing Benefit as the Local Housing Allowance is currently in place in Northern Ireland.

11. Regulating small business

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

12. Monitoring & review

- 12.1 The operation of the Regulations will continue to be reviewed through the normal avenues of guidance enquiries received from the Department's offices and correspondence from members of the public.

13. Contact

- 13.1 Anne McCleary at the Department for Social Development can direct any queries regarding the instrument. Telephone: 028 90819973 or email: caroline.banks@dndni.gov.uk.