

EXPLANATORY MEMORANDUM TO
THE HOUSING BENEFIT AND UNIVERSAL CREDIT HOUSING COSTS
(EXECUTIVE DETERMINATIONS) (AMENDMENT) REGULATIONS
(NORTHERN IRELAND) 2018

2018 No. 209

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Communities on behalf of the Department for Work and Pensions, and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

This instrument provides for specified Local Housing Allowance (LHA) rates to be increased by 3 per cent in certain areas, where higher rent increases are causing issues with affordability for Housing Benefit and Universal Credit tenants in the private rented sector. These changes also include a 3 per cent increase to the national maximum LHA "caps" which means that a rate currently capped at the maximum and set out in the schedule of rates will receive a 3 per cent increase in 2019/20.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is Northern Ireland.
4.2 The territorial application of this instrument is Northern Ireland.

5. European Convention on Human Rights

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

6. Legislative Context

- 6.1 Section 87 of the [Northern Ireland Act 1998](#) ("the 1998 Act") places a statutory duty on the Minister for Communities 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.

- 6.2 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 rate.
- 6.3 The [Welfare Reform Act 2012](#) ("the 2012 Act") introduced a number of reforms which included the introduction of Universal Credit, Personal Independence Payment and a cap on the amount of benefits working age people can receive. This was to restrict the total amount of money a non-working household can receive to broadly the level of the average earned income of working households after tax and National Insurance contributions are deducted.
- 6.4 The [Welfare Reform and Work Act 2016](#) ("the 2016 Act") provided for the introduction of further reforms in Great Britain, including tiered reductions to the level of the benefit cap depending on where in Great Britain claimants lived, changes to the child element of Universal Credit and Child Tax Credits and the removal of the work-related activity component in Employment and Support Allowance and the Limited Capability for Work element in Universal Credit.
- 6.5 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 Northern Ireland Executive and UK Government to implementing welfare reform in Northern Ireland. The [Northern Ireland \(Welfare Reform\) Act 2015](#) provided a time-limited 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 making provision corresponding to the 2012 Act. [The Welfare Reform and Work \(Northern Ireland\) Order 2016](#) ("the 2016 Order") was made on 12 October 2016 making provision corresponding to the social security provisions of the 2016 Act.
- 6.6 In order to maintain parity, these regulations implement for Northern Ireland the changes brought about for Housing Benefit and Universal Credit in the equivalent statutory instrument for Great Britain, the Rent Officers (Housing Benefit and Universal Credit Functions) (Amendment) Order 2018.

7. Policy background

What is being done and why?

Local Housing Allowance Rates

- 7.1 The Local Housing Allowance (LHA) scheme was introduced in 2008 as a way of calculating the maximum amount of Housing Benefit (HB) and the housing element of Universal Credit payable for tenants in the private rented sector. It applies to the majority of tenants claiming HB and UC in that sector. The Northern Ireland Housing Executive are required to determine broad rental market areas and to make Local Housing Allowance (LHA) determinations each year for each broad rental market area.
- 7.2 The measure announced in the Summer Budget 2015 to freeze LHA rates for four years was part of a package of reforms to the welfare system to make it fairer for

taxpayers who pay for it, while continuing to support the most vulnerable. During the period April 2016 to March 2020, in most cases LHA rates will either be frozen at the April 2015 rate or will be set at the 30th percentile of local rents, if this is lower. The 30th percentile is a mathematical value which represents the level of rent where around 3 in 10 properties are available at or below the LHA rate. The 30th percentile of local rents are published each year by Northern Ireland Housing Executive alongside the LHA rates.

- 7.3 The impact of freezing LHA rates will vary across the UK, as rents in some areas might increase at different rates. In view of this, the UK Government committed to making provision for high rent areas, using 30 per cent of the savings from the LHA freeze to create Targeted Affordability Funding (TAF). In 2017/18 this funding was used to increase some LHA rates by 3 per cent and the changes were mirrored for Northern Ireland, in accordance with the parity principle. The Barnett¹ formula for 2019 will result in TAF for Northern Ireland of some £5.25 million. The purpose of this instrument is to distribute the funding for 2019/20.
- 7.4 The maximum LHA levels or national "caps"² will also receive a 3 per cent increase and the new amounts are set out in the instrument. This means any rates previously capped at the maximum levels, and identified to receive TAF in 2019/20, will be allowed a 3 per cent increase. The maximum LHA levels were increased by 3 per cent in 2018/19 for the first time since 2015/16.
- 7.5 The areas and rates which will receive the increase of 3 per cent in 2019/20 are set out in this instrument. With respect to these areas and rates, this instrument provides that the applicable rate will be the lowest of (a) the previous rate increased by 3% (b) the national caps increased by 3% or (c) the 30th percentile of local rents.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 This instrument will be informally consolidated in the Law relating to Social Security (Northern Ireland) or ("Blue Volumes"). It will be available to the public at no cost via the internet at: [SSPLD Blue Volumes](#).

10. Consultation outcome

- 10.1 This measure has not been subject to public consultation.

11. Guidance

- 11.1 The appropriate guidance will be amended for staff and decision makers in the Northern Ireland Housing Executive and Department for Communities in advance of this instrument becoming operational.

¹ As set out in HM Treasury's [Statement of Funding Policy](#).

² The LHA national "caps" were introduced in 2011 as one of the reforms to the LHA scheme to limit the amount of HB which could be paid.

12. Impact

- 12.1 There is no impact on business, charities or voluntary bodies.
- 12.2 An impact assessment has not been prepared for this instrument as it has no impact on the private sector or civil society organisations.

13. Regulating small business

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

14. Monitoring & review

- 14.1 The operation of the regulations will continue to be reviewed through the normal avenues of guidance enquiries received from the Department for Communities' offices and correspondence from members of the public.

15. Contact

- 15.1 Anne McCleary at the Department for Communities can be contacted with any queries regarding the instrument: Telephone: 028 90823332 or email: annemccleary@communities-ni.gov.uk.
- 15.2 Anne McCleary, Director of Social Security Policy & Legislation Division, at the Department for Communities can confirm that this Explanatory Memorandum meets the required standard.
- 15.1 Justin Tomlinson, Parliamentary Under-Secretary of State for Family Support, Housing and Child Maintenance at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.