

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

2018 No. 36

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

- 2.1 This instrument amends the Universal Credit Housing Costs (Executive Determinations) Regulations (Northern Ireland) 2016 ([S.R. 2016 No. 222](#)) to provide for certain Local Housing Allowance (“LHA”) rates to be increased by 3 per cent in certain areas where there have been higher rental increases. These changes include a 3 per cent increase to the national maximum LHA “caps”.
- 2.2 The instrument also amends the date that a new Broad Rental Market Area determination is to take effect.

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 negative resolution procedure 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](#) (“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.
- 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 rate.
- 4.3 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.

- 4.4 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.
- 4.5 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 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 making provision corresponding to the 2012 Act. [The Welfare Reform and Work \(Northern Ireland\) Order 2016](#) (“the 2016 Order”) was made on 12th October 2016 making provision corresponding to the social security provisions of the 2016 Act, and regulations stemming from the 2016 Order are now being brought forward.
- 4.6 In order to maintain parity, these regulations implement for Northern Ireland the changes brought about for Universal Credit only in the equivalent Great Britain Order, The Rent Officers (Housing Benefit and Universal Credit Functions) (Amendment) Order 2017 ([S.I. 2017/ 1323](#)) which came into force on 26th January 2018. Similar provision has already been made for Housing Benefit in The Housing Benefit (Executive Determinations) (Amendment) Regulations (Northern Ireland) 2018 ([S.R. 2018 No. 2](#)).

5. Extent and Territorial Application

- 5.1 The extent of this instrument is Northern Ireland.
- 5.2 The territorial application of this instrument is Northern Ireland.

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 The Universal Credit Housing Costs (Executive Determinations) Regulations (Northern Ireland) 2016 cover the private rented sector only and require the Northern Ireland Housing Executive (NIHE) to determine broad rental market areas and to make Local Housing Allowance (LHA) determinations each year for each broad rental market area.
- 7.2 Schedule 1 to the Universal Credit Housing Costs (Executive Determinations) Regulations (Northern Ireland) 2016 sets out the method of calculating the LHA. This is currently the LHA determined for that category of dwelling or accommodation on 30th January 2015, or the rent at the 30th percentile of rents where that rent is lower

than that allowance. The NIHE use the rates set by reference to the Housing Benefit (Executive Determinations) Regulations (Northern Ireland) 2008 ([S.R. 2008 No. 100.](#)).

- 7.3 The Chancellor, in his Summer Budget statement in 2015, announced that Local Housing Allowance (LHA) rates would be frozen for four years from April 2016 to March 2020, as part of a package of reforms to the welfare system to make it fairer for the taxpayers who fund it, while continuing to support the most vulnerable. This means that the LHA rate will either be frozen at the rate determined in January 2015 or be set at the 30th percentile of local rents, if this is lower.
- 7.4 In recognition that freezing LHA rates may have very different effects in different areas, the Government committed to use 30 per cent of the savings from the LHA freeze to create a new round of Targeted Affordability Funding (“TAF”). On 22nd November 2017 the Autumn Budget announced that TAF would be increased by £39 million in 2018/19 and £84 million in 2019/20, therefore basing it on 50 per cent of the savings from the freeze rather than 30 per cent. By applying the Barnett formula this will result in TAF for Northern Ireland of £2.425m in 2018/19 and £2.1m in 2019/20. This funding will be used to increase some LHA rates by 3 per cent in those areas where there have been higher rental increases.
- 7.5 The maximum LHA levels or “national caps” will also receive a 3 per cent increase and the new amounts are set out in the instrument. This means any rates previously at the maximum levels and identified to receive TAF in 2018/19, will be allowed a 3 per cent increase instead of remaining capped. The maximum LHA levels have not been increased since 2015/16.
- 7.6 The areas and rates which will receive the increase in 2018/19 are set out in these Regulations, and are those which have diverged the furthest away from the 30th percentile of local rents.

Consolidation

- 7.7 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: <https://www.communities-ni.gov.uk/services/law-relating-social-security>

8. Consultation outcome

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

9. Guidance

- 9.1 The appropriate guidance will be amended for staff and Decision Makers in advance of this instrument becoming operational.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector.
- 10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

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

12. Monitoring and review

12.1 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.

13. Contact

13.1 Anne McCleary at the Department for Communities can answer any queries regarding the instrument Telephone: 028 90823332 or email: anne.mccleary@communities-ni.gov.uk.