

**EXPLANATORY MEMORANDUM TO**  
**THE HOUSING BENEFIT AND UNIVERSAL CREDIT HOUSING COSTS**  
**(EXECUTIVE DETERMINATIONS) (AMENDMENT) REGULATIONS 2020**

**SR 2020 No. 14**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Department for Communities (DfC) on behalf of the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

**2. Purpose of the instrument**

- 2.1 This instrument provides for Local Housing Allowance (LHA) rates to be increased by 1.7% in line with the Consumer Price Index (CPI) of annual inflation, up to a maximum of the 30<sup>th</sup> percentile of rents for private rented sector tenants in receipt of housing benefit or the housing element of universal credit. This change also allows for a 1.7% CPI increase to the national maximum LHA “caps”.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 This instrument has breached the 21-day rule due to the reduced Parliamentary sitting time as a result of the General Election. The instrument must come into force before the last working day of January which is when rent officers must calculate and publish the new LHA rates that will be effective from April 2020.

*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 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*<sup>1</sup> provides for the introduction of a new working age income-related social security benefit, Universal Credit, and the abolition of JSA(IB), ESA(IR), IS, Housing Benefit (HB), Working Tax Credit and Child Tax Credit (CTC).
- 6.4 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](#) 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 could then confer power on the Secretary of State or a Northern Ireland department to make further provision regarding these matters by regulations or order.
- 6.5 In line with the consent given by the Northern Ireland Assembly in relation to the 2015 Act, in the absence of a Northern Ireland Executive, the Department for Work and Pensions will be laying this instrument on behalf of Northern Ireland in order to deliver the change equally across both Great Britain and Northern Ireland.
- 6.6 These regulations make equivalent changes to those made by the GB instrument, the Rent Officers (Housing Benefit and Universal Credit Functions) (Amendment) Order 2020.

#### LHA Rates

- 6.7 The method by which the Northern Ireland Housing Executive determine the LHA rates and when they do this is set out in the Housing Benefit (Executive Determinations) Regulations (Northern Ireland) 2008 (S.R. 2008 No. 100)<sup>2</sup> and the Universal Credit Housing Costs (Executive Determinations) Regulations (Northern Ireland) 2016 (S.R. 2016 No 222)<sup>3</sup>.
- 6.8 The Government took steps to freeze LHA rates through amendments to the Housing Benefit Executive Determinations Regulations<sup>4</sup>, following the announcement at the Summer Budget 2015<sup>5</sup>. This instrument now delivers an increase in LHA rates for 2020.

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<sup>1</sup> <http://www.legislation.gov.uk/ukpga/2012/5/contents>

<sup>2</sup> <http://www.legislation.gov.uk/nisr/2008/100/contents/made>

<sup>3</sup> <http://www.legislation.gov.uk/nisr/2016/222/contents/made>

<sup>4</sup> <http://www.legislation.gov.uk/nisr/2016/6/contents/made>

<sup>5</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/443232/50325\\_Summer\\_Budget\\_15\\_Web\\_Accessible.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/443232/50325_Summer_Budget_15_Web_Accessible.pdf)

## **7. Policy background**

### *What is being done and why?*

#### LHA 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 all tenants claiming UC in that sector.
- 7.2 At the Summer Budget of 2015 it was announced that LHA rates would be frozen for four years. This announcement was part of a package of welfare reforms to make it fairer for the tax payer whilst continuing to support the most vulnerable. During the period April 2016 to April 2020 LHA rates were frozen at either the April 2015 rate or set at the 30<sup>th</sup> percentile of local rates, whichever was the lower.
- 7.3 The Government recognised that freezing LHA rates would have different effects across the county as rents in some areas may increase at different rates. In view of this, they committed to use a proportion of the savings from the freeze to create Targeted Affordability Funding. This funding was used to increase those LHA rates that had diverged the most from the 30<sup>th</sup> percentile of local rents. Initially this funding was based on 30% of the savings from the freeze but following the Autumn Budget 2017 this was increased to 50%. The freeze to LHA has now ended and this instrument sets out how DfC intends to increase LHA rates from April 2020.
- 7.4 From April 2020 LHA rates will be set at the lower of:
- The 30<sup>th</sup> percentile of local rents;
  - The previous LHA rate updated by 1.7% - the CPI inflation published the previous September; or
  - The maximum local housing allowance (national cap).
- 7.5 Increasing LHA rates by CPI ensures that most customers in the private rented sector paid within the LHA scheme will receive an increase in their LHA rate in 2020, unless their LHA rate is already at the 30<sup>th</sup> percentile of local rents.
- 7.6 This instrument also sets out the increases to the maximum LHA levels or national “caps”<sup>6</sup> which will all be increased by CPI (1.7%). This will ensure all rates that are currently capped at the maximum levels will receive a CPI increase.

## **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

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<sup>6</sup> 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.

## **9. Consolidation**

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

## **11. Consultation outcome**

- 11.1 This measure has not been subject to public consultation.
- 11.2 Rent officers were consulted about the changes and provided with an opportunity to comment on the draft legislation but were, following consultation, content with the amendments made.

## **12. Guidance**

- 12.1 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.

## **13. Impact**

- 13.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 13.2 There is no, or no significant, impact on the public sector.
- 13.3 An Impact Assessment has not been prepared for this instrument because it has no impact on the private sector.

## **14. Regulating small business**

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

## **15. Monitoring & review**

- 15.1 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. The Northern Ireland Housing Executive will publish the 30<sup>th</sup> percentile of market rents and the new LHA rates on 31<sup>st</sup> January 2020.

## **16. Contact**

- 16.1 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](mailto:annemccleary@communities-ni.gov.uk)
- 16.2 Anne McCleary, Director of Social Security Policy and Legislation Division, at the Department for Communities can confirm that this Explanatory Memorandum meets the required standard.
- 16.3 The Minister for Welfare Delivery at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.