

EXPLANATORY MEMORANDUM TO
THE HOUSING BENEFIT (EXECUTIVE DETERMINATIONS) (AMENDMENT)
REGULATIONS (NORTHERN IRELAND) 2013

2013 No. 209

1. This explanatory memorandum has been prepared by the Department for Social Development.
2. **Purpose of the rule**
 - 2.1 This rule amends the Housing Benefit (Executive Determinations) Regulations (Northern Ireland) 2008 to make changes to how and when the Local Housing Allowance (“LHA”) is determined.
 - 2.2 The Northern Ireland Housing Executive will determine the LHA rates by reference to either: the 30th percentile of available rents or the previous year’s LHA rate increased by one per cent, whichever is the lower of the two. These determinations will be carried out on 15th January 2014 and in each subsequent year on 15th January where that is a Wednesday or, where it is not a Wednesday, on the first Wednesday following 15th January.
3. **Matters of special interest to the Joint Committee on Statutory Rules**
 - 3.1 None.
4. **Legislative Context**
 - 4.1 Legislation to introduce annual up-rating of LHA in line with the Consumer Price Index was made on 30 March 2012 came into operation on 2 April 2012 and had effect from April 2013.
 - 4.2 At the Autumn Statement 2012, the Government announced further changes to the up-rating of LHA rates in 2014/15 and 2015/16 by restricting increases in most areas to a maximum of 1 per cent.
 - 4.3 The Government also announced that potential savings from this measure would be used to exempt some areas from the 1 per cent limit. The additional funding for these exemptions is known as the ‘LHA Targeted Affordability Funding’.
 - 4.4 This rule only takes forward the amendments which are needed to limit the up-rating of LHA to 1 per cent and to change the date when this is carried out. A further rule will be made to provide details of how the Local Housing Allowance Targeted Affordability Funding will be targeted.

4.5 It is necessary to make this amendment now so that legislation is in place by the autumn. This is to change the up-rating method (previously the up-rating was with reference to the CPI) before the Northern Ireland Housing Executive are obliged to carry out the LHA calculations by mid-October, in accordance with previous legislation. Further work needs to be carried out over the summer to develop the policy for the Local Housing Allowance Targeted Affordability Funding to inform which areas will be exempted from the 1 per cent up-rating limits. This work will need to be done using the very latest rental data, which will not be available until the autumn. It is therefore not possible to include amendments for the Local Housing Allowance Targeted Affordability Funding at this time.

5. Territorial Extent and Application

5.1 This rule applies to Northern Ireland.

6. European Convention on Human Rights

As the rule 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 LHA arrangements were introduced from 7 April 2008 and apply to Housing Benefit claimants in the private rented sector. LHA rates are determined by The Northern Ireland Housing Executive for each property size, based on evidence of achieved rents gathered by them in each broad rental market area (an area in which people live and access services) and subject to any limits set by the Minister.

7.2 A number of reforms to LHA arrangements were introduced from April 2011 to restrict the amount of Housing Benefit which could be paid, including rates being set at the 30th percentile of rents in each broad rental market area, restricting the maximum level to a four bedroom property and capping the weekly rates by property size. These changes were part of the Government's deficit reduction plan and the purpose of them was, as well as achieving changes, to make the Housing Benefit scheme fairer and more sustainable.

7.3 From April 2013, changes were introduced so that the LHA rates were set annually at the lower of, either the previous LHA rate uprated by the Consumer Price Index or the 30th percentile of local market rents. The purpose of this was to exert downward pressure on rents and to reduce the expenditure on Housing Benefit. Moving to annual rather than monthly up-rating was a step towards the integration of housing

support with other benefits in Universal Credit. It also made it simpler for claimants to understand as the maximum amount of Housing Benefit is known well in advance of the rates coming into effect.

7.4 From April 2014 LHA rates will be set annually at the lower of either the previous LHA rate uprated by 1 per cent or the 30th percentile of local market rents in the previous April. The purpose of this change is to continue to exert a downward pressure on rents by reducing the growth in Housing Benefit expenditure and to bring the up-rating of LHA rates in line with other benefits by restricting increases to 1 per cent. The Government is also taking account of the fact that rental markets differ across the country and has committed to using 30% of the savings from the measure to exempt some areas from the 1 per cent. limit where rent increases are causing a shortage of affordable accommodation.

- Consolidation

7.6 Informal consolidation of this rule will be included in due course in the Department's "the law relating to Social Security" (the Blue Volumes) which are available at no cost to the public on the internet at:

http://www.dsdni.gov.uk/law_relating_to_social_security

8. Consultation outcome

8.1 These regulations mirror for Northern Ireland Great Britain provisions contained in The Rent Officers (Housing Benefit and Universal Credit Functions) (Amendment) Order 2013 which being an order was exempt from referral to Social Security Advisory Committee ("SSAC"), however the Department for Work and Pensions notified SSAC of these developments to give an opportunity to consider and comment on the proposals. The policy has been subject to debate in both Houses of Parliament as part of the passage of the Up-rating Act 2013.

9. Guidance

9.1 The Department will work with the Northern Ireland Housing Executive to implement the changes.

10. Impact

10.1 This legislation has no impact on business and civil service organisations.

10.2 An equality impact screening has been performed by the Department.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The levels of LHA rates and the 30th percentile of market rents will continue to be closely monitored to identify any divergences between the two.

12.2 The 30th percentile of market rents alongside the LHA rates in 2012. This process will continue.

13. Contact

Please contact Philip Cairns at the Department for Social Development Tel: 02890 819550 or email: Philip.Cairns@dndi.gov.uk with any queries regarding the rule.