

**2016 No. 222**

**HOUSING**

**The Universal Credit Housing Costs (Executive Determinations)  
Regulations (Northern Ireland) 2016**

*Made* - - - - *5th May 2016*

*Laid before Parliament* *10th May 2016*

*Coming into operation in accordance with regulation 1*

The Secretary of State makes the following Regulations in exercise of the powers conferred by Articles 16, 38(1) and 48(2)(b) of the Welfare Reform (Northern Ireland) Order 2015(a).

Those powers are exercisable by the Secretary of State by virtue of Article 4(1)(a) of the Welfare Reform (Northern Ireland) Order 2015.

**Citation and commencement**

1. These Regulations may be cited as the Universal Credit Housing Costs (Executive Determinations) Regulations (Northern Ireland) 2016 and come into operation immediately after the coming into operation of the Universal Credit Regulations (Northern Ireland) 2016.(b)

**Interpretation**

2.—(1) In these Regulations—

“the Universal Credit Regulations” means the Universal Credit Regulations (Northern Ireland) 2016;

“the Welfare Reform Order” means the Welfare Reform (Northern Ireland) Order 2015;

“assessment period” has the same meaning as in Article 46 of the Welfare Reform (Northern Ireland) Order 2015;

“broad rental market area” has the meaning given in regulation 3(3);

“broad rental market area determination” means a determination made in accordance with regulation 3;

“the Department” means the Department for Social Development;

“dwelling” means any residential accommodation whether or not consisting of the whole or part of a building and whether or not comprising separate and self-contained premises;

“the Executive” means the Northern Ireland Housing Executive;

“service charge payments” has the meaning specified in paragraph 8 of Schedule 1 (meaning of payments in respect of accommodation) to the Universal Credit Regulations;

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(a) S.I. 2015/2006 (N.I. 1).

(b) S.R. 2016 No. 216.

“tenancy” includes—

- (a) a licence; and
- (b) a prospective tenancy or licence, and

references to a tenant or any other expression appropriate to a tenancy shall be construed accordingly;

“tenant” includes, where the tenant is a member of a couple within the meaning of Article 45 of the Welfare Reform Order, the other member of the couple;

“uncontrolled tenancy” means a secure tenancy within the meaning of Article 25 of the Housing (Northern Ireland) Order 1983(a) or a tenancy which is not controlled within the meaning of Article 40(4) of the Private Tenancies (Northern Ireland) Order 2006(b);

“working day” means any day other than a Saturday, a Sunday or a day which is a public holiday in Northern Ireland.

(2) For the purposes of these Regulations and notwithstanding section 39(2) of the Interpretation Act (Northern Ireland) 1954(c), where a period of time is expressed to begin on, or to be reckoned from, a particular day, that day shall be included in the period.

### **Broad rental market area determinations**

**3.—**(1) Broad rental market area determinations taking effect on the day on which these regulations come into force are determined in accordance with paragraph (7) and all other broad rental market area determinations are determined in accordance with paragraphs (2) to (6).

(2) The Executive, at such times as it considers appropriate and if the Department agrees, shall—

- (a) determine one or more broad rental market areas, and
- (b) in respect of that broad rental market area, or those broad rental market areas, give to the Department a notice which identifies the areas and the postcodes contained within the broad rental market area (or each of them).

(3) A broad rental market area is an area within which a person could reasonably be expected to live having regard to facilities and services for the purposes of health, education, recreation, personal banking and shopping, taking account of the distance of travel, by public and private transport, to and from those facilities and services.

(4) A broad rental market area must contain—

- (a) residential premises of a variety of types, including such premises held on a variety of tenures, and
- (b) sufficient privately rented residential premises to ensure that, in the Executive’s opinion, the local housing allowance for the categories of dwelling in the area for which the Executive is required to determine a local housing allowance is representative of the rents that a landlord might reasonably expect to obtain in that area.

(5) Every part of Northern Ireland must fall within a broad rental market area and a broad rental market area must not overlap with another broad rental market area.

(6) Any broad rental market area determination made in accordance with paragraph (2) shall take effect—

- (a) on the day the determination is made for the purpose of enabling the Executive to determine a local housing allowance for that area, and
- (b) for all other purposes on the next 7th April following the day on which the determination is made.

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(a) S.I. 1983/1118 (N.I. 15).  
(b) S.I. 2006/1459 (N.I. 10).  
(c) 1954 c. 33 (N.I.).

(7) For broad rental market area determinations that take effect on the day on which these regulations come into force, the Executive must use the broad rental market area determinations in accordance with regulation 3 and the Schedule to the Housing Benefit (Executive Determinations) Regulations (Northern Ireland) 2008(a) that apply on that day.

#### **Local housing allowance determinations**

4.—(1) In 2017 and in each subsequent year, on the last working day of January, the Executive shall for each broad rental market area determine, in accordance with Schedule 1, a local housing allowance for each of the categories of dwelling set out in paragraph 1 of Schedule 1.

(2) The Executive must notify the Department of the determination for each area.

(3) Any local housing allowance determination made in accordance with paragraph (1) is to take effect—

(a) in the case of a person with an existing universal credit entitlement—

(i) on the relevant Monday where that is the first day of an assessment period for that person, or

(ii) where the relevant Monday is not the first day of an assessment period for that person, on the first day of the next assessment period following that, or

(b) in any other case, on the relevant Monday.

(4) For the purposes of this regulation—

“a person with an existing universal credit entitlement” means a person who is entitled to universal credit on the relevant Monday;

“relevant Monday” means the first Monday in the first tax year that commences following the day on which the determination is made;

“tax year” means a period beginning with 6th April in one year and ending with 5th April in the next.

#### **Redeterminations**

5.—(1) Where the Executive has made a determination under regulation 3 or 4 (“the determination”) and it considers that there is an error in relation to that determination, the Executive must make a further determination (“a redetermination”).

(2) The Executive must notify the Department of the redetermination.

(3) Where the Executive makes a redetermination the Executive must do so in accordance with the provisions of these Regulations that applied to the determination and use the same information that was used for the determination except that, where the information used was incorrect or incomplete, the Executive must use the correct or complete information.

#### **Means of giving notice**

6. Any notice given by the Executive under these regulations may be given in writing or by electronic means unless the Department requests that notice is given in writing only.

Signed by authority of the Secretary of State for Work and Pensions

5th May 2016

*Freud*  
Minister of State,  
Department for Work and Pensions

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(a) S.R. 2008 No. 100.

## SCHEDULE 1

Regulation 4

### Local Housing Allowance Determinations

#### Categories of dwelling

1. The categories of dwelling for which the Executive is required to determine a local housing allowance in accordance with regulation 4 are—

- (a) a dwelling where the tenant has the exclusive use of only one bedroom and where the tenancy provides for the tenant to share the use of one or more of—
  - (i) a kitchen,
  - (ii) a bathroom,
  - (iii) a toilet, or
  - (iv) a room suitable for living in;
- (b) a dwelling where the tenant has the exclusive use of only one bedroom and exclusive use of a kitchen, a bathroom, a toilet and a room suitable for living in;
- (c) a dwelling where the tenant has the use of only 2 bedrooms;
- (d) a dwelling where the tenant has the use of only 3 bedrooms;
- (e) a dwelling where the tenant has the use of only 4 bedrooms.

#### Local housing allowance for category of dwelling in paragraph 1

2.—(1) Subject to paragraph 4 (anomalous local housing allowances) the Executive must determine a local housing allowance for each category of dwelling in paragraph 1 in accordance with the following sub-paragraphs.

- (2) For all broad rental market areas the local housing allowance for a category of dwelling is—
  - (a) the local housing allowance determined for that category of dwelling on 30th January 2015, or
  - (b) the rent at the 30th percentile determined in accordance with paragraph 3(3) to (10), where that rent is lower than the allowance referred to in head (a).

(3) Where the local housing allowance would otherwise not be a whole number of pence, it must be rounded to the nearest whole penny by disregarding any amount less than half a penny and treating any amount of half a penny or more as a whole penny.

#### Rent at the 30th percentile

3.—(1) The Executive must determine the rent at the 30th percentile in accordance with the following sub-paragraphs.

- (2) The Executive must compile a list of rents.
- (3) The Executive must compile a list of rents in ascending order of the monthly rents which, in the Executive's opinion, are payable—
  - (a) for a dwelling let under an uncontrolled tenancy for each category of dwelling specified in paragraph 1, and
  - (b) in the 12 month period ending on the 30th day of the September preceding the date of the determination.
- (4) The list must include any rents which are of the same amount.
- (5) The criteria for including an uncontrolled tenancy on the list of rents in relation to each category of dwelling specified in paragraph 1 are that—

- (a) the dwelling let under an uncontrolled tenancy is in the broad rental market area for which the local housing allowance for that category of dwelling is being determined,
- (b) the dwelling is in a reasonable state of repair, and
- (c) the uncontrolled tenancy permits the tenant to use exclusively or share the use of, as the case may be, the same number and type of rooms as the category of dwelling in relation to which the list of rents is being compiled.

(6) Sub-paragraph (7) applies where the Executive is not satisfied that the list of rents in respect of any category of dwelling would contain sufficient rents, payable in the 12 month period ending on the 30th day of the September preceding the date of the determination for dwellings in the broad rental market area, to enable a local housing allowance to be determined which is representative of the rents that a landlord might reasonably be expected to obtain in that area.

(7) In a case where this sub-paragraph applies, the Executive may add to the list rents for dwellings in the same category in other areas in which a comparable market exists.

(8) Where rent is payable other than monthly the Executive must use the figure which would be payable if the rent were to be payable monthly by calculating the rent for a year and dividing the total by 12.

(9) When compiling the list of rents for each category of dwelling the Executive must—

- (a) assume that no-one had sought or is seeking the tenancy who would have been entitled to housing benefit under Part 7 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a) or universal credit under Part 2 of the Welfare Reform Order, and
- (b) exclude the amount of any rent which, in the Executive’s opinion, is fairly attributable to the provision of services performed or facilities (including the use of furniture) provided for, or rights made available to, the tenant and which would not be classed as service charge payments.

(10) The rent at the 30th percentile in the list of rents (“R”) is determined as follows—

- (a) where the number of rents on the list is a multiple of 10, the formula is—

$$R = \frac{\text{the amount of the rent at } P + \text{the amount of the rent at } P1}{2}$$

where—

“P” is the position on the list found by multiplying the number of rents on the list by 3 and dividing by 10, and

“P1” is the following position on the list;

- (b) where the number of rents on the list is not a multiple of 10, the formula is—

$$R = \text{the amount of the rent at } P2$$

where P2 is the position on the list found by multiplying the number of rents on the list by 3 and dividing by 10 and rounding the result upwards to the nearest whole number.

#### **Anomalous local housing allowances**

4. Where—

- (a) the Executive has determined the local housing allowance for each of the categories of dwelling in paragraph 1 in accordance with the preceding paragraphs of this Schedule, and
- (b) the local housing allowance for a category of dwelling in paragraph 1(b) to (e) is lower than the local housing allowance for any of the categories of dwelling which precede it,

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(a) 1992 c. 7.

that local housing allowance is to be the same as the highest local housing allowance which precedes it.

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations confer functions on the Executive in connection with universal credit.

Regulations 3 and 4 confer functions relating to the determination of the local housing allowances, which will be used in calculating the amount of a person's housing costs for universal credit.

Regulation 3 requires that the Executive determines broad rental market areas. These are broad geographical areas containing sufficient properties to enable the Executive to determine local housing allowances for various categories of dwelling.

Regulation 4 requires that the Executive determines local housing allowances 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.

Regulations 3 and 4 also make transitional provision to establish broad rental market areas and local housing allowances from the day on which these regulations come into force until 7th April following. These will be the broad rental market areas and local housing allowances determined for housing benefit purposes and will form the basis of local housing allowance determinations for subsequent years.

Regulation 5 makes provision for redeterminations of broad rental market area determinations and local housing allowance determinations where the Executive has made an error.

Regulation 6 provides for the means of giving notice, by the Executive, to be in either writing or by electronic means unless the Department requests that notice is given in writing only.

An assessment of the impact of universal credit has been carried out. Copies of the impact assessment may be obtained from the Better Regulation Unit of the Department for Work and Pensions, 2D Caxton House, Tothill Street, London, SW1 9NA. It is also available alongside this instrument and the Explanatory Memorandum on [www.legislation.gov.uk](http://www.legislation.gov.uk).

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£6.00

NI201605065 05/2016 19585

<http://www.legislation.gov.uk/id/nisr/2016/222>

ISBN 978-0-33-800544-1



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