EXPLANATORY MEMORANDUM TOTHE HOUSING BENEFIT AND UNIVERSAL CREDIT HOUSING COSTS (EXECUTIVE DETERMINATIONS) (MODIFICATION) REGULATIONS (NORTHERN IRELAND) 2023

S.R. 2023 NO. 4

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Communities to accompany the Statutory Rule (details above) which is to be laid before the Northern Ireland Assembly.

1.2 The Statutory Rule is made under Sections 122(1)(d), 129A(2) and 171(1) and (3) to (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and Articles 16(4), 38(1) and 48(2) of the Welfare Reform (Northern Ireland) Order 2015, and is subject to the negative resolution procedure.

2. Purpose

2.1 This Statutory Rule amends the Housing Benefit (Executive Determinations) Regulations (Northern Ireland) 2008 and the Universal Credit Housing Costs (Executive Determinations) Regulations (Northern Ireland) 2016 ("the Executive Determinations Regulations") to makes changes to how the Northern Ireland Housing Executive (NIHE) will determine Local Housing Allowance (LHA) rates which will apply for 2023/24. It provides for LHA rates in 2023/24 to be retained at the same cash levels as applied from April 2020.

3. Background

Local Housing Allowance (LHA)

3.1 The LHA scheme was introduced in 2008 as a way of calculating the maximum amount of Housing Benefit (HB) and from 2017 the housing costs element of Universal Credit (UC) payable for claimants in the private rented sector. It applies to the majority of tenants claiming HB and all tenants claiming UC in that sector.

3.2 The level of LHA rates is reviewed annually by the Secretary of State.

3.3 In March 2020, as part of its response to the coronavirus pandemic, the Department amended the Executive Determinations Regulations to increase LHA rates to cover the lowest 30 percent of local rents from April 2020. In 2021/22 and again in 2022/23 the Government committed to maintaining the rates at the same cash levels. On 17 November 2022 the Secretary of State for Work and Pensions committed in his written ministerial statement to maintain rates at the same cash levels in the next financial year. This Statutory Rule delivers that commitment for 2023/24.

3.4 Maintaining LHA rates at the same cash levels ensures that no rates reduce in April 2023 and that claimants who benefitted from the increase in April 2020 continue to do so.

Broad Rental Market Areas (BRMAs)

3.5 A Broad Rental Market Area (BRMA) is an area where a person could reasonably be expected to live, taking into account access to facilities and services. In Northern Ireland there are a total of 8 BRMAs.

3.6 For Housing Benefit, the determination will be effective from 1 April and for UC the date that such a determination takes effect will be from the first Monday of the first tax year that follows the day on which such a determination is made.

4. Consultation

4.1 There is no requirement to consult on these regulations.

5. Equality Impact

5.1 In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department conducted a screening exercise and concluded that the changes did not have any significant implications for equality of opportunity. In light of this, the Department considered that an equality impact assessment was not necessary.

6. Regulatory Impact

6.1 These Regulations do not require a Regulatory Impact Assessment as they do not impose a cost on business, charities, social enterprises or voluntary bodies.

7. Financial Implications

7.1 A breach of parity in this matter may incur financial costs, both in the loss of benefit savings and in administration costs, which would have to be met by the Northern Ireland Executive from within the Northern Ireland block grant.

8. Section 24 of the Northern Ireland Act 1998

8.1 The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied that the Rule –

(a) is not incompatible with any of the Convention rights;

(b) is not incompatible with Community law;

(c) does not discriminate against a person or class of person on the grounds of religious belief or political opinion; and

(d) does not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. E U Implications

9.1 Not applicable.

10. Parity or Replicatory Measure

10.1 This Statutory Rule mirrors the provisions of the Rent Officers (Housing Benefit and Universal Credit Functions) (Modification) Order 2023(S.I.2023/06) in Great Britain, which was made on 09/01/23 and comes into force on 31/01/23 and is in keeping with the principle of parity between Northern Ireland and Great Britain in matters of social security.

11. Additional Information

11.1 Not applicable.