STATUTORY RULES OF NORTHERN IRELAND

2013 No. 303

HOUSING

The Housing Benefit (Executive Determinations and Local Housing Allowance) (Amendment) Regulations (Northern Ireland) 2013

Made - - - - 19th December 2013

Coming into operation 13th January 2014

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 122(1)(d), 129(A)(2) and 171(1) and (3) to (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**) and now vested in it(**2**).

Proposals in respect of these Regulations were not referred to the Social Security Advisory Committee since it appeared to the Department for Social Development that by reason of the urgency of the matter it was expedient not to do so(**3**).

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Housing Benefit (Executive Determinations and Local Housing Allowance) (Amendment) Regulations (Northern Ireland) 2013 and shall come into operation on 13th January 2014.

(2) The Interpretation Act (Northern Ireland) 1954(**4**) shall apply to these regulations as it applies to an Act of the Assembly.

Amendment to the Housing Benefit (Executive Determinations) Regulations

2.—(1) The Housing Benefit (Executive Determinations) Regulations (Northern Ireland) 2008(**5**) are amended in accordance with paragraph (2).

(2) In the Schedule (broad rental market area determinations and local housing allowance determinations)—

(**1**) 1992 c. 7; section 129A was inserted by section 30(2) of the Welfare Reform Act (Northern Ireland) 2007 and section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)
(**2**) *See* Article 8(b) of S.R. 1999 No. 481
(**3**) *See* sections 149(2) and 150(1)(a) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8)
(**4**) 1954 c. 33 (N.I.)
(**5**) S.R. 2008 No. 100; relevant amending Regulations are S.R. 2008 No. 506, S.R. 2009 No. 328, S.R. 2011 No. 51, S.R. 2012 No. 157, S.R. 2013 No. 209 and S.R. 2013 No. 282

(a) for paragraph 2(**6**) (local housing allowance for category of dwelling in paragraph 1) substitute—

"**2.**—(1) Subject to paragraph 3 (anomalous local housing allowances)(**7**), the Executive must determine a local housing allowance for each category of dwelling in paragraph 1 as follows.

(2) For the broad rental market areas listed in column 1 of the table in paragraph 6 the local housing allowance is—

(a) for a category of dwelling listed in column 2 in relation to that broad rental market area, either—

(i) the rate last determined increased by 4 per cent; or

(ii) the maximum local housing allowance for that category of dwelling listed in column (2) of the table in sub-paragraph (9) where that is lower than or equal to the rate last determined increased by 4 per cent;

(b) for any category of dwelling not listed in column 2 of the table in paragraph 6 in relation to that broad rental market area, either—

(i) the rent at the 30th percentile determined in accordance with sub-paragraphs (4) to (8); or

(ii) the rate last determined for that category of dwelling increased by 1 per cent. where that is lower than or equal to the rent at the 30th percentile determined in accordance with sub-paragraphs (4) to (8).

(3) For all other broad rental market areas the local housing allowance for a category of dwelling is, either—

(a) the rent at the 30th percentile determined in accordance with sub-paragraphs (4) to (8); or

(b) the rate last determined for that category of dwelling increased by 1 per cent. where that is lower than or equal to the rent at the 30th percentile determined in accordance with sub-paragraphs (4) to (8).

(4) The Executive must compile a list of rents in ascending order of the 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.

(5) In compiling the list of rents, the Executive must—

(a) include within it the rent of an uncontrolled tenancy in relation to each category of dwelling if—

(i) the dwelling let under the uncontrolled tenancy is in the broad rental market area for which the local housing allowance for that category of dwelling is being determined;

(ii) the dwelling is in a reasonable state of repair; and

(**6**) Paragraph 2 was amended by regulation 2(a) of S.R. 2008 No. 506, regulation 2 of S.R. 2009 No. 328, regulation 4(3)(b) of S.R. 2011 No. 51, regulation 2(4)(b) of S.R. 2012 No. 157, regulation 2(4) of S.R. 2013 No. 209 and regulation 5 of S.R. 2013 No. 282

(**7**) paragraph 3 was amended by regulation 4(3)(c) of S.R. 2011 No. 51

(iii) 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 is being compiled;

(b) include within it any rents which are of the same amount;

(c) where rent is payable other than weekly, use the figure which would be payable if the rent were to be payable weekly by—

(i) multiplying the rent by an appropriate figure to obtain the rent for a year;

(ii) dividing the total in (i) by 365; and

(iii) multiplying the total in (ii) by 7;

(d) assume that no one who would have been entitled to housing benefit had sought or is seeking the tenancy; and

(e) exclude the amount of any rent which, in the Executive's opinion, is fairly attributable to the provision of services performed for, or facilities (including the use of furniture) provided for, or rights made available to, the tenant which are ineligible to be met by housing benefit.

(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) The Executive must use the list of rents to determine the rent at the 30th percentile in the list ("R") by—

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

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

Where—

(i) P is the position on the list found by multiplying the number of rents on the list by 3 and dividing by 10; and

(ii) P1 is the following position on the list;

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

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

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.