

EXPLANATORY MEMORANDUM TO
THE RENT OFFICERS (UNIVERSAL CREDIT FUNCTIONS) ORDER 2013

2013 No. 382

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The instrument makes provision for rent officers in England, Wales and Scotland to undertake functions in connection with Universal Credit.

2.2 The instrument requires the rent officer to make determinations relating to local housing allowance, which are used in calculating entitlement to the housing costs element of Universal Credit for tenants renting in the private sector and those in temporary accommodation.

2.3 It also requires the rent officer, where requested by the Secretary of State, to determine whether payments in respect of accommodation in the social rented sector are reasonable.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 Section 122 of the Housing Act 1996⁽¹⁾ provides that the Secretary of State may confer on rent officers functions relating to the administration of social security benefits including Housing Benefit and Universal Credit.

4.2 The Rent Officers (Housing Benefit Functions) Order 1997 and the Rent Officers (Housing Benefit Functions) (Scotland) Order 1997 provide for functions relating to Housing Benefit, but Government has decided to provide for Universal Credit functions via a new Order.

5. Territorial Extent and Application

This instrument applies to Great Britain.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

(1) 1996 c.52. Section 122 was amended by section 217 of, and paragraph 60 of Schedule 7 to, the Local Government Act 2003 (c. 26), by sections 40 and 67 of, and paragraph 12 of Schedule 5 and Schedule 8 to, the 2007 Act and by sections 3, 31, 34 and 147 of, and paragraph 36 of Schedule 2, paragraph 13 of Schedule 4 and Schedule 14 to, the Welfare Reform Act 2012.

7. Policy background

- *What is being done and why*

7.1 This Instrument seeks to replicate many of the functions conferred upon rent officers in connection to Housing Benefit. In summary, the functions replicated relate to:

Determining Broad Rental Market Areas – The order requires rent officers to determine broad geographical areas containing sufficient properties to enable the rent officer to determine local housing allowances for various categories of dwelling. When setting areas the rent officer should have regard to facilities and services for the purposes of health, education, recreation, personal banking and shopping and take account of the distance of travel, by public and private transport, to and from those facilities and services.

Determining Local Housing Allowance rates – The Order requires rent officer to make local housing allowance determinations each year for each broad rental market area. Schedule 1 sets out the method of calculating the local housing allowance. This will be the lower of the rent at the 30th percentile of available rents or the previous year's rate up-rated by reference to the Consumer Prices Index for September.

7.2 These functions are required to calculating the amount of a person's housing costs element for universal credit where their landlord is not a registered provider of social housing, registered social landlord or local authority. In 2013/14, the Rent Officer will read across from the rates determined by reference to the Rent Officers (Housing Benefit Functions) Order 1997

7.3 In addition, the order extends the existing role of the rent officer in relation to the social sector.

Social sector rent referrals – The Order requires - where the Secretary of State has requested - that the rent officer determines whether payments in respect of accommodation in the social rented sector are reasonable and, if they are not, determine what is a reasonable amount. The rent officer must determine the level of reasonable payments in accordance with considerations about other comparable social sector rents, and the applicable rent setting regime. The rent officer must consider both rent and service charge payments and take into account the level of those payments in similar properties in the local authority area.

7.4 The rent officer functions are necessary because they have the expertise to assess whether a rent is reasonable or not, given the range of reasons why a social sector rent or service charge may be higher than normal.

7.5 It is not Government's intention to refer large number of social rents, or to interfere with social rent setting. For instance, the rent officer will be required to assume that Affordable Rents in England are reasonable. However it is crucial that

there is some way of protecting public money from potential abuse, particularly given current fiscal constraints.

- **Consolidation**

7.6 None.

8. Consultation outcome

8.1 This instrument has not been referred to the Social Security Advisory Committee as the Order is not made under social security primary legislation. We have however, informally shared the draft order with the Committee.

8.2 Informal discussions have taken place with rent officers in England, Scotland and Wales to discuss the impacts on their roles of the introduction of Universal Credit. These discussions will be ongoing as the rent officer develops a robust method for determining whether social sector rents are reasonable, and will involve the Department for Communities and Local Government, devolved administrations and local government representatives.

9. Guidance

9.1 Where functions are being replicated, the rent officer already provides existing guidance available to the public and to benefits advisors. This guidance will be updated to reflect the introduction of Universal Credit.

9.2 We will work with rent officers to provide appropriate information relating to the extended functions.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring & review

12.1 We will continue to monitor the impact of rent officer determinations on the paths of market rents and Local Housing Allowance rates. The rent officer will publish, annually, a comparison between Local Housing Allowance rates and the 30th percentile of local rents. The first publication was in November 2012.

13. Contact

Dean Blower at the Department for Work and Pensions can answer any queries regarding the instrument. Tel: 02074495338 or email: dean.blower@dwp.gsi.gov.uk