

EXPLANATORY MEMORANDUM TO

THE RENT OFFICERS (HOUSING BENEFIT AND UNIVERSAL CREDIT FUNCTIONS) (LOCAL HOUSING ALLOWANCE AMENDMENTS) ORDER 2016

2016 No. 1179

1. Introduction

- 1.1 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 This instrument provides for specified Local Housing Allowance (LHA) rates to be increased by 3 per cent in certain areas, where higher rent increases are causing issues with affordability for Housing Benefit tenants in the private rented sector.
- 2.2 It also enables Rent Officers to make broader comparisons of rents beyond those in the adjoining local authority area, for the purposes of making a social housing payment determination in Universal Credit.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to the negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

LHA Rates

- 4.1 The method by which Rent Officers determine the LHA rates and when they do this is set out in the Rent Officers (Housing Benefit Functions) Order 1997 (S.I. 1997/1984)¹, the Rent Officers (Housing Benefit Functions) Scotland Order 1997 (S.I. 1997/1995)² and the Rent Officers (Universal Credit Functions) Order 2013 (S.I. 2013/382)³ (collectively referred to as the “Rent Officers Orders”).
- 4.2 The Government took steps to freeze LHA rates through amendments to the Rent Officers Order⁴, following the announcement at the Summer Budget 2015⁵. At the same time, the Government also announced that it would make provision for high rent areas and this instrument delivers that commitment.

¹ <http://www.legislation.gov.uk/uksi/1997/1984>

² <http://www.legislation.gov.uk/uksi/1997/1995>

³ <http://www.legislation.gov.uk/uksi/2013/382>

⁴ <http://www.legislation.gov.uk/uksi/2015/1753>

⁵ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/443232/50325_Summer_Budget_15_Web_Accessible.pdf

Social Sector Rent Referrals

- 4.4 The method by which Rent Officers determine social rents for Universal Credit and when they must do this, is laid down in the Rent Officers (Universal Credit Functions) Order 2013 (SI 2013/382)⁶: Currently, the Rent Officers Order only allows Rent Officers to compare rents with properties in “adjoining local authority areas” which may mean in some cases that there are insufficient properties to provide an accurate determination.

5. Extent and Territorial Application

- 5.1 This extent of this instrument is Great Britain.
- 5.2 The territorial application of this instrument is Great Britain.
- 5.3 Corresponding provisions will be made for Northern Ireland.

6. European Convention on Human Rights

- 6.1 As the instrument 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

LHA Rates

- 7.1 The Local Housing Allowance (LHA) scheme was introduced in 2008 as a way of calculating the maximum amount of Housing Benefit (HB) payable for tenants in the private rent sector. It applies to the majority of tenants claiming HB in that sector.
- 7.2 The measure announced in the Summer Budget 2015 to freeze LHA rates for four years, was part of a package of reforms to the welfare system to make it fairer for taxpayers who pay for it, while continuing to support the most vulnerable. During the period April 2016 to March 2020, LHA rates will either be frozen at the April 2015 rate or will be set at the 30th percentile of local rents, if this is lower.
- 7.3 The Government recognises that freezing LHA rates may have very different effects across the country, as rents in some areas might increase at different rates. In view of this, the Government committed to make provision for high rent areas, and will use 30 per cent of the savings from the LHA freeze, to create Targeted Affordability Funding (TAF). This funding will be used to increase some LHA rates by 3 per cent in those areas where there are high rental increases. Any increases to the designated rates, however, will not be able to exceed the maximum LHA levels or “caps”. The LHA caps were introduced in 2011 as one of the reforms to the LHA scheme to limit the amount of Housing Benefit which could be paid.
- 7.4 The areas and rates which will receive the increase of 3 per cent in 2017/18 are set out in this instrument, and are those which have diverged the furthest away from the 30th percentile of local rents.

⁶ <http://www.legislation.gov.uk/ukSI/2013/382>

Social Sector Rent Referrals

- 7.5 The Rent Officers (Universal Credit Functions) Order 2013 makes provision for Rent Officers, following a request from the Secretary of State, to decide whether specified rents and service charge payments for the accommodation let by a social sector landlord are reasonable, and if not, to determine an appropriate amount for the accommodation. At present, the Rent Officer can only compare rents in adjoining local authority areas, if there is insufficient accommodation in the area where the accommodation is situated.
- 7.6 The amendments proposed in the instrument will allow Rent Officers to make broader comparisons of rent and thereby include properties in a wider area in those instances where there is insufficient accommodation to compare in the subject local authority area. Accurate Rent Officer determinations are important for the Department in order to avoid underpayments or overpayments of housing costs in Universal Credit to claimants living in social rented accommodation.

Consolidation

- 7.7 Informal consolidated text of instruments is available to the public free of charge via 'The National Archive' website www.legislation.gov.uk.

8. Consultation outcome

- 8.1 Amendments to the Rent Officers Orders are exempt from formal referral to the Social Security Advisory Committee; however we have notified the Committee of our plans.
- 8.2 Rent Officers were consulted about the changes and provided with an opportunity to comment on the draft legislation but were content with the amendments made.

9. Guidance

- 9.1 No guidance will be issued by the Department. Rent Officers update their own guidance as appropriate. Local Authority and Universal Credit administration will not be directly affected by the amendments to this order but the Department will keep them informed of the changes.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector. There are no impacts on local authority systems or DWP systems and we will notify the relevant authorities accordingly when the new LHA rates are due to be published. The Targeted Affordability Funding which will be used to increase certain LHA rates by 3 per cent, is drawn from 30 per cent of the savings from the LHA freeze policy.
- 10.3 An impact assessment has not been prepared for this instrument as it has no impact on the private sector or civil society organisations.

11. Regulating small business

- 11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

- 12.1 The department is continuing to monitor any divergences between the LHA rates and local market rents. Rent Officers will publish the 30th percentile of market rents and the new LHA rates on 31 January 2017.
- 12.2 The changes being made to social sector referrals will be included as part of the general monitoring of Housing Benefit and Universal Credit claims using test and learn principles to evaluate and respond to new evidence as it emerges.

13. Contact

- 13.1 Please contact Marie Savage at the Department for Work and Pensions, (Telephone: 01772 234056) or email: Marie.Savage@dwp.gsi.gov.uk if you have any queries regarding this instrument.