

EXPLANATORY MEMORANDUM TO
THE RIOT COMPENSATION (AMENDMENT) REGULATIONS 2018
2018 No. 982

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 The Riot Compensation Act 2016 (“the Act”) makes provision about the types of claims, procedures, decision-making and limits on compensation payable for property damaged, destroyed or stolen in the course of riots. The Riot Compensation Regulations 2017 (“the 2017 Regulations”) implement the Act, notably by setting out the claims procedure. The Riot Compensation (Amendment) Regulations 2018 (“the Amendment Regulations”) provide corrections to the Regulations in order to ensure clarity of entitlement to compensation and the procedure for making such a claim.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales.
4.2 The territorial application of this instrument is England and Wales.

5. European Convention on Human Rights

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

6. Legislative Context

- 6.1 The Act came into force on 6th April 2017 except for sections 11 and 12 (which came into force on 23rd March 2016, the day on which the Act was passed). The 2017 Regulations also came into force on 6th April 2017 and implement the main provisions of the Act, notably by setting out the claims procedure in detail.
6.2 The Amendment Regulations are necessary to make corrections to clarify entitlements and to ensure consistency of application between different types of claimants (i.e. individuals or businesses who have suffered uninsured losses and insurance companies seeking reimbursement of settlements paid out for riot-related costs).

7. Policy background

What is being done and why?

- 7.1 The Act makes provision about the types of claims, procedures, decision-making and limits on compensation payable for property damaged, destroyed or stolen in the course of riots. The 2017 Regulations implement the main provisions of the Act, notably by setting out the claims procedure and other entitlements such as the ability to seek recompense for the costs of temporary accommodation when a person's home is rendered uninhabitable because of riot damage.
- 7.2 The Amendment Regulations are required to provide clarity of procedure and entitlements, in particular to ensure parity of treatment between claims from insurers and claims from uninsured claimants. The rationale for the amendments is set out in paragraphs 7.3 to 7.7.
- 7.3 The Amendment Regulations insert a new provision into the 2017 Regulations (as regulation 3(2)(c)) that effectively allows multiple interest claims to be made in respect of property that was not business or residential premises (or the common parts, if any, of those premises) at the time of loss. The effect of this will be to allow more than one claim to be made in respect of property where more than one person has incurred a loss (e.g. property of a mobile business where more than one person has incurred losses in respect of the same vehicle).
- 7.4 Regulation 4(2) of the 2017 Regulations allows an insurer to make separate claims under the Act in respect of i) buildings insurance and ii) contents insurance in relation to property at the same postal address and so make claims in relation to the same property up to the value of £2m. This is inconsistent with uninsured claimants who would only be able to make a claim of up to £1m in the same circumstances. The amendments made by regulation 2(3) of the Amendment Regulations correct this inequality of treatment and allow insurers to consolidate claims from various insurance policies into a single claim under the Act up to the value of £1m.
- 7.5 Regulation 7(2) of the 2017 Regulations is amended to make it clear that the requirement for a claimant to provide information on compensation claimed is a reference to compensation provided under the claimant's insurance policy rather than compensation provided under the Act.
- 7.6 Regulation 9 of the 2017 Regulations is corrected to prevent this regulation from being interpreted as meaning that an application made by an uninsured person under the Act must be refused simply because the claimant held insurance (even if it wasn't paid out either in part or in full).
- 7.7 Further technical corrections are being made to regulations 12, 14 and 23, including clarification as to what is considered to be public funds (in the context of deducting compensation where compensation has already been provided under public funds) and the ability for a claimant's representative as well as a claimant to submit a request for a review of a decision.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union/ trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 The Amendment Regulations make limited changes to the 2017 Regulations. We do not plan to consolidate these changes.

10. Consultation outcome

- 10.1 The Government developed the policy behind the Act through a two-stage process. First, the Government commissioned an independent review of the arrangements under the 1886 Act¹. Following the completion of that review, a nine-week public consultation was held between 5 June and 1 August 2014 on the reform of the 1886 Act and the Government provided its response on 12 March 2015². Fifty-three responses were received to the consultation covering a wide range of stakeholders including various police forces, insurers, loss adjusters, brokers and business umbrella groups. The consultation covered all the key policy points raised by the measures in both the Act and Regulations with two exceptions concerning temporary accommodation payments and mobile businesses. These exceptions were introduced into the Act by amendment and are explained further in the Explanatory Memorandum to the Regulations³.
- 10.2 Given the previous public consultation process, the Government's response (which is very closely reflected in the Regulations) and the fact that the Amendment Regulations set out corrections and technical requirements no further public consultation has been carried out. We have shared the Amendment Regulations in advance with the Association of British Insurers, the Chartered Institute for Loss Adjusters and representatives from the police sector who have confirmed they are content with the amendments.

11. Guidance

- 11.1 Guidance for authorities who will handle and make decisions on claims has been prepared by the insurance industry in collaboration with the Home Office and copies will be placed in the libraries of both Houses before the end of 2018.
- 11.2 Further guidance for the public on rights and entitlements under the Act and the Regulations has also been prepared and copies will be placed in the libraries of both Houses before the end of 2018.

12. Impact

- 12.1 The impact on business is limited to insurance companies (see paragraph 12.3). There is no impact on charities or voluntary bodies.
- 12.2 There is no impact on the public sector.

¹ Link to Independent Review of the Riot (Damages) Act 1886 - <https://www.gov.uk/government/publications/riot-damages-act-independent-review>

² Link to public consultation on the Riot (Damages) Act and the response to the consultation - <https://www.gov.uk/government/consultations/reform-of-the-riot-damages-act--2>

³ Link to the Explanatory Memorandum to the Regulations - <https://www.legislation.gov.uk/uksi/2017/371/memorandum/contents>

Hard copies of these documents can be obtained on request from the Home Office.

12.3 An Impact Assessment has not been prepared for this instrument as only one of the amendments will have a limited impact on insurance companies (see paragraph 7.3). The number of times that the same insurer will separately cover both contents and buildings for the same property where the value will exceed £1m will be rare. Further, the policy intent behind the Act was that there should be a £1m cap, these amendments will help ensure that the £1m cap works as intended and does not lead to any change to the impact assessment provided for the Act⁴.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses (save in so far as it provides for financial assistance to small businesses in the circumstances that they suffer relevant damage or loss in a riot).

14. Monitoring & review

14.1 The approach to monitoring of this legislation is to review within five years of the commencement of the Act (6th April 2017), in line with Cabinet Office guidelines.

14.2 The Amendment Regulations do not include a statutory review clause. They make no changes to the underlying purpose of the Regulations, which only make provision in connection with the giving of financial assistance by or on behalf of a public authority. They are therefore exempt under section 28(3)(c) of the Small Business, Enterprise and Employment Act 2015 (c. 26) from the requirement to include a review provision.

15. Contact

15.1 Kevin Finch at the Home Office Telephone: 0207 035 3117 or email: kevin.finch@homeoffice.gsi.gov.uk can be contacted with any queries regarding the instrument.

15.2 Julian Schon at the Home Office can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Rt Hon Nick Hurd MP, Minister for Policing and the Fire Service at the Home Office, can confirm that this Explanatory Memorandum meets the required standard.

⁴ Link to the Impact Assessment for Riot Compensation Act - <https://www.legislation.gov.uk/ukxi/2017/371/impacts>