

EXPLANATORY MEMORANDUM TO
THE RENT OFFICERS (HOUSING BENEFIT AND UNIVERSAL CREDIT
FUNCTIONS) (MODIFICATION) ORDER 2023

2023 No. 6

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 His Majesty.

2. Purpose of the instrument

2.1 This instrument makes changes to how rent officers will determine Local Housing Allowance (LHA) rates which will apply for 2023/24. It provides for LHA rates in 2023/24 to be frozen at the levels applied in April 2020.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is Great Britain.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is Great Britain.

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 Each year rent officers determine LHA rates for the coming financial year. The method by which they determine the 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”).

6.2 In March 2020, as part of the response to Covid-19, the Government amended the Rent Officers Orders to increase Local Housing Allowance (LHA) rates to cover the lowest 30 percent of local rents from April 2020. In 2021/22 and 22/23 the rates were maintained at the same cash levels. On 17th November 2022 the Secretary of State for Work and Pensions committed in his written⁴ ministerial statement to maintain rates at

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 <https://questions-statements.parliament.uk/written-statements/detail/2022-11-17/hcws374>

the same cash levels in the next financial year. This instrument delivers that commitment for 2023/24.

7. Policy background

What is being done and why?

- 7.1 The Local Housing Allowance scheme was introduced in 2008 as a way of calculating the maximum amount of Housing Benefit (HB) and from 2013 the housing 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.
- 7.2 The level of LHA rates is reviewed annually by the Secretary of State.
- 7.3 In April 2020 in response to Covid-19, LHA rates were increased to cover the lowest 30 percent of local market rents for 2020/21. The maximum LHA rates, or “national caps”, were also increased to equal the maximum LHA rates for outer London, plus an additional 20%. For 2021/22 and 2022/23, all rates were frozen at the same cash levels that were set in 2020/21.

Explanations

What did any law do before the changes to be made by this instrument?

- 7.4 The legislation instructs the Rent Officers at the Valuation Office Agency and Rent Services for Scotland and Wales to set the rates at 30th percentile of local market rents for April 2020. In 2021/22 and 2022/23 the legislation was modified to freeze rates at 2020/21 levels.

Why is it being changed?

- 7.5 LHA rates are reviewed annually by the Secretary of State for Work and Pensions and the modifications of this instrument apply for the purposes of determining LHA rates in 2023. If the Order is not made, the Rent Officers Orders will revert to their previous text which took effect from April 2020 to increase rates to 30th percentile of local market rates, and this will apply for 2023/24.

What will it now do?

- 7.6 The modification in this order provides that from April 2023 all LHA rates in 2023/24 to be frozen at the levels applied in April 2020.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

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

10. Consultation outcome

- 10.1 Modifications to the Rent Officers Orders are exempt from formal referral to the Social Security Advisory Committee;

10.2 Rent officers were consulted about the changes and provided with an opportunity to comment on the draft legislation and were, following consultation, content with the modifications made.

11. Guidance

11.1 Local Authority and Universal Credit administration will not be directly affected by the changes to the Rent Officers Orders, but the Department will notify them of the rates in the usual way.

12. Impact

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

12.2 There is no, or no significant, impact on the public sector.

12.3 A full Impact Assessment has not been prepared for this instrument because it has no impact on business or the public sector.

13. Regulating small business

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

14. Monitoring & review

14.1 The Department will continue to monitor the Local Housing Allowance (LHA) rates and the local market rents.

14.2 The instrument does not include a statutory review clause.

15. Contact

15.1 Tony Knight at the Department for Work and Pensions email: Housing.PolicyCorrespondence@dwp.gov.uk can be contacted with any queries regarding the instrument.

15.2 Vicki Kennedy, Deputy Director for Housing Policy Directorate, at Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.

15.3 Mims Davies MP, Minister for Social Mobility and Youth Progression, at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.