

EXPLANATORY MEMORANDUM TO

THE RENT OFFICERS (HOUSING BENEFIT FUNCTIONS) AMENDMENT ORDER 2012

2012 No. 646

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 amends the Rent Officers (Housing Benefit Functions) Order 1997 <http://www.dwp.gov.uk/docs/a8-4001.pdf> and the Rent Officers (Housing Benefit Functions) (Scotland) Order 1997 <http://www.dwp.gov.uk/docs/a8-4071.pdf> (“the Rent Officers Order”) to change the way broad rental market areas and the Local Housing Allowance are determined by rent officers.

2.2 A rent officer will make one annual determination of the Local Housing Allowance rate to be applied each April, with reference to the level of Consumer Prices Index inflation and the rent at the 30th percentile of available rents.

2.3 In instances where a rent officer considers that one or more broad rental market areas need to be determined, for example where there have been significant changes to infrastructure, this will only take place where the Secretary of State agrees he should do so.

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

None.

4. Legislative Context

4.1 In cash terms, expenditure on Housing Benefit has increased significantly from £11 billion in 1999/2000 to £21 billion in 2010/11 and, if left unreformed, would reach £26 billion in 2014/15. Some of this growth can be attributed to increasing caseloads and higher levels of benefit over the last decade but most of the increase in expenditure is due to growth in rents. The Government consider it a priority to control and reduce the overall cost of Housing Benefit. This instrument gives effect to a saving measure which was first announced as part of the June 2010 Budget process and is intended to achieve cumulative Exchequer savings of around £800 million by 2014/15.

4.2 The uprating of Local Housing Allowance in line with the Consumer Price Index was announced by the Chancellor as part of the June 2010 Budget. <http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm100622/debtext/100622-0006.htm>

4.3 It was also included in the Benefits Uprating Statement on 6 December 2011.

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.

7. Policy background

7.1 The Local Housing Allowance arrangements were introduced from 7 April 2008 and apply to Housing Benefit claimants in the private rented sector. Local Housing Allowance rates are determined by rent officers each month for each property size, based on evidence of achieved rents gathered by rent officers in each broad rental market area (an area in which people live and access services).

7.2 Reforms to the Local Housing Allowance arrangements were introduced from April 2011 which included:

- removing the five bedroom rate so that the maximum level is for a four bedroom property;
- introducing absolute caps so that weekly rates cannot exceed £250 for a one bedroom property, £290 for a two bedroom property, £340 for a three bedroom property and £400 for a four bedroom property; and
- rates being set at the 30th percentile of rents in each broad rental market area rather than the median.

7.3 The purpose of these changes, as well as achieving savings, is to make the Housing Benefit scheme fairer and more sustainable, by ensuring that people on benefit do not have access to accommodation that would be out of reach of most people in work. This will also begin to address the disincentives to work in the current system created by high rates of benefit. Housing Benefit is intended to help people in work, however, supporting people to live in very high cost rented accommodation means that they will not see any advantage to working as their earnings are unlikely to ever be sufficient to take them off benefit.

7.4 From April 2013, Local Housing Allowance (LHA) rates will be set annually at the lower of:

- the previous LHA rate uprated by the Consumer Price Index inflation published the previous September; or
- the 30th percentile of local market rents in the previous September.

7.5 Restricting the Local Housing Allowance rates to the lower of either the previous year's rate uprated by reference to the CPI or the rent at the 30th percentile will ensure we continue to exert downward pressure on rents for the remainder of this Comprehensive Spending Review. By moving to annual rather than monthly uprating

we are also taking the next step towards the integration of housing support with other benefits in Universal Credit.

7.6 This change will make Local Housing Allowance simpler for claimants to understand as the maximum amount of Housing Benefit will be known well in advance of these rates coming into effect.

7.7 As part of the preparations for this change, from April 2012, all Local Housing Allowance rates will be frozen. This enables a baseline to be established and ensures that claimants do not experience any actual falls in benefit entitlement in April 2013 unless local rents have fallen.

7.8 There will still be a requirement for rent officers to compile the data for annual reviews of Local Housing Allowance rates. The following year's Local Housing Allowance rate would need to be determined and published soon after the data are available to provide certainty to claimants and landlords.

7.9 DWP will monitor any divergences between the 30th percentile of broad rental market area rents and Local Housing Allowance rates. If a big difference between the rental market and Local Housing Allowance rates uprated by CPI is identified and is causing a critical lack of suitable housing, the Secretary of State will have the power to intervene and uprate the Local Housing Allowance by some other method.

Consolidation

7.10 Informal consolidation of this instrument will be included in due course in the Department's "the law relating to Social Security" (the Blue Volumes) which are available at no cost to the public on the internet at:
<http://www.dwp.gov.uk/publications/specialist-guides/law-volumes/the-law-relating-to-social-security/>

8. Consultation outcome

8.1 This instrument has not been referred to the Social Security Advisory Committee as amendments only to the Rent Officers Order are needed. Local authorities have not been consulted as there is no impact on local authority systems. The policy has, however, been subject to debates in both Houses of Parliament as part of the passage of the Welfare Reform Bill.

8.2 Informal consultation has been carried out with rent officers in England, Scotland and Wales to discuss the impacts on their roles both during the freezing of rates in 2012 and after the introduction of annual uprating in 2013. There have also been initial discussions with the Local Authority Association Steering Group, the Practitioners Operational Group and the IT Suppliers Forum to make them aware of the forthcoming policy change. This measure has also been discussed with stakeholders who have an interest in Housing Benefit.

9. Guidance

The Department is working with rent officers and IT suppliers to implement the changes and will be providing guidance for local authorities. This guidance will be made available through the standard web-based products with which DWP communicates with Housing Benefit managers. Local authority administration will not be directly affected by the amendments to this order. The Department for Work and Pensions has informed key stakeholders of the changes but have no plans for widespread communications with the general public.

10. Impact

10.1 This legislation has no impact on business or civil society organisations.

10.2 The impact on the public sector is negligible.

10.3 A full impact assessment has not been published for this instrument¹.

11. Regulating small business

The legislation does not apply to small businesses.

12. Monitoring and review

12.1 The paths of market rents and Local Housing Allowance rates will be closely monitored with the rent officers.

12.2 The Department has commissioned an independent consortium of leading research organisations to evaluate the effects of recent LHA changes. The evaluation team is led by Ian Cole of Sheffield Hallam University, includes Peter Kemp (Oxford University) and members from the Institute for Fiscal Studies and Ipsos MORI. Early findings from the initial survey will be available in late spring 2012. Subject to funding being in place, the change to CPI uprating will be included in an extension to the current monitoring work.

13. Contact

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

¹ An assessment of the impact of the provision in this Order is included in the impact assessment that accompanied the Welfare Reform Bill. A copy of this impact assessment is available in the libraries of both Houses of Parliament, and the relevant updated extract is annexed to this memorandum (28th March 2012).