

**EXPLANATORY MEMORANDUM TO
THE RENT OFFICERS (HOUSING BENEFIT AND UNIVERSAL CREDIT
FUNCTIONS) (AMENDMENT) ORDER 2013**

2013 No. 1544

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, the Rent Officers (Housing Benefit Functions) (Scotland) Order 1997 and the Rent Officers (Universal Credit Functions) Order 2013 (together the “Orders”) to make changes to how and when the Local Housing Allowance (“LHA”) is determined.

2.2 Rent officers will determine the Local Housing Allowance rates by reference to either: the 30th percentile of available rents or the previous year’s LHA rate increased by one per cent, whichever is the lower of the two. These determinations will be carried out on 15th January 2014 and in each subsequent year on 15th January where that is a Wednesday or, where it is not a Wednesday, on the first Wednesday following 15th January.

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

None.

4. Legislative Context

4.1 Legislation to introduce annual uprating of Local Housing Allowance in line with the Consumer Price Index was made on 29 February 2012, laid on 6 March 2012, came into force on 2 April 2012 and has effect from April 2013.

4.2 At the Autumn Statement 2012, the Government announced further changes to the uprating of Local Housing Allowance rates in 2014/15 and 2015/16 by restricting increases in most areas to a maximum of 1 per cent.

<http://www.publications.parliament.uk/pa/cm201213/cmhansrd/cm121205/debtext/121205-0001.htm#12120570000005>

4.3 The Government also announced that potential savings from this measure would be used to exempt some areas from the 1 per cent. limit. The additional funding for these exemptions is known as the ‘Local Housing Allowance Targeted Affordability Funding’.

4.4 This instrument only takes forward the amendments which are needed to the Orders to limit the uprating of Local Housing Allowance to 1 per cent and to change the date when this is carried out. A further instrument will be made and

laid in the autumn to provide details of how the Affordability Funding will be targeted.

- 4.5 It is necessary to lay and make this order in advance of the summer parliamentary recess so that legislation is in place by the autumn. This is to change the uprating method (previously the uprating was with reference to the CPI) before rent officers are obliged to carry out the Local Housing Allowance calculations by mid-October, in accordance with previous legislation. Further work needs to be carried out over the summer to develop the policy for the Local Housing Allowance Targeted Affordability Funding to inform which areas will be exempted from the 1 per cent. uprating limits. This work will need to be done using the very latest rental data, which will not be available until the autumn. As such, it has not been possible to include the amendments for the Local Housing Allowance Targeted Affordability Funding in this order, nor is it possible to delay these amendments until the autumn.

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 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) and subject to any limits set by the Secretary of State.
- 7.2 A number of reforms to Local Housing Allowance arrangements were introduced from April 2011 to restrict the amount of Housing Benefit which could be paid, including rates being set at the 30th percentile of rents in each broad rental market area, restricting the maximum level to a four bedroom property and capping the weekly rates by property size. These changes were part of the Government's deficit reduction plan and the purpose of them was, as well as achieving changes, to make the Housing Benefit scheme fairer and more sustainable.
- 7.3 From April 2013, changes were introduced so that the Local Housing Allowance rates were set annually at the lower of, either the previous Local Housing Allowance rate uprated by the Consumer Price Index or the 30th percentile of local market rents. The purpose of this was to exert downward pressure on rents and to reduce the expenditure on Housing Benefit. Moving to annual rather than monthly uprating was a step towards the integration of housing support with other benefits in Universal Credit. It also made it simpler for claimants to understand as the maximum amount of Housing Benefit is known well in advance of the rates coming into effect.

7.4 Since those changes were made, the Universal Credit system was introduced on 29 April 2013 in selected areas of Greater Manchester and Cheshire. It will be rolled out gradually to the rest of the UK from October 2013 and will replace 6 benefits, including Housing Benefit. All Housing Benefit claimants of working age will gradually move onto Universal Credit, with everyone claiming Universal Credit by 2017. Provisions within Universal Credit legislation for uprating Local Housing Allowance will mirror the provision within Housing Benefit legislation.

7.5 From April 2014 LHA rates will be set annually at the lower of either the previous LHA rate uprated by 1 per cent or the 30th percentile of local market rents in the previous April. The purpose of this change is to continue to exert a downward pressure on rents by reducing the growth in Housing Benefit expenditure and to bring the uprating of Local Housing Allowance rates in line with other benefits by restricting increases to 1 per cent. The Government is also taking account of the fact that rental markets differ across the country and has committed to using £140 million of the savings from the measure to exempt some areas from the 1 per cent. limit where rent increases are causing a shortage of affordable accommodation.

Consolidation

7.6 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 there is no requirement to refer amendments to the Rent Officers Orders to it. Local authorities have not been consulted as there is no impact on local authority systems. The policy has been subject to debate in both Houses of Parliament as part of the passage of the Uprating Act 2013.

8.2 Informal consultation has been carried out with rent officers in England, Scotland and Wales to discuss the impact on their roles. The Local Authority Association Steering Group are aware of the change and the measure has also been discussed with voluntary organisations who have an interest in Housing Benefit.

8.3 DWP is planning to hold a 'Call for Evidence' in July 2013 to provide stakeholders with an opportunity to feed in their views on the use of the Targeted Affordability Fund. It will also enable us to gain further insight into the diversity of the experiences faced by Housing Benefit claimants looking for affordable accommodation in the private rented sector

9. Guidance

The Department is working with rent officers to implement the changes. Local authority administration will not be directly affected by the amendments to this order but the Department will keep them informed of the changes. There are no plans for any widespread communications with the general public.

10. Impact

10.1 This legislation has no impact on business and civil service organisations.

10.2 An Impact Assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum on www.legislation.gov.uk.

10.3 Our equalities analysis of this policy change is ongoing and we will be publishing our findings in the autumn, alongside the second set of amendments, once decisions have been made regarding the Targeted Affordability Fund and how this will be targeted.

11. Regulating small business

The legislation does not apply to small businesses.

12. Monitoring & review

12.1 The levels of Local Housing Allowance rates and the 30th percentile of market rents will continue to be closely monitored with rent officers to identify any divergences between the two.

12.2 Rent officers published the 30th percentile of market rents alongside the Local Housing Allowance rates in November 2012. This process will be repeated in January 2014.

13. Contact

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