

EXPLANATORY MEMORANDUM TO
THE RENT OFFICERS (HOUSING BENEFIT AND UNIVERSAL CREDIT
FUNCTIONS) (LOCAL HOUSING ALLOWANCE AMENDMENTS) ORDER 2013

2013 No. 2978

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 makes changes to how the Local Housing Allowance (“LHA”) rates are determined within the LHA scheme. Rent officers will determine the Local Housing Allowance rates based on the category of accommodation and the broad rental market area in which the accommodation is situated. This instrument introduces an alternative way of determining LHA rates in specified circumstances.
 - 2.2 It also changes the date that the LHA determinations and broad rental market areas determinations take effect for the purposes of Universal Credit.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.
4. **Legislative Context**
 - 4.1 In the Autumn Statement 2012, the Government announced changes to the annual uprating of LHA 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/debtex/t/121205-0001.htm#12120570000005>
 - 4.2 The Government also announced that 30 per cent of the forecast savings from this measure (as at Autumn Statement 2012) would be used to increase some rates beyond the 1 per cent limit. This additional funding is known as the ‘Local Housing Allowance Targeted Affordability Funding’.
 - 4.3 A first set of amendments was made and laid in June 2013 which limited the LHA rate from 1st April 2014 to the lower of either; the 30th percentile of market rents or the previous rate increased by 1 per cent and changed the date of the determinations. These amendments were made in advance of the summer parliamentary recess so legislation was in place to change the uprating method before rent officers were obliged to carry out the calculations by mid-October in accordance with previous legislation.
 - 4.4 This instrument takes forward the second set of amendments to the Rent Officers Orders which are needed to instruct rent officers to determine the LHA rates in one of two ways, depending on the category of accommodation and where the accommodation is situated.
5. **Territorial Extent and Application**
 - 5.1 This instrument applies to Great Britain.

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

- 7.1 The LHA arrangements were introduced in 2008 and apply to the majority of Housing Benefit claimants in the private rented sector. LHA 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 LHA 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 to reduce Housing Benefit expenditure and make the scheme fairer and more sustainable.
- 7.3 From April 2013, changes were introduced so that the LHA rates were set annually at the lower of; either the previous LHA 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 growth of Housing Benefit expenditure. Moving to annual rather than monthly determinations was a step towards the integration of housing support with other benefits in Universal Credit. It also made it simpler for claimants and landlords to understand as the maximum amount of Housing Benefit is known well in advance of the rates coming into effect.
- 7.4 Following the announcement made in the 2012 Autumn Statement, in April 2014 and April 2015, 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 further increase downward pressure on rents and Housing Benefit expenditure. It also brings the LHA determinations in line with other working age benefits where increases are being restricted to 1 per cent for the same two year period.
- 7.5 The Government recognises that rental markets differ across the country and has committed to using 30% of the forecast savings (as at Autumn Statement 2012) from the measure, to increase some rates by more than the 1 per cent limit. There is a total of £140 million funding available over the two years; £45 million in 2014/15 increasing to £95 million in 2015/16. This instrument sets out that the LHA rate for specified categories of accommodation in some broad rental market areas will be increased by 4 per cent, instead of 1 per cent, subject to a maximum limit.
- 7.6 The LHA rates which will be targeted for the 4 per cent increase will be those that have diverged the most from market rents. These will be identified by comparing the proposed April 2014 rates (limited by the 1% increase) with the 30th percentile of local rents from rent officers for the 12 months up to the end of September 2013. Those LHA rates with the greatest percentage gap will be

increased by 4 per cent instead of 1 per cent, but will be subject to the overall limits to LHA. We remain committed to our original intentions to restrict the amount of LHA which can be paid in the most expensive areas so LHA rates will continue to be subject to maximum limits.

7.7 Maximum limits to LHA rates from April 2014 will be:

- Shared Accommodation - £258.06
- One Bedroom - £258.06
- Two Bedroom - £299.34
- Three Bedroom - £350.95
- Four Bedroom - £412.89

7.8 The basis for increasing some LHA rates by 4 per cent is the need to balance the objective of supporting the areas where rents are rising fastest with the limited funding available. Setting a higher increase would see relatively few rates benefit, whereas setting a lower percentage increase would spread the funding too thinly and not provide enough support where it is needed. Selecting a rate of 4 per cent is in line with the Department's medium-term planning assumption of general private rental growth and is broadly in line with the increases in social and affordable rents in 2014/15 (3.7 per cent).

7.9 It is expected that LHA uprating by 1% will run for two years in 2014/15 and 2015/16. The Government has also LHA Targeted Affordability Funding available for both those years. We will consider how we should distribute the funding in 2015/16 after examining further rental evidence in 2014.

7.10 The Government is committed to making savings from this measure over the two years. Inevitably, there will be a need to review what will happen after that and we will continue to monitor divergences between LHA rates and market rents.

Consolidation

7.11 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 Amendments to the Rent Officers Orders which support this policy change are exempt from formal referral to the Social Security Advisory Committee. However, we have advised the committee of the plans for this policy and invited them to comment on the proposals. 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 changes, although there are no impacts on local authority systems. The measure has also been discussed with voluntary organisations who have an interest in Housing Benefit.

8.4 DWP held a call for evidence in July 2013 to provide stakeholders with an opportunity to provide views on the use of the Targeted Affordability Fund which helped inform our options analysis. It also enabled the Department to gain

further insight into the diversity of the experiences faced by Housing Benefit claimants looking for affordable accommodation in the private rented sector.

8.5 A response summarising the call for evidence will be published on 2 December 2013.

9. Guidance

9.1 The Department is working with rent officers to implement the changes, although supplementary guidance is unlikely to be required. Local authority 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 This legislation has no direct impact on business, charities or voluntary bodies.

10.2 Our equalities analysis will be published alongside the Explanatory Memorandum on www.legislation.gov.uk and covers how these changes may affect claimants in aggregate and the impacts on specific groups.

10.3 In the interests of transparency, an Impact Assessment was published in June 2013, alongside the first set of amendments to the Rent Officers Order which supported this policy change.

10.4 There is no requirement to publish an Impact Assessment because this legislation has no direct impact on business or civil society organisations. However we will be publishing a revised Impact Assessment on 15 January 2014 alongside the LHA rates for 2014. It is not appropriate to update the Impact Assessment at this point as the final analysis is dependent on forecasts published in the Autumn Statement 2013.

11. Regulating small business

11.1 The legislation does not apply to small businesses.

12. Monitoring & review

12.1 We are committed to transparent monitoring of any divergences between the Local Housing Allowance rates and rents. The Rent Officers will publish an annual comparison of the 30th percentile of market rents and Local Housing Allowance rates.

12.2 The first publication of these by rent officers was in November 2012 and will be repeated in January 2014. Ongoing monitoring will help inform how we allocate the Targeted Affordability Funding for 2015/16.

13. Contact

13.1 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.