

## **EXPLANATORY MEMORANDUM TO**

### **THE RENT OFFICERS (HOUSING BENEFIT FUNCTIONS) (LOCAL HOUSING ALLOWANCE) AMENDMENT ORDER 2005**

**2005 No.236**

### **THE HOUSING BENEFIT (GENERAL) (LOCAL HOUSING ALLOWANCE) AMENDMENT REGULATIONS 2005**

**2005 No.238**

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. Description**

- 2.1 These Regulations provide for an additional nine local authorities to implement new arrangements for calculating housing costs that are eligible to be met by Housing Benefit (“the Local Housing Allowance”). These new arrangements are already being tested in nine pathfinder local authority areas for certain tenants in the deregulated private sector.
- 2.2 The Order provides that the new arrangements for rent officer determinations first introduced by the Rent Officers (Housing Benefit Functions) (Local Housing Allowance) Amendment Order 2003 for the nine LHA pathfinders will apply in the nine additional local authorities that form the Second Wave Group, from the dates specified. It also contains some minor tidying measures.

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

- 3.1 None.

#### 4. Legislative Background

- 4.1 A commitment was made in the March 2004 Budget to invite a second group of local authorities to join the private sector Local Housing Allowance scheme, starting from April 2005 (see Annex 1). An additional nine local authorities have therefore been invited to implement Local Housing Allowance, in order to further test out operational and implementation issues and to develop best practice in implementing the Local Housing Allowance.
- 4.2 The Housing Benefit (General) (Local Housing Allowance) Amendment Regulations 2003 (S.I. 2399) made amendments to the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971) for the areas of nine “pathfinder” local authorities to enable new arrangements for calculating housing costs eligible to be met by housing benefit to apply to certain tenants in the private rented sector in those authorities. Under the Local Housing Allowance arrangements, eligible housing costs are calculated by reference to a flat rate (the Local Housing Allowance) which is identified by reference to the size of dwelling the claimant is entitled to and the area in which his accommodation is situated. The usual rules in relation to payment of Housing Benefit are amended to provide that benefit is paid to the claimant, subject to safeguards.
- 4.3 The Rent Officers (Housing Benefit Functions) (Local Housing Allowance) Amendment Order 2003 (S.I. 2003/2398) provided for rent officers to make Local Housing Allowance and other determinations required for the pathfinder authorities to operate the Local Housing Allowance arrangements.
- 4.4 The attached Regulations would amend the Housing Benefit (General) Regulations 1987 as they apply in the nine pathfinder areas, by adding the names of the new authorities and their commencement dates. The Regulations provide that the Local Housing Allowance arrangements will apply in the nine additional local authorities from their respective commencement dates. The Regulations also provide for the Housing Benefit (General) Regulations 1995 and the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001 to apply to the second wave authorities as they

apply to the original pathfinder authorities. The regulations make no alterations to the design or functioning of the Local Housing Allowance policy.

- 4.5 The attached Order amends the Rent Officers (Housing Benefit Functions) Order 1997 and the Rent Officers (Housing Benefit Functions) (Scotland) Order 1997, which confer functions on Rent Officers in connection with housing benefit and rent allowance subsidy. The Order provide that the new arrangements for rent officer determinations first introduced by the Rent Officers (Housing Benefit Functions) (Local Housing Allowance) Amendment Order 2003 for the nine LHA pathfinders will apply in the nine additional local authorities from the dates specified in relation to each authority.
- 4.6 The Order also contains some minor tidying measures. These provide for the list of LHA authorities in the Rent Officers Order that applies to England and Wales to include only English and Welsh authorities, and for the equivalent list in the Rent Officers Order that applies to Scotland to include only Scottish authorities. They also make a minor drafting amendment to the Rent Officers Order that applies to Scotland, relating to the removal of the obligation to make indicative rent determinations for pathfinder authorities. This is because the Local Housing Allowance means that indicative rent determinations are no longer necessary in local authorities implementing the allowance. The tidying measures also provide for a minor drafting amendment in relation to the calculation of single room rents in non- Local Housing Allowance cases, made for pathfinder authorities by the 2003 Order, to apply to all authorities, in line with the original policy intention.

## **5. Extent**

- 5.1 These regulations extend to Great Britain.

## 6. European Convention on Human Rights

6.1 Not applicable.

## 7. Policy Background

7.1 The Local Housing Allowance is a change to the structure of Housing Benefit for tenants in the deregulated private rented sector (i.e. not in local authority or registered social landlord properties, or in tenancies that began earlier than 1989). Local Housing Allowance is currently being tested out in nine pathfinder local authorities. Housing Benefit is a benefit paid to people who are on low incomes and who pay rent; it is paid to help them with the cost of their rent. The nine pathfinder Local Housing Allowance authorities have been implementing Local Housing Allowance for some months, with the longest running pathfinder having started in November 2003.

7.2 The Local Housing Allowance aims to modify the structure of Housing Benefit in such a way as to improve the ability of tenants to exercise choice in relation to their accommodation and to make it a fairer, speedier and more transparent benefit for local authorities to administer and for tenants to receive. The Local Housing Allowance is a key element of the Government's overall Housing Benefit reform programme, which was launched in 2002 with the publication of *"Building choice and responsibility: a radical agenda for Housing Benefit"*.

7.3 The Local Housing Allowance is a flat rate allowance used to determine housing costs eligible to be met by Housing Benefit. It varies only by location and size of dwelling to which the claimant is entitled. This is in contrast to the existing Housing Benefit rules that require a rent officer to apply complex and in some cases property-specific restrictions on the amount of rent that can be paid by Housing Benefit. This can contribute to delays in administration and mean that the tenant only finds out how much rent can be covered by Housing Benefit at the end of this complicated process, when they may already have committed to a tenancy. The Local Housing Allowance is a simpler and fairer

way of paying Housing Benefit which ensures that people on low incomes living in the same circumstances in the same area will receive the same amount of help with their rent.

7.4 In the majority of cases Local Housing Allowance is paid direct to the tenant, rather than to the landlord. The tenant is therefore responsible for paying their rent. This is supported by a variety of safeguards for those cases where a tenant is considered vulnerable or does not pay the rent, and support and information is available in Local Housing Allowance local authorities to help tenants to make a smooth transition to paying their rent, where this is something they have not done before. In this way Local Housing Allowance aims to increase tenants' understanding of the cost of their housing and their role in managing their finances to pay for the housing they want.

7.5 The attached instruments would allow an additional nine local authorities to join the existing nine pathfinders in implementing the Local Housing Allowance. The additional nine local authorities concerned are:

Argyll and Bute	Salford
East Riding of Yorkshire	South Norfolk
Guildford	St Helens
Norwich	Wandsworth
Pembrokeshire	

Local authorities were invited to submit expressions of interest in joining the Second Wave Group of Local Housing Allowance authorities. The nine authorities listed above were selected by Ministers from a shortlist of the most suitable candidates, drawn from those who expressed an interest.

7.6 The draft regulations have been submitted to the Social Security Advisory Committee who agreed that they need not be formally referred to the Committee. The Local Authority Associations have been consulted on the amendments and had no issues to raise.

## 8. **Impact**

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on the costs of business, charities or voluntary bodies.

8.2 Impact on the public sector is below the threshold set out in the Cabinet Office public services threshold test. The full costs to the local authorities concerned of implementing the Local Housing Allowance will be met by the Department for Work and Pensions. It is estimated that this cost will be £4.5million. The cost to the Exchequer in benefit spending is estimated to be £17million.<sup>1</sup>

## 9. **Contact**

9.1 Laura Timms at the Department for Work and Pensions (Tel: 020 7712 2293 or email: [Laura.Timms@dwp.gsi.gov.uk](mailto:Laura.Timms@dwp.gsi.gov.uk)) can answer any queries regarding the instruments.

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<sup>1</sup>Estimates produced on the basis of full-year costs in 2005/06.

## ANNEX 1

### **Extract from the 2004 Budget Report, Chapter 4 'Increasing Employment Opportunity for All'**

4.48 The Government has already made good progress towards simplification of the Housing Benefit system. Budget 2003 announced that the Government would introduce a LHA in nine Pathfinder areas for tenants in the private sector. All nine of the Pathfinders have now been rolled out, and potential barriers to implementation successfully overcome in each case. Initial evidence suggests that they have a high level of acceptance from tenants and local landlords and that they are already enabling tenants to exercise choice over their housing options. Subject to the evaluation evidence, the Government intends to roll out the flat-rate system throughout the country.

4.49 In preparation for full national roll out of the private sector LHA system, **the Government intends to introduce a second round of Pathfinders from April 2005.**