

EXPLANATORY MEMORANDUM TO
THE RENT OFFICERS (HOUSING BENEFIT AND UNIVERSAL CREDIT
FUNCTIONS) (MODIFICATION) ORDER 2020

2020 No. 1519

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 Her 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 2021/22. It provides for LHA rates in 2021/22 to be retained at the same cash levels as applied from April 2020.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments, the Select Committee on Statutory Instruments or the Sifting Committees

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England, Wales and Scotland.
4.2 The territorial application of this instrument 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”).

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>

- 6.2 In March 2020, as part of its response to the impact of 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 November 2020 the Government committed to maintaining rates at the same cash levels in the next financial year⁴. This instrument delivers that commitment for 2021/22.
- 6.3 The modifications delivered by this instrument apply for the purposes of determining local housing allowances in 2021. Without any further changes, the Rent Officers Orders will revert to their previous text for the determination of rates for 2022/23.

7. Policy background

What is being done and why?

- 7.1 The LHA scheme was introduced in 2008 as a way of calculating the maximum amount of Housing Benefit (HB) and the housing element of Universal Credit 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 will be reviewed annually by the Secretary of State.
- 7.3 In 2020/21 rates were initially set to increase by 1.7% (CPI) but, in response to Covid-19, were increased further to cover the lowest 30 percent of local rents instead. The maximum LHA rates, or “national caps”⁵, were also increased to equal the maximum LHA rates for outer London, plus an additional 20%.
- 7.4 In 2021/22 all rates will be set at the same rates that applied in 2020/21.
- 7.5 Maintaining LHA rates at the same cash levels ensures that no rates reduce in April 2021 and that all claimants who benefited from the increase in April 2020 continue to do so.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 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; however, we have notified the committee of our plans.
- 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.

⁴ Social Security Benefit and Pension Up-rating 2021/22, <https://questions-statements.parliament.uk/written-statements/detail/2020-11-25/hcws600>

⁵ The “national caps” were introduced in 2011 as a reform to the LHA scheme to limit the amount of HB which could be paid.

11. Guidance

- 11.1 No guidance will be issued by the Department. Rent Officers update their own guidance as appropriate. Local Authority and Universal Credit administration will not be directly affected by the modifications 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 significant impact on business, charities or voluntary bodies.
- 12.2 There is no significant impact on the public sector.
- 12.3 An 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 continue to monitor the Local Housing Allowance (LHA) rates and the local market rents.

15. Contact

- 15.1 Sinead Donnelly at the Department for Work and Pensions email: correspondence.housingbenefitenquires@dwp.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Sara Mason, Acting Deputy Director for Housing Policy, at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Will Quince at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.