

**EXPLANATORY MEMORANDUM TO**  
**THE RENT OFFICERS (HOUSING BENEFIT AND UNIVERSAL CREDIT**  
**FUNCTIONS) (AMENDMENT AND MODIFICATION) ORDER 2021**

**2021 No. 1380**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by 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 2022/23. It provides for LHA rates in 2022/23 to be retained at the same cash levels as applied from April 2020.
- 2.2 The instrument also amends the date that any new broad rental market area (BRMA) determinations take effect following agreement by the Secretary of State.

**3. Matters of special interest to Parliament**

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

- 3.1 None.

**4. Extent and Territorial Application**

- 4.1 The territorial extent of this instrument is Great Britain.
- 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**

*Local Housing Allowance (LHA)*

- 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)<sup>1</sup>, the Rent Officers (Housing Benefit Functions) Scotland Order 1997 (S.I. 1997/1995)<sup>2</sup> and the Rent Officers (Universal Credit Functions) Order 2013 (S.I. 2013/382)<sup>3</sup> (collectively referred to as the “Rent Officers Orders”).
- 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 2021/22 the rates

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<sup>1</sup> <http://www.legislation.gov.uk/ukxi/1997/1984>

<sup>2</sup> <http://www.legislation.gov.uk/ukxi/1997/1995>

<sup>3</sup> <http://www.legislation.gov.uk/ukxi/2013/382>

were maintained at the same cash levels. In November 2021 the Government committed to maintaining rates at the same cash levels in the next financial year<sup>4</sup>. This instrument delivers that commitment for 2022/23.

- 6.3 The modifications delivered by this instrument apply for the purposes of determining Local Housing Allowance rates in 2022. Without any further changes, the Rent Officers Orders will revert to their previous text for the determination of rates for 2023/24.

*Broad Rental Market Areas (BRMAs)*

- 6.4 Broad rental market areas (BRMAs) are the localities used for Local Housing Allowance (LHA) rates and their boundaries are determined in accordance with the Rent Officers Orders. This instrument amends the date a BRMA determination takes effect so that it will take effect from the April following the date the BRMA determination is made.
- 6.5 The dates are aligned with the dates that LHA rate changes take effect. For Housing Benefit, the determination will take effect from 1<sup>st</sup> April. For Universal Credit, the date that the determination takes effect will be from the first Monday of the first tax year that follows the day on which the determination is made.

**7. Policy background**

***What is being done and why?***

*Local Housing Allowance (LHA)*

- 7.1 The LHA scheme was introduced in 2008 as a way of calculating the maximum amount of Housing Benefit and from 2013 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 is reviewed annually by the Secretary of State.
- 7.3 In April 2020 in response to Covid-19 LHA rates were increased to cover the lowest 30 per cent of local market rents. The maximum LHA rates, or “national caps”, were also increased to equal the maximum LHA rates for outer London, plus an additional 20%. In 2021/22 all rates were maintained at the same cash levels.
- 7.4 For 2022/23 all rates will again be set at 2020/21 rates.
- 7.5 Maintaining LHA rates at the same cash levels ensures that no rates reduce in April 2022 and that all claimants who benefited from the increase in April 2020 continue to do so.

*Broad Rental Market Areas (BRMAs)*

- 7.6 BRMAs are geographical areas used for the purposes of setting LHA rates in the private rented sector. Whilst rent officers are able to review these areas, any changes to the BRMA boundaries must be referred to the Secretary of State for approval as laid down in the Rent Officers Orders.
- 7.7 Currently once it is agreed that a boundary change is required, it does not take effect until the next April which is at least 11 months away. This delay, which was added in

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<sup>4</sup> <https://questions-statements.parliament.uk/written-statements/detail/2021-11-25/hcws420>

2018<sup>5</sup>, was intended to give affected claimants notice of a change in broad rental market area (BRMA) so that they would have time to adjust to any alterations in their benefit entitlement. However, it does not work as intended because in practice the claimant cannot know their new Local Housing Allowance (LHA) rate amount until it is determined by rent officers. This happens at the end of January for the following April, two months later. Further, rent officers have raised that the delay prevents BRMA changes responding more quickly where needed, such as new property developments or where all affected claimants would see an increase in entitlement.

- 7.8 The amendments mean that where the Secretary of State agrees a change to a BRMA it will take effect from the April following the day on which the determination is made. The changes provide greater flexibility should a boundary change be deemed necessary.

## **8. European Union Withdrawal and Future Relationship**

- 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](http://www.legislation.gov.uk).

## **10. Consultation outcome**

- 10.1 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.

## **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 changes 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, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A full 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.

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<sup>5</sup> <https://www.legislation.gov.uk/ukxi/2017/1323/made>

**15. Contact**

- 15.1 Sinead Donnelly at the Department for Work and Pensions email: [Housing.PolicyCorrespondence@dwp.gov.uk](mailto:Housing.PolicyCorrespondence@dwp.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Vicki Kennedy, Deputy Director for Housing Policy, at Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 David Rutley MP, Minister for Welfare Delivery, at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.