

EXPLANATORY MEMORANDUM TO

THE BENEFIT CAP (ANNUAL LIMIT) (AMENDMENT) REGULATIONS 2023

2023 No. 335

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 His Majesty.

2. Purpose of the instrument

- 2.1 The Secretary of State, in November 2022, has undertaken a review of the levels of the benefit cap (referred to in the legislation as the annual limit). This instrument implements the decision made as part of that review and provides for an increase to the levels to take effect. The instrument will increase each of the four benefit cap levels by 10.1 percent in line with Consumer Prices Index for the year ending September 2022.

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 extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is Great Britain.
- 4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is Great Britain.

5. European Convention on Human Rights

- 5.1 The Minister for Employment has made the following statement regarding Human Rights:

“In my view the provisions of the Benefit Cap (Annual Limit) (Amendment) Regulations 2023 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 Section 96 of the Welfare Reform Act 2012¹ (“the 2012 Act”) introduced a cap on the total amount of benefits that working age households can receive. The Welfare Reform and Work Act 2016² (“the 2016 Act”) amended section 96 of the 2012 Act to provide for an annual limit on benefit entitlement in the primary legislation. The annual limit introduced in 2016 consists of four different amounts; these are lower than the initial cap and also regionally tiered.

¹ <https://www.legislation.gov.uk/ukpga/2012/5/part/5/crossheading/benefit-cap/enacted>

² <https://www.legislation.gov.uk/ukpga/2016/7/crossheading/welfare-benefits/enacted>

- 6.2 The 2012 Act provides for regulations to specify which “annual limit” (either in Greater London or nationwide) applies to different descriptions of couples or single persons. In Universal Credit, such provision is made in the Universal Credit Regulations 2013³ and, in housing benefit, such provision is made in the Housing Benefit Regulations 2006⁴. The 2016 Act also inserted into the 2012 Act a duty to periodically review the annual limit to determine whether it is appropriate to increase or decrease any one or more of the amounts. After carrying out a review, the Secretary of State may amend the sums in section 96(5A) of the 2012 Act by regulations. This instrument amends the 2012 Act, the Universal Credit Regulations 2013 and the Housing Benefit Regulations 2006 to replace the existing annual limit (i.e. benefit cap levels).

7. Policy background

Background

- 7.1 The benefit cap was initially introduced in April 2013 and limited the amount of working age benefits a household could receive. The annual levels were set at £26,000 for couples, couples with children and lone parents and £18,200 for single people.
- 7.2 The levels were lowered and tiered from 7 November 2016 to £20,000 for couples and lone parents, and £13,400 for single people without children. In Greater London the levels were lowered to £23,000 for couples and lone parents, and £15,410 for single people.

What is being done and why?

- 7.3 Section 96A of the Welfare Reform Act 2012, as inserted by the Welfare Reform and Work Act 2016 and amended by the Dissolution and Calling of Parliament Act 2022⁵, obliges the Secretary of State to review the benefit cap levels at least once every five years to determine whether it is appropriate to change them.
- 7.4 In undertaking the review, the Secretary of State must consider “(a) the national economic situation; and (b) any other matters that [he] considers relevant”.
- 7.5 The Secretary of State, in November 2022, has undertaken such a review. Following his review, the Secretary of State has decided that it is appropriate to increase the levels in line with Consumer Prices Index in the year to September 2022 (10.1%) in April 2023.
- 7.6 This means that the total amount of benefits to which working age benefit households are entitled to in a year will be raised from £20,000 to £22,020 for couples and lone parents nationally and from £23,000 to £25,323 in Greater London. While for single people the levels will be raised from £13,400 to £14,753 nationally and from £15,410 to £16,967 in Greater London.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

³ <https://www.legislation.gov.uk/ukxi/2013/376/part/7>

⁴ <https://www.legislation.gov.uk/ukxi/2006/213/part/8A>

⁵ <https://www.legislation.gov.uk/ukpga/2022/11/schedule/paragraph/21/enacted>

9. Consolidation

- 9.1 Informal consolidated text of instruments is available to the public free of charge via ‘the National Archive’ website legislation.gov.uk

10. Consultation outcome

- 10.1 The Department presented the draft regulations to the Social Security Advisory Committee (SSAC) on 7 December 2022. The committee did not take the regulations on formal reference.

11. Guidance

- 11.1 Public information products⁶ will be updated to reflect the new levels where applicable, and guidance has been issued to operational staff to advise them of the new levels.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 The impact on the public sector is negligible given there are minor impact and administration costs for local authority Housing Benefit and housing departments to implement these changes.
- 12.3 A full Impact Assessment has not been prepared for this instrument because it has negligible impact on business or civil society organisations.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 There is a statutory obligation to review the benefit cap levels at least once every five years at Section 96A of the Welfare Reform Act 2012. As the Secretary of State reviewed the levels in November 2022, the levels must be reviewed at least once by November 2027.

15. Contact

- 15.1 Natalie Liddell at the Department for Work and Pensions. Email: natalie.liddell@dwp.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Graeme Connor, Deputy Director for Universal Credit Policy, at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Guy Opperman MP at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.

⁶ <https://www.gov.uk/benefit-cap/benefit-cap-amounts>