EXPLANATORY MEMORANDUM TO

THE HOUSING BENEFIT AND UNIVERSAL CREDIT (VICTIMS OF DOMESTIC ABUSE AND VICTIMS OF MODERN SLAVERY) (AMENDMENT) REGULATIONS 2022

2022 No. 942

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 introduces two new exemptions from the shared accommodation rate (SAR) of the Local Housing Allowance (LHA) for victims of domestic abuse and victims of modern slavery. A claimant, of either the housing costs element of Universal Credit or Housing Benefit, who would otherwise be entitled to the SAR but qualifies for either exemption can instead claim the higher, one-bedroom rate of housing support.

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

6.1 This instrument makes amendments to the following statutory instruments:

The Housing Benefit Regulations 2006[1], and

The Universal Credit Regulations 2013[2].

6.2 Regulation 2 amends the definition of 'young individual' adding new exemptions from the SAR for Housing Benefit claimants.

6.3 Regulation 3 amends the definition of 'excepted person' from renting in shared accommodation for Universal Credit claimants.

[1] https://www.legislation.gov.uk/uksi/2006/213/contents

[2] https://www.legislation.gov.uk/uksi/2013/376/contents

7. Policy background

What is being done and why?

7.1 The Local Housing Allowance (LHA) scheme was introduced in 2008[3] to calculate the maximum amount of housing support payable for claimants in the private rented sector. It applies to the majority of private rented sector tenants claiming Housing Benefit (HB) and all tenants claiming Universal Credit (UC) in that sector.

7.2 The shared accommodation rate (SAR) is the lowest rate of housing support and is based on individuals living in shared accommodation. The principle that young, single people in the private rented sector should have their housing support limited to a rate appropriate for shared accommodation, was introduced as early as 1996. The Shared Room Rate, as it was known, applied to those under 25 years of age and continued with the introduction of the LHA scheme in 2008.

7.3 The age threshold for the SAR was extended from under 25 to under 35 from January 2012[4] as part of the package of reforms to the LHA scheme. For HB, it also applies regardless of age to those living in shared accommodation.

7.4 There are existing exemptions from the SAR which provide additional support to specific groups, for example care leavers or former residents of homeless hostels who can instead claim the higher, one-bedroom rate of the LHA.

7.5 In the March 2020 Budget, the Government announced new exemptions for victims of domestic abuse and modern slavery to be implemented from October 2023. Having made progress on implementation at Autumn Budget[5] 2021, it was announced that the implementation of the new exemptions for victims of domestic abuse and modern slavery would be brought forward by a year from October 2023 to October 2022.

Explanations

What did any law do before the changes to be made by this instrument?

7.6 A HB or UC claimant who is under 35, living alone and renting in the private rented sector is subject to the shared accommodation rate of the LHA unless they qualify for an exemption. The maximum housing support that victims of domestic abuse or modern slavery could receive was the shared accommodation rate of the LHA.

Why is it being changed?

7.7 Victims of domestic abuse often experience severe trauma as a result of their experiences and may find that sharing accommodation, particularly where they do not have control over who they live with, is not appropriate. Victims of modern slavery often suffer long term psychological effects as a result of their experiences and are vulnerable to being re-trafficked.

7.8 This amendment gives victims of domestic abuse or modern slavery the option to choose the most appropriate accommodation for their circumstances.

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[3] https://www.legislation.gov.uk/ukpga/2007/5/contents

[4] https://www.legislation.gov.uk/uksi/2011/1736/contents

[5] https://www.gov.uk/government/topical-events/autumn-budget-and-spending-review-2021

What will it now do?

7.9 From 1 October 2022, subject to satisfying the qualifying criteria, claimants who are victims of domestic abuse or of modern slavery will be exempt from the shared accommodation rate of the Local Housing Allowance, allowing them to receive the higher one-bedroom rate instead.

7.10 The Department for Work and Pension estimate that approximately 11,000 victims of domestic abuse and modern slavery will benefit from these changes.

Qualifying criteria

7.11 Victims of domestic abuse will be required to provide written evidence from a 'person acting in an official capacity' that their circumstances are consistent with those of a victim of domestic abuse and that they have made contact with said person in relation to such an incident.

7.12 Victims of modern slavery are determined by the Home Office's National Referral Mechanism (NRM). A claimant who has been the subject of a positive Conclusive Grounds decision which determines someone as a victim of modern slavery, can claim the exemption.

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.

9. Consolidation

9.1 Informal consolidated text of instruments is available to the public free of charge via The National Archives' website www.legislation.gov.uk.

10. Consultation outcome

10.1 The Department for Work and Pensions presented the draft Regulations to the Social Security Advisory Committee (SSAC) on 22 June 2022. The Committee did not take the regulations on formal reference.

10.2 The Department has a statutory duty to consult the Local Authority Associations on amendments to Housing Benefit regulations and Scottish Ministers on amendments to the housing costs elements of the Universal Credit regulations. They were content with the regulations.

11. Guidance

11.1 Guidance will be issued to local authorities and DWP staff to reflect the amendments to Housing Benefit and Universal Credit, respectively. Communications will also be sent to stakeholders who support victims of domestic abuse and modern slavery.

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 An Impact Assessment has not been prepared for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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 are no plans to review the impacts of these amendments, which are beneficial for claimants giving them additional housing support.

14.2 The regulations do not include a statutory review clause.

15. Contact

15.1 Tony Knight, Housing Policy Division at the Department for Work and Pensions can be contacted by email on hpd.consultations@dwp.gov.uk with any queries regarding the instrument.

15.2 Vicki Kennedy, Deputy Director for Housing Policy Division, at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.

15.3 David Rutley, Minister for Welfare Delivery at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.