EXPLANATORY MEMORANDUM TO

THE RENT OFFICERS (HOUSING BENEFIT AND UNIVERSAL CREDIT FUNCTIONS) (AMENDMENT) ORDER 2018

2018 No. 1332

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 provides for specified Local Housing Allowance (LHA) rates to be increased by 3 per cent in certain areas, where higher rent increases are causing issues with affordability for tenants who receive Housing Benefit and Universal Credit (Housing Element) in the private rented sector. These changes also include a 3 per cent increase to the national maximum LHA "caps", so that a rate currently capped at the maximum and set out in the schedule of rates will receive a 3 per cent increase in 2019/20.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

Matters relevant to Standing Orders Nos. 83P and 83T 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 extent of this instrument is England and Wales, and Scotland

4.2 The territorial application of this instrument is Great Britain.

4.3 Corresponding provisions will be made for Northern Ireland.

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 The method by which Rent Officers determine the LHA 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.

[1] http://www.legislation.gov.uk/uksi/1997/1984

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").

6.2 The Government took steps to freeze LHA rates through amendments to the Rent Officers Order[4], following the announcement at the Summer Budget 2015[5]. At the same time, the Government also announced that it would make provision for high rent areas through "Targeted Affordability Funding" and this instrument delivers that commitment for 2019/20.

7. Policy background

What is being done and why?

7.1 The Local Housing Allowance (LHA) scheme was introduced in 2008 as a way of calculating the maximum amount of Housing Benefit (HB) that could be received by claimants in any geographical area and, similarly, the housing element of Universal Credit payable for tenants in the private rented sector. It applies to the majority of tenants claiming HB and UC in that sector.

7.2 The measure announced in the Summer Budget 2015 to freeze LHA rates for four years was part of a package of reforms to the welfare system to make it fairer for taxpayers who pay for it, while continuing to support the most vulnerable. During the period April 2016 to March 2020, in most cases LHA rates will either be frozen at the April 2015 rate or will be set at the 30th percentile of current local rents, if this is lower. The 30th percentile is a mathematical value which represents the level of rent where around 3 in 10 properties are available at or below the LHA rate. The 30th percentile of local rents are published each year by Rent Officers alongside the LHA rates.

7.3 The Government recognises that the impact of freezing LHA rates will vary across the country, as rents in some areas might increase at different rates. In view of this, the Government committed to making provision for high rent areas, using 30 per cent of the savings from the LHA freeze to create Targeted Affordability Funding (TAF). In 2017/18 this funding was used to increase 48 LHA rates by 3 per cent. In the Autumn Budget 20176 it was announced that TAF would be based on 50% of the freeze savings, meaning that available funding increased by £40 million in 2018/19 and £85 million in 2019/20. In 2018/19 the TAF is being used to increase 213 LHA rates by 3 per cent. The purpose of this instrument is to distribute the funding for 2019/20 which will be used to increase 361 LHA rates by 3 per cent, in areas where there are high rental increases.

7.4 The maximum LHA levels or national "caps"7 will also receive a 3 per cent increase; so that any rates previously capped at maximum levels and identified to receive to receive TAF in 2019/20 will be enabled to receive the 3 per cent increase. This is to

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[2] http://www.legislation.gov.uk/uksi/1997/1995
[3] http://www.legislation.gov.uk/uksi/2013/382
[4] http://www.legislation.gov.uk/uksi/2015/1753
[5] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/443232/50325_Summer_Budget_15_Web_Accessible.pdf
[6] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/661480/autumn_budget_2017_web.pdf
[7] The LHA national "caps" were introduced in 2011 as one of the reforms to the LHA scheme to limit the amount of HB which could be paid.

help ease some of the affordability pressures in Central London as prior to 2018/19, the LHA national caps had remained frozen at 2015 levels, meaning capped rates in London were unable to get an increase. The new amounts are set out in the instrument.

7.5 The areas and rates which will receive the increase of 3 per cent in 2019/20 are set out in this instrument, and are those which have diverged the furthest away from the 30th percentile of local rents. With respect to these areas and rates, the Order provides that the applicable rate will be the lowest of (a) the previous rate increased by 3% (b) the national caps increased by 3% or (c) the 30th percentile of local rents.

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 / 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 Amendments 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 but were, following consultation, content with the amendments made.

11. Guidance

11.1 No guidance will be issued by the Department as the result of these changes. Rent Officers will update their own guidance as appropriate. Local Authority and Universal Credit administration will not be directly affected by the amendments to the Rent Officers Orders but the Department will notify them of the changes in the usual way.

12. Impact

12.1 There is no impact on business, charities or voluntary bodies.

12.2 There is no impact on the public sector. There are no impacts on Local Authority systems or DWP systems and we will notify the relevant authorities accordingly when the new LHA rates are due to be published. The Targeted Affordability Funding which will be used to increase certain LHA rates by 3 per cent, is drawn from 50 per cent of the savings from the LHA freeze policy for 2019/20.

12.3 An impact assessment has not been prepared for this instrument as it has no impact on the private sector 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 The department is continuing to monitor any divergences between the LHA rates and local market rents. Rent Officers will publish the 30th percentile of market rents and the new LHA rates on 31 January 2019.

15. Contact

15.1 Kelly Flett at the Department for Work and Pensions email: Kelly.Flett@dwp.gsi.gov.uk can be contacted with any queries regarding the instrument.

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

15.3 Justin Tomlinson, Parliamentary Under-Secretary of State for Family Support, Housing and Child Maintenance at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.