EXPLANATORY MEMORANDUM TO

THE RENT OFFICERS (HOUSING BENEFIT AND UNIVERSAL CREDIT FUNCTIONS)(LOCAL HOUSING ALLOWANCE AMENDMENTS)ORDER 2015

2015 No. 1753

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 from April 2016 through to 2019/20.

2.2 The instrument also changes the date that the LHA determinations take effect for the purposes of Universal Credit in relation to "existing awards" and includes a number of definitions.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 In its 20th Report of the 2014-15 Parliamentary session the JCSI reported the Rent Officers (Housing Benefit and Universal Credit Functions) (Local Housing Allowance Amendments) Order 2014 (S.I. 2014/3126) with respect to the substitution of article 4(3) of the Rent Officers (Universal Credit) Functions Order 2013 (S.I. 2013/382) and the use in that substituted provision of the expression "existing claims", which had not been defined. The Department in its response of 20th January 2015 stated that it would clarify the drafting at the next opportunity that was reasonably available. Article 4(2) of this Order substitutes a new article 4(3) of that 2013 Order and, in order to address the JCSI's comments, includes a definition of "person with an existing UC entitlement ".

4. Legislative Context

4.1 In the Summer Budget 2015, the Government announced that LHA rates, in common with most other working-age benefits, would be frozen for four years from 2016/17. This will mean that there are no increases or uprating of LHA rates during this period.

https://www.gov.uk/government/topical-events/budget-july-2015

4.2 Previously, in 2014/15 and 2015/16, increases to LHA rates were limited to 1 per cent or rates were set at the 30th percentile if this was lower. Some of the savings from this measure were used to create Targeted Affordability Funding which allowed for some LHA rates to be increased by up to 4 per cent in certain areas where there were issues with the affordability of accommodation.

4.3 The instructions for how rent officers set the LHA rates and when they do this is laid down in the Rent Officers (Housing Benefit Functions) Order 1997, the Rent Officers (Housing Benefit Functions) (Scotland) Order 1997 and the Rent Officers (Universal Credit Functions) Order 2013.

4.4 The changes for 2014/15 and 2015/16 described in paragraph 4.2 were taken forward in a series of amendments to the Rent Officers Orders; June 2013 SI no. 1544 – https://www.legislation.gov.uk/uksi/2013/1544, December 2013 SI no.2978 - http://www.legislation.gov.uk/uksi/2013/2978 and December 2014 SI no. 3126 - http://www.legislation.gov.uk/uksi//2014/3126

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

7.1 The measure announced in the Summer Budget 2015 to freeze LHA rates for four years, was part of a package of further reforms to the welfare system to make it fairer for taxpayers who pay for it, while continuing to support the most vulnerable.

7.2 During the period April 2016 to 2019/20, LHA rates will either remain at the April 2015 rate or be set at the 30th percentile of market rents, if this is lower.

7.3 There will be no actual losses to benefit entitlement unless market rents have fallen below the 2015/16 LHA rate. Claimants whose rent is below the applicable LHA rate will not be affected unless their rent increases to the LHA level or above during this period.

7.4 Around 30 per cent of the potential savings per year from this measure will be used to create more Targeted Affordability Funding to support areas where higher rent increases are causing a shortage of affordable accommodation. The amounts of Targeted Affordability Funding which will be available each year will be announced in due course.

7.5 There is also an enhanced overall package of Discretionary Housing Payment funding (£800 million over five years) which will be available for local authorities to protect the most vulnerable claimants and support households adjusting to the Welfare Reforms, including the changes to LHA.

Consolidation

7.6 Informal consolidated text of instruments is available to the public free of charge via 'The Law Relating to Social Security' (Blue Volumes) on the Department for Work and Pensions website at: http://www.dwp.gov.uk/publications/specialist-guides/law-volumes/the-law-relating-to-social-security or the National Archive website http://www.legislation.gov.uk An explanation as to which instruments are maintained on each site is available here.

8. Consultation

8.1 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 for the policy.

8.2 Informal consultation has been carried out with rent officers in England, Scotland and Wales to discuss these latest amendments. The Local Authority Association Steering Group is aware of the changes, although there are no impacts on local authority systems or processes. We will notify local authorities when the new LHA rates are due to be published.

9. Guidance

9.1 Local authority administration will not be directly affected by the amendments to this order but the Department will keep them informed of the changes.

10. Impact

10.1 This legislation has no direct impact on business, charities or voluntary bodies.

10.2 There is no direct impact on local authority IT systems or processes. Nor is there any impact elsewhere in the public sector. Cumulative estimated cash savings to the Government and tax-payers from this measure are around £650 million for Great Britain over the four year period. Information on this, together with other Budget measures to freeze working age benefits has been published at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/443195/Policy_costings_summer_budget_2015.pdf

10.3 An Impact Assessment has not been prepared.

11. Regulating small business

11.1 The legislation does not apply to small businesses.

12. Monitoring & review

12.1 The Department is continuing to monitor any divergences between the LHA rates and rents. Rent officers will publish the 30th percentile of market rents and the new LHA rates at the end of January 2016.

13. Contact

13.1 Please contact Marie Savage at the Department for Work and Pensions, (Telephone number: 01772 234056) or e-mail: Marie.Savage@dwp.gsi.gov.uk if you have any queries regarding this instrument.