EXPLANATORY MEMORANDUM TO

THE HOUSING BENEFIT (AMENDMENT) REGULATIONS 2013

2013 No. 665

THE RENT OFFICERS (HOUSING BENEFIT FUNCTIONS) AMENDMENT ORDER 2013

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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 The purpose of these instruments is to make amendments to the Housing Benefit scheme. They introduce changes to the size criteria that apply to working age claimants in the social rented sector and pension credit age and working age claimants in the private rented sector. The changes apply to foster carers and parents of armed forces personnel who are away from home on operations and will allow them to be taken account of when applying the size criteria.

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

3.1 The Regulations and Order come into force on 1st April 2013 fewer than 21 days after laying them before Parliament.

3.2 The Department regrets this breach of the 21-day rule. The reason the changes are to be introduced so quickly is that we had always intended that these groups should be protected from the removal of the spare room subsidy but as we have approached implementation it has become apparent that more certainty is required that can only be achieved through a statutory change.

3.3 In view of this the amending legislation consultation with the Social Security Advisory Committee and the Local authorities has been foregone in accordance with sections 173(1)(a) and 176(2)(a) of the Social Security Administration Act 1992. The Secretary of State will however be submitting the Regulations to those advisory bodies as soon a practicable after they have been made. Previous Explanatory Memorandum on this subject can be found at the following link:
http://www.legislation.gov.uk/uksi/2012/3040/pdfs/uksiem_20123040_en.pdf

4. Legislative Context

4.1 The Housing Benefit (Amendment) Regulations 2013 make amendments to the Housing Benefit Regulations 2006 and the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 to allow for an extra bedroom for foster carers and to ensure that the parents of armed forces personnel who are away from home on operations will continue to have them included when assessing the size criteria. These apply in both the private and social rented sectors.

4.2 The Rent Officers (Housing Benefit Functions) Amendment Order 2013 amends the Rent Officers (Housing Benefit Functions) Order 1997 and the Rent Officers (Housing

Benefit Functions) (Scotland) Order 1997 to allow an extra bedroom for foster carers to be included in the size criteria applied by rent officers when making determinations for some cases within the private rented sector.

5. Territorial Extent and Application

5.1 These instruments apply to Great Britain.

6. European Convention on Human Rights

As the instruments are subject to negative resolution procedure and does not amend primary legislation, no statements are required.

7. Policy background

- ***What is being done and why***

7.1 In the private rented sector, size criteria rules already determine the maximum property size which Housing Benefit can meet based on household composition. To ensure parity of treatment for working age claimants the Housing Benefit Amendment Regulations 2012 extended the size criteria rules to those of working age living in the social rented sector. If the Housing Benefit claimant in the social sector has more rooms than they are entitled to they will be classed as under-occupying the dwelling and the amount of rent eligible to be met by Housing Benefit will be reduced by:

- 14% where under-occupying by one bedroom
- 25% where under-occupying by two or more bedrooms

7.2 This means that from 1 April 2013, one bedroom will be allowed using size criteria rules for each of the following:

- A couple
- A person who is not a child (age 16 and over)
- Two children of the same sex
- Two children who are under 10 years of age
- Any other child
- A non-resident overnight carer.

7.3 In response to concerns raised by both Members of Parliament and the general public about the potential impact that this measure will have on different groups within the social sector the Government has announced that two changes will be introduced across both the private and social rented sectors. These relate to two specific groups:

- People who are approved foster carers (and formal kinship carers in Scotland) will be allowed an additional room, whether or not a child has been placed with them or they are between placements, so long as they have fostered a child, or become an approved foster carer in the last 12 months. (This will also cover a claimant who is in the process of adopting a child and has had the child placed with them by the local authority before the adoption order is made); and

- Adult children who are in the Armed Forces (including the Reserve Forces) but who continue to live with parents will be treated as continuing to live at home, even when

deployed on operations. This means that they will continue to be treated as occupying the room if they intend to return home. In addition, Housing Benefit recipients will not be subject to a non-dependent deduction, i.e. the amount that those who are working are expected to contribute to the household expenses, until the adult child return home

- ***Consolidation***

7.4 Consolidation of the existing regulations is not proposed but 'The Law Relating to Social Security' (The Blue Volumes) provides a consolidated version of the regulations and will incorporate the amendments made by this instrument. This publication is available free of charge on the internet at (http://www.dwp.gov.uk/publications/specialist-guides/law-volumes/the-law-relating-to-social-security).

8. Consultation outcome

8.1 In view of the urgency of the legislation we have not consulted the Social Security Advisory Committee or the Local authority Association. We will however write to them once the legislation has been laid and will be attending the next Social security Advisory Committee meeting in April.

9. Guidance

9.1 The Department will publicise the changes through appropriate channels such as the DWP website to make sure that people likely to be affected are aware of the changes.

9.2 Comprehensive guidance will be provided for local authorities to assist them with the effective delivery and communication of these changes. This guidance will be made available through the standard web-based products with which the Department communicates with Housing Benefit managers.

10. Impact

10.1 This legislation has no direct impact on the private sector or civil society organisations.

10.2 There will be some impact on the public sector with one-off costs for local authority housing benefit and housing departments to implement these changes.

10.3 An updated impact assessment to cover the removal of the spare room subsidy was published on 28 June 2012 and is available on the DWP website: http://www.dwp.gov.uk/docs/social-sector-housing-under-occupation-wr2011-ia.pdf

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring and review

12.1 In addition to the Department's own ongoing monitoring of the policy, it is commissioning independent monitoring and evaluation to explore the effects of the introduction of size criteria in the social rented sector in general. This will consist of some primary field research into the impacts of the changes, which is expected to be undertaken over a two year period from April 2013 to March 2015. Initial findings are expected to be available to Parliament and published in accordance with the Department's publication protocols in early 2014 with final reporting in late 2015. The research methodology and scope will be finalised in consultation with contractors and key stakeholders once the initial commissioning work has been undertaken over the summer. The measurement of the success criteria will be finalised in consultation with contractors and key stakeholders once the commissioning work has been completed.

12.2 The evaluation is likely to include a range of social landlords in local authorities across England, Scotland and Wales. Different types of authorities including a range of urban, rural and county district local authorities will be included; they will be selected to cover a range of different housing market demands. This approach should ensure that the effects of the introduction of size criteria can be explored fully and offer a sound insight into the experiences of tenants. The evaluation and monitoring will include the impact of the measures on:

- Supply of accommodation
- Rural areas
- People unable to share rooms such as couples and disabled children
- Vulnerable individuals
- Financial status
- Health and wellbeing
- Family life, particularly where the family has multiple problems.

13. Contact

Beverley Walsh at the Department for Work and Pensions Tel: 0113 232 7608 or email: beverley.walsh@dwp.gsi.gov.uk can answer any queries regarding the instrument.