

2012 No. 646

HOUSING

**The Rent Officers (Housing Benefit Functions) (Amendment)
Order 2012**

<i>Made</i>	- - - -	<i>29th February 2012</i>
<i>Laid before Parliament</i>		<i>6th March 2012</i>
<i>Coming into force</i>	- -	<i>2nd April 2012</i>

The Secretary of State for Work and Pensions makes the following Order in exercise of the powers conferred by section 122(1) and (6) of the Housing Act 1996^(a).

Citation and commencement

1. This Order may be cited as the Rent Officers (Housing Benefit Functions) (Amendment) Order 2012 and comes into force on 2nd April 2012.

Amendment of the Rent Officers (Housing Benefit Functions) Order 1997

2.—(1) The Rent Officers (Housing Benefit Functions) Order 1997^(b) is amended as follows.

(2) In article 2(1) (interpretation) before the definition of “assured tenancy” insert—

““applicable consumer prices index” in relation to any year means the consumer prices index of annual inflation as at September of that year published by the Office of National Statistics^(c)”.

(3) In article 4B (broad rental market area determinations and local housing allowance determinations)^(d)—

(a) in paragraph (1A) for “On 20th March 2008 and so often thereafter as a rent officer considers appropriate, a rent officer shall” substitute “At such times as a rent officer considers appropriate, a rent officer shall, if the Secretary of State agrees”;

(b) for paragraph (2A) substitute—

“(2A) In 2012, and in each subsequent year, no more than 20 working days after the applicable consumer prices index is published, a rent officer shall—

(a) for each broad rental market area determine, in accordance with Schedule 3B, a local housing allowance for each of the categories of dwelling set out in paragraph 1 of Schedule 3B; and

(a) 1996 c.52. The amendments to section 122 are not relevant to this Order.

(b) S.I. 1997/1984.

(c) The Consumer Prices Index figure is published on the website of the Office for National Statistics (www.ons.gov.uk).

(d) Article 4B was inserted by S.I. 2003/2398. Paragraphs (1A), (2A) and (3A) were inserted by S.I. 2007/2871. Paragraph (3A) was amended by S.I. 2008/3156. There are other amendments not relevant to this instrument.

- (b) notify each local authority of the local housing allowance determination made in accordance with sub-paragraph (a) for each broad rental market area falling within, in whole or in part, the area of that authority.”; and
- (c) for paragraph (3A) substitute—
 - “(3A) Any broad rental market area determination made in accordance with paragraph (1A) shall take effect—
 - (a) on the day the determination is made for the purpose of enabling a rent officer to determine a local housing allowance for that area; and
 - (b) for all other purposes on the next 1st April following the day on which the determination is made.
 - (3B) Any local housing allowance determination made in accordance with paragraph (2A) shall take effect on the next 1st April following the day on which the determination is made.”.
- (4) In Schedule 3B (broad rental market area determinations and local housing allowance determinations)(a)—
 - (a) in paragraph 1(1) (categories of dwelling)(b) for “article 4B(2A)(a)(i)” substitute “article 4B(2A)(a)”;
 - (b) in paragraph 2 (local housing allowance for category of dwelling in paragraph 1)(c)—
 - (i) after sub-paragraph (1) insert—
 - “(1A) Subject to sub-paragraph (12), the local housing allowance for a category of dwelling is—
 - (a) the rent at the 30th percentile determined in accordance with sub-paragraphs (2) to (10) where that does not exceed the amount determined in accordance with sub-paragraph (11); or
 - (b) in any other case, the amount determined in accordance with sub-paragraph (11).”;
 - (ii) omit sub-paragraph (9); and
 - (iii) for sub-paragraphs (11) and (12) substitute—
 - “(11) The amount to be determined by the rent officer for the purposes of sub-paragraph (1A) is as follows—
 - (a) where the applicable consumer prices index is a positive number, the local housing allowance last determined for that category of dwelling multiplied by the factor “M”; or
 - (b) where the applicable consumer prices index is a negative number or zero, the local housing allowance last determined for that category of dwelling.
 - (12) Where the local housing allowance would otherwise not be a whole number of pence, it must be rounded to the nearest whole penny by disregarding any amount less than half a penny and treating any amount of half a penny or more as a whole penny.
 - (13) In this paragraph the factor “M” is determined as follows—

$$M = 1 + (\text{CPI}/100)$$

(a) Schedule 3B was inserted by S.I. 2007/2871.
 (b) There are amendments not relevant to this Order.
 (c) Sub-paragraph (9) was substituted, sub-paragraph (11) was amended and sub-paragraph (12) was inserted by S.I. 2010/2836.

Amendment of the Rent Officers (Housing Benefit Functions) (Scotland) Order 1997

3.—(1) The Rent Officers (Housing Benefit Functions) (Scotland) Order 1997(a) is amended as follows.

(2) In article 2(1) (interpretation) before the definition of “assured tenancy” insert—

““applicable consumer prices index” in relation to any year means the consumer prices index of annual inflation as at September of that year published by the Office of National Statistics;”.

(3) In article 4B (broad rental market area determinations and local housing allowance determinations)(b)—

(a) in paragraph (1A) for “On 20th March 2008 and so often thereafter as a rent officer considers appropriate, a rent officer shall” substitute “At such times as a rent officer considers appropriate, a rent officer shall, if the Secretary of State agrees”; and

(b) for paragraph (2A) substitute—

“(2A) In 2012, and in each subsequent year, no more than 20 working days after the applicable consumer prices index is published, a rent officer shall—

(a) for each broad rental market area determine, in accordance with Schedule 3B, a local housing allowance for each of the categories of dwelling set out in paragraph 1 of Schedule 3B; and

(b) notify each local authority of the local housing allowance determination made in accordance with sub-paragraph (a) for each broad rental market area falling within, in whole or in part, the area of that authority.”; and

(c) for paragraph (3A) substitute—

“(3A) Any broad rental market area determination made in accordance with paragraph (1A) shall take effect—

(a) on the day the determination is made for the purpose of enabling a rent officer to determine a local housing allowance for that area; and

(b) for all other purposes on the next 1st April following the day on which the determination is made.

(3B) Any local housing allowance determination made in accordance with paragraph (2A) shall take effect on the next 1st April following the day on which the determination is made.”.

(4) In Schedule 3B (broad rental market area determinations and local housing allowance determinations)(c)—

(a) in paragraph 1(1) (categories of dwelling)(d) for “article 4B(2A)(a)(i)” substitute “article 4B(2A)(a)”;

(b) in paragraph 2 (local housing allowance for category of dwelling in paragraph 1)(e)—

(i) after sub-paragraph (1) insert—

“(1A) Subject to sub-paragraph (12), the local housing allowance for a category of dwelling is—

(a) the rent at the 30th percentile determined in accordance with sub-paragraphs (2) to (10) where that does not exceed the amount determined in accordance with sub-paragraph (11); or

(b) in any other case, the amount determined in accordance with sub-paragraph (11).”;

(a) S.I. 1997/1995.

(b) Article 4B was inserted by S.I. 2003/2398. Paragraphs (1A), (2A) and (3A) were inserted by S.I. 2007/2871. Paragraph (3A) was amended by S.I. 2008/3156. There are other amendments not relevant to this instrument.

(c) Schedule 3B was inserted by S.I. 2007/2871.

(d) There are amendments not relevant to this Order.

(e) Sub-paragraph (9) was substituted, sub-paragraph (11) was amended and sub-paragraph (12) was inserted by S.I. 2010/2836.

- (ii) omit sub-paragraph (9); and
- (iii) for sub-paragraphs (11) and (12) substitute—

“(11) The amount to be determined by the rent officer for the purposes of sub-paragraph (1A) is as follows—

- (a) where the applicable consumer prices index is a positive number, the local housing allowance last determined for that category of dwelling multiplied by the factor “M”; or
- (b) where the applicable consumer prices index is a negative number or zero, the local housing allowance last determined for that category of dwelling.

(12) Where the local housing allowance would otherwise not be a whole number of pence, it must be rounded to the nearest whole penny by disregarding any amount less than half a penny and treating any amount of half a penny or more as a whole penny.

(13) In this paragraph the factor “M” is determined as follows—

$$M = 1 + (\text{CPI}/100)$$

where “CPI” is the applicable consumer prices index in relation to the year in which the determination is made.”.

Signed by authority of the Secretary of State for Work and Pensions.

Freud
Parliamentary Under-Secretary of State,
Department for Work and Pensions

29th February 2012

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Rent Officers (Housing Benefit Functions) Order 1997 (“the Rent Officers Order”) and the Rent Officers (Housing Benefit Functions) (Scotland) Order 1997 to make changes to the way in which rent officers determine broad rental market areas (“BRMAs”) and the local housing allowance (“LHA”).

Article 2(3) amends article 4B of the Rent Officers Order. Sub-paragraph (a) amends paragraph (1A) so that where a rent officer considers that one or more BRMAs need to be determined, a determination will only be made where the Secretary of State agrees the rent officer should do so.

Sub-paragraph (b) substitutes paragraph (2A) so that a rent officer determines LHA rates annually in accordance with Schedule 3B no more than 20 working days after the publication of the consumer prices index (“CPI”) as at September of that year.

Sub-paragraph (c) substitutes paragraph (3A) so that a BRMA determination take effect on the day it is made for the purpose of allowing a rent officer to determine an LHA and from the 1st April after it is made for other purposes. Sub-paragraph (c) also inserts a new paragraph (3B) which provides that an LHA determinations take effect from the 1st April after it is made.

Article 2(4) amends Schedule 3B to the Rent Officers Order. Sub-paragraph (a) makes an amendment to paragraph 1 consequential on the substitution of article 4B(2A) by article 2(3)(b) of this Order.

Sub-paragraph (b) amends paragraph 2 to change the way in which the LHA is determined. A new sub-paragraph (1A) is inserted so that the LHA is the lower of the rent at the 30th percentile of listed rents or the previous year’s LHA increased by reference to CPI.

Sub-paragraphs (11) and (12) are substituted by new sub-paragraphs (11) to (13) which have the following effect. Sub-paragraph (11) provides for the method of increasing the LHA by reference to CPI. Where the CPI published in any year is not a positive number or is zero, the rent at the 30th percentile will be compared with the previous year’s LHA rate. Sub-paragraph (12) provides for the LHA to be rounded to the nearest whole penny.

Article 3 makes equivalent amendments to the Rent Officers (Housing Benefit Functions) (Scotland) Order 1997.

A full impact assessment has not been published for this instrument as it has no impact on the private sector or civil society organisations.

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STATUTORY INSTRUMENTS

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£4.00

E2822 03/2012 122822T 19585

ISBN 978-0-11-152116-8



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