

## **Explanatory Memorandum**

### **The Rent Officers (Housing Benefit Functions)(Student Accommodation) Amendment Order 2004**

**S.I. 2004 No. 2101**

This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty

#### **Description**

This Order amends the definition of “assured tenancy” in the Rent Officers (Housing Benefit Functions) Order 1997 and the Rent Officers (Housing Benefit Functions)(Scotland) Order 1997 (“the 1997 Orders”) so that a rent officer must take account of rent levels in student accommodation when making determinations for the purpose of those Orders.

#### **Matters of special interest to the Joint Committee on Statutory Instruments**

None.

#### **Legislative Background**

The Social Security (Students and Income-related Benefits) Amendment Regulations 2004 included a provision to enable certain vulnerable students to be eligible for housing benefit in respect of accommodation they rent from their educational establishment. Because students in this type of accommodation were not previously entitled to housing benefit, such accommodation was not included in the definition of “assured tenancy” in the 1997 Orders for the purposes of making rent officer determinations.

It is a fundamental principle that people receiving housing benefit should not have their rent met in full if their rent level exceeds the broadly average rent level for an appropriate sized property in the area in which they live. Claims received from those in the private rented sector will generally be referred to the Rent Officer by the local authority for a rental valuation to determine the housing benefit claim.

One of the rent determinations that the Rent Officer must carry out is a Local Reference Rent determination(or Single Room Rent for certain young individuals under 25). Rent Officers have to determine, using their own expertise and judgement, the locality in which the relevant dwelling is situated. Having established the locality, they then disregard any rents that are unrepresentatively high or low for a similar property size. The Local Reference Rent/Single Room Rent is then calculated by taking the mid-point of the remaining rents.

The rents of student accommodation are currently not included in the calculation of the Local Reference Rents/Single Room Rents – on the basis that people in such properties could not claim housing benefit. However, with the introduction of the Social Security (Student and Income-related Benefits) Amendment Regulations 2004, this will no longer be the case. Hence there is a need to amend the 1997 Orders to include student accommodation in the definition of assured tenancies and consequently in the calculation of the Local Reference Rents/Single Room Rent. This will be achieved by including in that definition those tenancies which would be assured tenancies were it not for the fact that they were student accommodation. We have been informed by The Rent Service that without this change they could be challenged on the evidence used.

### **Extent**

This Order extends to Great Britain.

### **European Convention on Human Rights**

Not applicable.

### **Policy Background**

The Social Security (Student and Income-related Benefits) Amendment Regulations 2004, laid on 3<sup>rd</sup> July 2004, included a change to implement the Budget announcement to remove the provision which prevents certain vulnerable students from claiming housing benefit where their accommodation is rented from an educational establishment. This change will take effect from 1<sup>st</sup> September 2004, unless the period of study began on or after 1<sup>st</sup> August, but before 1<sup>st</sup> September in which case it will take effect from the day on which the period of study began.

By vulnerable students we mean, for example, those getting income support or income-based jobseekers' allowance, lone parents, pensioners and certain disabled students. The number of people expected to be affected by this change is likely to be low, approximately 4800 nationally.

In order that rent officers take account of the rents of educational institutions when making their determinations, this Order amends the existing definition of "assured tenancy" in each of the 1997 Orders to include this type of student accommodation within that definition. We would not expect this change to have a significant impact on Local Reference Rent or Single Room Rent levels but we have asked The Rent Service to monitor it.

Although under no statutory obligation to consult representatives of local authorities about proposals to make this Order, we have informally given them the opportunity to comment on a draft of the Order. The Local Authority Associations supported the amendments.

**Impact**

A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on the costs of business, charities or voluntary bodies.

**Contact**

Maggie Simpkin at the Department for Work and Pensions,

Tel: 020 7962 8268

E mail: [maggie.simpkin@dwp.gsi.gov.uk](mailto:maggie.simpkin@dwp.gsi.gov.uk)

Can answer any queries regarding this instrument.

***Department for Work and Pensions  
20 August 2004***