

[<sup>F1</sup>SCHEDULE 10

Regulation 122

Former pathfinder authorities

**Textual Amendments**

**F1** Sch. 10 substituted (7.4.2008) by [The Housing Benefit \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2868\)](#), regs. 1(4), **20(2)**

**PART 1**

**Former pathfinder authorities**

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**Pathfinder authority**

Argyll and Bute

Blackpool

Brighton and Hove

Conwy

Coventry

East Riding of Yorkshire

Edinburgh

Guildford

Leeds

Lewisham

North East Lincolnshire

Norwich

Pembrokeshire

St Helens

Salford

South Norfolk

Teignbridge

Wandsworth

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**PART 2**

**Application of the Regulations**

**1.** These Regulations shall apply to former pathfinder authorities subject to the provisions of this Part of this Schedule.

## Amendment of regulation 2

2. In regulation 2(1) (interpretation)—
  - (a) in the definition of “eligible rent”, in sub-paragraph (a) for “or 12D (eligible rent and maximum rent (LHA))” substitute “, 12D (eligible rent and maximum rent (LHA)) or any of regulations 12E to 12K (transitional protection for pathfinder cases)”;
  - (b) after the definition of “maximum rent (LHA)” insert—

““maximum rent (standard local rent)” means a maximum rent (standard local rate) determined in accordance with regulation 13A;”.

## Amendment of regulation 11

3. In regulation 11(1) (eligible housing costs)—
  - (a) in paragraph (c) omit “or”; and
  - (b) after sub-paragraph (d) insert—

“; or
  - (e) any of regulations 12E to 12K (transitional protection for pathfinder cases) and regulations 13C (when a maximum rent (LHA) is to be determined) and 13D (determination of a maximum rent (LHA)),”.

## Amendment of regulation 12B

4. [<sup>F2</sup>In regulation 12B(1) (eligible rent) after sub-paragraph (c) insert—

“(ca) any of regulations 12E to 12K (transitional protection for pathfinder cases);”]

### Textual Amendments

- F2** Sch. 10 para. 4 substituted (1.4.2013) by [The Housing Benefit \(Amendment\) Regulations 2012 \(S.I. 2012/3040\)](#), regs. 1(3), **5(9)**

## Amendment of regulation 12D

5. In regulation 12D (eligible rent and maximum rent (LHA)) before paragraph (1) insert—

“(A1) This regulation shall not apply where any of regulations 12E to 12K (transitional protection for pathfinder cases) apply.”

## Insertion of regulations 12E to 12K

6. After regulation 12D (eligible rent and maximum rent (LHA)) insert—

### “Basic transitional protection for pathfinder cases

- 12E.**—(1) This regulation applies where—
- (a) reference was made to a maximum rent (standard local rate) in determining the amount of the eligible rent which applied immediately before 7th April 2008;
  - (b) on 7th April 2008 the local authority determines a maximum rent (LHA) by virtue of regulation 13C(4A)(a); and

- (c) regulations 12F (cases where the claimant enjoyed protection on death before 7th April 2008) and 12G (cases where the claimant enjoyed 13 week protection before 7th April 2008) do not apply.
- (2) Where this regulation applies, the claimant's eligible rent is—
  - (a) the maximum rent (LHA) where that is higher than the eligible rent which applied immediately before 7th April 2008; or
  - (b) the amount of the eligible rent which applied immediately before 7th April 2008.
- (3) Where the eligible rent is the amount of the eligible rent which applied immediately before 7th April 2008, it will continue to apply until, on or after 7th April 2008, the first of the following events occurs—
  - (a) the relevant authority is required to determine a maximum rent (LHA) by virtue of regulation 13C(2)(d)(i) (change of category of dwelling) because the claimant has become entitled to a larger category of dwelling and the maximum rent (LHA) is higher than that eligible rent;
  - (b) the relevant authority is required to determine a maximum rent (LHA) by virtue of regulation 13C(2)(d)(i) (change of category of dwelling) because the claimant has become entitled to a smaller category of dwelling;
  - (c) the relevant authority is required to determine an eligible rent following a change of dwelling;
  - (d) the relevant authority is required to determine an eligible rent in accordance with regulation 12H (cases where a death occurs in the first year on or after 7th April 2008) following the death of a linked person;
  - (e) the relevant authority determines a maximum rent (LHA) on 7th April 2009 by virtue of regulation 13C(4A)(b).
- (4) Where the eligible rent is the maximum rent (LHA), it shall be treated as if it had been determined in accordance with regulation 12D(2)(a) (eligible rent is maximum rent (LHA)) and shall apply according to the provisions of regulation 12D (eligible rent and maximum rent (LHA)).

#### **Cases where the claimant enjoyed protection on death before 7th April 2008**

- 12F.**—(1) This regulation applies where—
- (a) immediately before 7th April 2008 the claimant enjoyed protection on death in accordance with regulation 12A(4)(a)(ii) (pathfinder protection on death based on reckonable rent); and
  - (b) on 7th April 2008 the local authority determines a maximum rent (LHA) by virtue of regulation 13C(4A)(a).
- (2) Where this regulation applies, the claimant's eligible rent is—
- (a) the maximum rent (LHA) where that is higher than the eligible rent which applied immediately before 7th April 2008; or
  - (b) the amount of the eligible rent which applied immediately before 7th April 2008.
- (3) Where the eligible rent is the amount of the eligible rent which applied immediately before 7th April 2008, it will continue to apply until, on or after 7th April 2008, the first of the following events occurs —
- (a) the end of 12 months after the death to which the protection relates;

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- (b) the relevant authority is required to determine a maximum rent (LHA) by virtue of regulation 13C(2)(d)(i) (change of category of dwelling) and it is higher than that eligible rent;
- (c) the relevant authority is required to determine an eligible rent following a change of dwelling;
- (d) the relevant authority is required to determine an eligible rent in accordance with regulation 12H (cases where a death occurs in the first year on or after 7th April 2008) following the death of a linked person;

(4) Where the eligible rent ceases to apply because of paragraph (3)(a), the eligible rent will be the maximum rent (LHA) which would have applied but for the transitional protection.

(5) Where the eligible rent is the maximum rent (LHA), it shall be treated as if it had been determined in accordance with regulation 12D(2)(a) (eligible rent is maximum rent (LHA)) and shall apply according to the provisions of regulation 12D (eligible rent and maximum rent (LHA)).

#### **Cases where the claimant enjoyed 13 week protection before 7th April 2008**

**12G.**—(1) This regulation applies where—

- (a) immediately before 7th April 2008 the claimant enjoyed 13 week protection in accordance with regulation 12A(6)(a) (local housing allowance pathfinder 13 week protection); and
- (b) on 7th April 2008 the local authority determines a maximum rent (LHA) by virtue of regulation 13C(4A)(a).

(2) Where this regulation applies, the claimant's eligible rent is—

- (a) the maximum rent (LHA) where that is higher than the eligible rent which applied immediately before 7th April 2008; or
- (b) the amount of the eligible rent which applied immediately before 7th April 2008.

(3) Where the eligible rent is the amount of the eligible rent which applied immediately before 7th April 2008, it will continue to apply until, on or after 7th April 2008, the first of the following events occurs —

- (a) the end of the day when the protection expires, namely 13 weeks after the date of the claim;
- (b) the relevant authority is required to determine a maximum rent (LHA) by virtue of regulation 13C(2)(d)(i) (change of category of dwelling) and it is higher than that eligible rent;
- (c) the relevant authority is required to determine an eligible rent following a change of dwelling;
- (d) the relevant authority is required to determine an eligible rent in accordance with regulation 12H (cases where a death occurs in the first year on or after 7th April 2008) following the death of a linked person.

(4) Where the eligible rent ceases to apply because of paragraph (3)(a), the eligible rent will be the maximum rent (LHA) which would have applied but for the transitional protection.

(5) Where the eligible rent is the maximum rent (LHA), it shall be treated as if it had been determined in accordance with regulation 12D(2)(a) (eligible rent is maximum rent (LHA)) and shall apply according to the provisions of regulation 12D (eligible rent and maximum rent (LHA)).

### **Cases where a death occurs in the first year on or after 7th April 2008**

**12H.**—(1) This regulation applies where—

- (a) the eligible rent is that specified in regulation 12E(2)(b) (basic transitional protection for pathfinder cases), 12F(2)(b) (transitional protection where the claimant enjoyed protection on death before 7th April 2008), 12G(2)(b) (transitional protection where the claimant enjoyed 13 week protection before 7th April 2008) or paragraph (2)(b) of this regulation;
- (b) a linked person dies on or after 7th April 2008 and before 7th April 2009;
- (c) the claimant occupies the same dwelling as the linked person at the date of death; and
- (d) the relevant authority determines a maximum rent (LHA) by virtue of regulation 13C(2)(d)(i) or (ii) (change of category of dwelling or death of a linked person).

(2) Where this regulation applies, the claimant's eligible rent is—

- (a) the maximum rent (LHA) where that is higher than the eligible rent which applied immediately before the date of the death; or
- (b) the amount of the eligible rent which applied immediately before the date of the death.

(3) Where the eligible rent is the amount of the eligible rent which applied immediately before the date of death, it will continue to apply until, on or after the date of the death, the first of the following events occurs —

- (a) the end of 12 months from the date of the death;
- (b) the relevant authority is required to determine a maximum rent (LHA) by virtue of regulation 13C(2)(d)(i) (change of category of dwelling) and it is higher than that eligible rent;
- (c) the relevant authority is required to determine an eligible rent following a change of dwelling;
- (d) the relevant authority is required to determine an eligible rent in accordance with this regulation following the death of another linked person.

(4) Where the eligible rent is the maximum rent (LHA), it shall be treated as if it had been determined in accordance with regulation 12D(2)(a) (eligible rent is maximum rent (LHA)) and shall apply according to the provisions of regulation 12D (eligible rent and maximum rent (LHA)).

(5) For the purposes of paragraph (1)(c), a claimant shall be treated as occupying the dwelling if regulation 7(13) is satisfied and for that purpose paragraph (13) of regulation 7 shall have effect as if sub-paragraph (b) were omitted.

### **Basic transitional protection in the second year and subsequent years after 7th April 2008**

**12I.**—(1) This regulation applies where—

- (a) immediately before 7th April 2009 the claimant was enjoying basic transitional protection under regulation 12E; and
- (b) the local authority determines a maximum rent (LHA) by virtue of 13C(4A)(b) on 7th April 2009.

(2) Where this regulation applies, the claimant's eligible rent is—

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- (a) the maximum rent (LHA) where it is higher than the eligible rent applying immediately before 7th April 2008; or
  - (b) in any other case, the lower of—
    - (i) the amount of the eligible rent applying immediately before 7th April 2008; or
    - (ii) the amount of the cap rent by reference to which the maximum rent (LHA) was determined<sup>F3</sup>....
- (3) Where the claimant's eligible rent is determined in accordance with paragraph (2)(b), it continues to apply until, on or after 7th April 2009, the first of the following events occurs—
- (a) the relevant authority is required to determine a maximum rent (LHA) by virtue of regulation 13C(2)(d)(i) (change of category of dwelling) because the claimant has become entitled to a larger category of dwelling or 13C(3) (anniversary of the LHA date) and the maximum rent (LHA) is higher than that eligible rent;
  - (b) the relevant authority is required to determine a maximum rent (LHA) by virtue of regulation 13C(2)(d)(i) (change of category of dwelling) because the claimant has become entitled to a smaller category of dwelling;
  - (c) the relevant authority is required to determine an eligible rent following a change of dwelling;
  - (d) the relevant authority is required to determine an eligible rent in accordance with regulation 12K (protection on death in the second and subsequent years after 7th April 2008) following the death of a linked person.
- (4) Where the eligible rent is the maximum rent (LHA), it shall be treated as if it had been determined in accordance with regulation 12D(2)(a) (eligible rent is maximum rent (LHA)) and shall apply according to the provisions of regulation 12D (eligible rent and maximum rent (LHA)).

**Transitional protection in the second year after 7th April 2008 where the claimant is already enjoying protection on death**

- 12J.**—(1) This regulation applies where—
- (a) immediately before 7th April 2009 the claimant was enjoying transitional protection on death under regulation 12H (cases where a death occurs in the first year on or after 7th April 2008); and
  - (b) the local authority determines a maximum rent (LHA) by virtue of regulation 13C(4A)(b) on 7th April 2009 .
- (2) Where this regulation applies, the claimant's eligible rent is—
- (a) the maximum rent (LHA) where that is higher than the eligible rent which applied immediately before the date of the death to which the protection relates; or
  - (b) the amount of the eligible rent which applied immediately before the date of the death.
- (3) Where the eligible rent which applies is the one that applied immediately before the date of the death, it continues to apply until, on or after the date of the death, the first of the following events occurs—
- (a) the end of 12 months after the date of the death to which the protection relates;

- (b) the relevant authority is required to determine a maximum rent (LHA) by virtue of regulation 13C(2)(d)(i) (change of category of dwelling) and it is higher than that eligible rent;
- (c) the relevant authority is required to determine an eligible rent following a change of dwelling;
- (d) the relevant authority is required to determine an eligible rent in accordance with regulation 12K (protection on death in the second and subsequent years after 7th April 2008) following the death of a linked person.

(4) Where the eligible rent ceases to apply because of paragraph (3)(a) the eligible rent is the one that would have applied if the relevant authority not determined an eligible rent in accordance with regulation 12H(2)(b) (transitional protection where a death occurs in the first year on or after 7th April 2008).

(5) Where the eligible rent is the maximum rent (LHA), it shall be treated as if it had been determined in accordance with regulation 12D(2)(a) (eligible rent is maximum rent (LHA)) and shall apply according to the provisions of regulation 12D (eligible rent and maximum rent (LHA)).

#### **Protection on death in the second and subsequent years after 7th April 2008**

**12K.**—(1) This regulation applies where—

- (a) the claimant's eligible rent is that specified in regulation 12I(2)(b) (basic transitional protection in the second and subsequent years after 7th April 2008), 12J(2)(b) (transitional protection in the second year after 7th April 2008 where the claimant is already enjoying protection on death) or paragraph (2)(b) of this regulation;
- (b) a linked person dies on or after 7th April 2009;
- (c) the claimant occupies the same dwelling as the linked person at the date of death; and
- (d) the relevant authority determines a maximum rent (LHA) by virtue of regulation 13C(2)(d)(i) or (ii) (change of category of dwelling or death of a linked person).

(2) Where this regulation applies, the claimant's eligible rent is—

- (a) the maximum rent (LHA) where that is higher than the eligible rent which applied immediately before the date of the death; or
- (b) the amount of eligible rent which applied immediately before the death.

(3) Where the eligible rent which applies is the one that applied immediately before the date of the death, it will continue to apply until, on or after the date of the death, the first of the following events occurs—

- (a) the end of 12 months from the date of the death;
- (b) the relevant authority is required to determine a maximum rent (LHA) by virtue of regulation 13C(2)(d)(i) or (3) (change of category of dwelling or anniversary of the LHA date) and it is higher than that eligible rent;
- (c) the relevant authority is required to determine an eligible rent following a change of dwelling;
- (d) the relevant authority is required to determine an eligible rent in accordance with this regulation following the death of another linked person.

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(4) Where the eligible rent ceases to apply because of paragraph (3)(a) the eligible rent is the one that would have applied but had the relevant authority not determined an eligible rent in accordance with this regulation.

(5) Where the eligible rent is the maximum rent (LHA), it shall be treated as if it had been determined in accordance with regulation 12D(2)(a) (eligible rent is maximum rent (LHA)) and shall apply according to the provisions of regulation 12D (eligible rent and maximum rent (LHA)).

(6) For the purposes of paragraph (1)(c), a claimant shall be treated as occupying the dwelling if regulation 7(13) is satisfied and for that purpose paragraph (13) of regulation 7 shall have effect as if sub-paragraph (b) were omitted.”.

#### Textual Amendments

**F3** Words in Sch. 10 para. 6 omitted (1.4.2011) by virtue of [The Housing Benefit \(Amendment\) Regulations 2010 \(S.I. 2010/2835\)](#), regs. 1, **2(11)**

#### Amendment of regulation 13C

7. In regulation 13C (when a maximum rent (LHA) is to be determined)—

- (a) in paragraph (1) for “paragraphs (2) or (3)” substitute “paragraphs (2), (3) or (4A)”;
- (b) in paragraph (3) after “LHA date” insert “except where paragraph (4A)(b) applies”;
- (c) after paragraph (4) insert—

“(4A) This paragraph applies where it is—

- (a) 7th April 2008 and reference was made to a maximum rent (standard local rate) in determining the amount of the eligible rent which applied immediately before 7th April 2008; or
- (b) 7th April 2009 and the eligible rent which applies on that date was determined in accordance with regulation 12E(2)(b) (basic transitional protection for pathfinder cases) or 12H(2)(b) (transitional protection where a death occurs in the first year on or after 7th April 2008).”.

#### Amendment of regulation 13D

8. In regulation 13D(12) (determination of a maximum rent (LHA)) in the definition of “relevant date” after sub-paragraph (c) insert—

- “(d) 7th April 2008;
- (e) 7th April 2009.”.]



**Changes to legislation:**

There are currently no known outstanding effects for the The Housing Benefit Regulations 2006, SCHEDULE 10.