
STATUTORY INSTRUMENTS

2006 No. 214

The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006

PART 3

Payments in respect of a dwelling

Eligible housing costs

11.—^[F1](1) Subject to the following provisions of this regulation, housing benefit shall be payable in respect of the payments specified in regulation 12(1) (rent) and a claimant's maximum housing benefit shall be calculated under Part 7 (amount of benefit) by reference to the amount of his eligible rent determined in accordance with—

- (a) regulation 12B (eligible rent);
- (b) regulations 12C (eligible rent and maximum rent), 13 (maximum rent), 13ZA (protection on death and 13 week protection) and 13ZB (change in reckonable rent);
- (c) regulations 12D (eligible rent and maximum rent (LHA)), 13C (when a maximum rent (LHA) is to be determined) and 13D (determination of a maximum rent (LHA)); or
- (d) regulations 12 (rent) and 13 (restrictions on unreasonable payments) as set out in paragraph 5 of Schedule 3 to the Consequential Provisions Regulations ,

whichever is applicable in his case.]

(2) Where any payment for which a person is liable in respect of a dwelling and which is specified in regulation 12(1) (payments of rent for which housing benefit is payable), is increased on account of—

- (a) outstanding arrears of any payment or charge; or
- (b) any other unpaid payment or charge,

to which ^[F2]paragraphs (1) or (2) of that regulation or paragraph (2) of regulation 12B] or Schedule 1 (ineligible service charges) refer and which is or was formerly owed by him in respect of that or another dwelling, a rent rebate or, as the case may be, a rent allowance shall not be payable in respect of that increase.

Textual Amendments

- F1** Reg. 11(1) substituted (with application in accordance with reg. 1(5)(6)(7) of the amending S.I.) by [Housing Benefit \(State Pension Credit\) \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2869\)](#), regs. 1(3), **4(3)(a)**
- F2** Words in reg. 11(2) substituted (with application in accordance with reg. 1(5)(6)(7) of the amending S.I.) by [Housing Benefit \(State Pension Credit\) \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2869\)](#), regs. 1(3), **4(3)(b)**

Status: Point in time view as at 07/04/2008.

Changes to legislation: There are currently no known outstanding effects for the The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, PART 3. (See end of Document for details)

Rent

12.—(1) Subject to the following provisions of this regulation, the payments in respect of which housing benefit is payable in the form of a rent rebate or allowance are the following periodical payments which a person is liable to make in respect of the dwelling which he occupies as his home—

- (a) payments of, or by way of, rent;
- (b) payments in respect of a licence or permission to occupy the dwelling;
- (c) payments by way of mesne profits or, in Scotland, violent profits;
- (d) payments in respect of, or in consequence of, use and occupation of the dwelling;
- (e) payments of, or by way of, service charges payment of which is a condition on which the right to occupy the dwelling depends;
- (f) mooring charges payable for a houseboat;
- (g) where the home is a caravan or a mobile home, payments in respect of the site on which it stands;
- (h) any contribution payable by a person resident in an almshouse provided by a housing association which is either a charity of which particulars are entered in the register of charities established under section 3 of the Charities Act 1993 ^{F3} (register of charities) or an exempt charity within the meaning of that Act, which is a contribution towards the cost of maintaining that association's almshouses and essential services in them;
- (i) payments under a rental purchase agreement, that is to say an agreement for the purchase of a dwelling which is a building or part of one under which the whole or part of the purchase price is to be paid in more than one instalment and the completion of the purchase is deferred until the whole or a specified part of the purchase price has been paid; and
- (j) where, in Scotland, the dwelling is situated on or pertains to a croft within the meaning of section 3(1) of the Crofters (Scotland) Act 1993 ^{F4}, the payment in respect of the croft land.

(2) A rent rebate or, as the case may be, a rent allowance shall not be payable in respect of the following periodical payments—

- (a) payments under a long tenancy except a shared ownership tenancy ^{F5} ...;
- (b) payments under a co-ownership scheme;
- (c) payments by an owner;
- (d) payments under a hire purchase, credit sale or conditional sale agreement except to the extent the conditional sale agreement is in respect of land; and
- (e) payments by a Crown tenant.
- ^{F6}(f) payments by a person in respect of a dwelling where his partner is an owner of that dwelling.]

- ^{F7}(3)
- ^{F7}(4)
- ^{F7}(5)
- ^{F7}(6)
- ^{F7}(7)

(8) In this regulation [^{F8}, regulation 12B (eligible rent)] and Schedule 1 (ineligible service charges)

“service charges” means periodical payments for services, whether or not under the same agreement as that under which the dwelling is occupied, or whether or not such a charge is

specified as separate from or separately identified within other payments made by the occupier in respect of the dwelling; and

“services” means services performed or facilities (including the use of furniture) provided for, or rights made available to, the occupier of a dwelling.

Textual Amendments

- F3** 1993 c. 10.
- F4** 1993 c. 44.
- F5** Words in reg. 12(2)(a) omitted (1.10.2007) by virtue of [The Housing Benefit \(Amendment\) Regulations 2007 \(S.I. 2007/1356\)](#), regs. 1(2), **3(4)(a)**
- F6** Reg. 12(2)(f) inserted (1.10.2007) by [The Housing Benefit \(Amendment\) Regulations 2007 \(S.I. 2007/1356\)](#), regs. 1(2), **3(4)(b)**
- F7** [Reg. 12\(3\)-\(7\)](#) omitted (with application in accordance with reg. 1(5)(6)(7) of the amending S.I.) by virtue of [Housing Benefit \(State Pension Credit\) \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2869\)](#), regs. 1(3), **4(4)(a)**
- F8** Words in [reg. 12\(8\)](#) inserted (with application in accordance with reg. 1(5)(6)(7) of the amending S.I.) by [Housing Benefit \(State Pension Credit\) \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2869\)](#), regs. 1(3), **4(4)(b)**

Modifications etc. (not altering text)

- C1** Reg. 12(1)(a) applied by SI 2005/1379 reg. 14 (as amended) (6.3.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 2 para. 26** (with regs. 2, 3, Sch. 3, Sch. 4)

[^{F9}Eligible rent

12B.—(1) The amount of a person’s eligible rent shall be determined in accordance with the provisions of this regulation except where regulations 12C (eligible rent and maximum rent) or 12D (eligible rent and maximum rent (LHA)) apply, or paragraph 4 of Schedule 3 to the Consequential Provisions Regulations applies.

(2) Subject to paragraphs (3), (4) and (6), the amount of a person’s eligible rent shall be the aggregate of such payments specified in regulation 12(1) as that person is liable to pay less—

- (a) except where he is separately liable for charges for water, sewerage or allied environmental services, an amount determined in accordance with paragraph (5);
- (b) where payments include service charges which are wholly or partly ineligible, an amount in respect of the ineligible charges determined in accordance with Schedule 1; and
- (c) where he is liable to make payments in respect of any service charges to which regulation 12(1)(e) does not apply, but to which paragraph 3(2) of Part 1 of Schedule 1 (unreasonably low service charges) applies in the particular circumstances, an amount in respect of such charges determined in accordance with paragraph 3(2) of Part 1 of Schedule 1.

(3) Where the payments specified in regulation 12(1) are payable in respect of accommodation which consists partly of residential accommodation and partly of other accommodation, only such proportion of those payments as is referable to the residential accommodation shall count as eligible rent for the purposes of these Regulations.

(4) Where more than one person is liable to make payments in respect of a dwelling, the payments specified in regulation 12(1) shall be apportioned for the purpose of calculating the eligible rent for each such person having regard to all the circumstances, in particular, the number of such persons and the proportion of rent paid by each such person.

Status: Point in time view as at 07/04/2008.

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- (5) The amount of the deduction referred to in paragraph (2) shall be—
- (a) if the dwelling occupied by the claimant is a self-contained unit, except in a case to which sub-paragraph (c) applies, the amount of the charges;
 - (b) in any other case, except one to which sub-paragraph (c) applies, the proportion of those charges in respect of the self-contained unit which is obtained by dividing the area of the dwelling occupied by the claimant by the area of the self-contained unit of which it forms part;
 - (c) where the charges vary in accordance with the amount of water actually used, the amount which the appropriate authority considers to be fairly attributable to water, and sewerage services, having regard to the actual or estimated consumption of the claimant.
- (6) In any case where it appears to the relevant authority that in the particular circumstances of that case the eligible rent as determined in accordance with the preceding paragraphs of this regulation is greater than it is reasonable to meet by way of housing benefit, the eligible rent shall be such lesser sum as seems to that authority to be an appropriate rent in that particular case.

Textual Amendments

F9 Regs. 12B-12D inserted (with application in accordance with reg. 1(5)(6)(7) of the amending S.I.) by [Housing Benefit \(State Pension Credit\) \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2869\)](#), regs. 1(3), 5

Eligible rent and maximum rent

12C.—(1) This regulation applies where a maximum rent has been, or is to be, determined in accordance with regulation 13 (maximum rent).

(2) Where this regulation applies the amount of a person's eligible rent shall be the maximum rent, subject to paragraphs (3), (4) and (6) of regulation 12B.

Textual Amendments

F9 Regs. 12B-12D inserted (with application in accordance with reg. 1(5)(6)(7) of the amending S.I.) by [Housing Benefit \(State Pension Credit\) \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2869\)](#), regs. 1(3), 5

Eligible rent and maximum rent (LHA)

12D.—(1) This regulation applies where, by virtue of paragraphs (2) or (3) of regulation 13C (when a maximum rent (LHA) is to be determined), a maximum rent (LHA) has been, or is to be, determined in accordance with regulation 13D (determination of a maximum rent (LHA)).

(2) Where this regulation applies, except where paragraphs (3)(a) (protection on death) or (5) (a) (13 week protection) apply,—

- (a) the amount of a person's eligible rent shall be the maximum rent (LHA); and
- (b) it shall apply until the earlier of—
 - (i) the determination of a maximum rent (LHA) by virtue of regulation 13C(2)(d) (change of category of dwelling, death or change of dwelling for an LHA case);
 - (ii) the determination of a maximum rent (LHA) by virtue of regulation 13C(3) (anniversary of LHA date); or

(iii) the determination of a maximum rent by virtue of regulation 13 or an eligible rent under regulation 12B.

(3) Subject to paragraph (7), where the relevant authority is required to determine a maximum rent (LHA) by virtue of regulation 13C(2)(a), (b) (new claim on or after 7th April 2008) or (d)(i) or (ii) (change of category of dwelling or death relating to an LHA case) and the claimant occupies a dwelling which is the same as that occupied by him at the date of death of any linked person, the eligible rent shall be—

(a) either—

(i) the eligible rent which applied on the day before the death occurred; or

(ii) in a case where there was no eligible rent, subject to regulation 12B(3) (mixed use accommodation), (4) (more than one person liable to make payments) and (6) (discretion in relation to eligible rent), the reckonable rent due on that day; or

(b) the eligible rent determined in accordance with paragraph (2), where it is equal to or more than the eligible rent determined in accordance with sub-paragraph (a).

(4) For the purpose of paragraph (3), a claimant shall be treated as occupying the dwelling if paragraph (13) of regulation 7 (circumstances in which a person is or is not to be treated as occupying a dwelling as his home) is satisfied and for that purpose paragraph (13) shall have effect as if sub-paragraph (b) of that paragraph were omitted.

(5) Subject to paragraphs (6) and (7), where a relevant authority is required to determine a maximum rent (LHA) by virtue of regulation 13C(2)(a) or (b) (new claim on or after 7th April 2008) and the relevant authority is satisfied that the claimant or a linked person was able to meet the financial commitments for his dwelling when they were entered into, the eligible rent shall be—

(a) an eligible rent determined in accordance with regulation 12B(2); or

(b) the eligible rent determined in accordance with paragraph (2), where it is equal to or more than the eligible rent referred to in sub-paragraph (a).

(6) Paragraph (5) shall not apply where a claimant or the claimant's partner, was previously entitled to benefit in respect of an award of housing benefit which fell wholly or partly less than 52 weeks before the commencement of the claimant's current award of housing benefit.

(7) Where a person's eligible rent has been determined in accordance with—

(a) paragraph (3)(a) (protection on death), it shall apply until the first of the following events occurs—

(i) the period of 12 months from the date of death has expired;

(ii) the relevant authority determines an eligible rent in accordance with paragraph (2) which is equal to or exceeds it or is based on a maximum rent (LHA) determined by virtue of regulation 13C(2)(d)(iii) (change of dwelling);

(iii) the determination of an eligible rent in accordance with paragraph (3)(a) (protection on death) in relation to a subsequent death; or

(iv) the determination of a maximum rent by virtue of regulation 13 or an eligible rent under regulation 12B.

(b) paragraph (5)(a) (13 week protection), it shall apply until the first of the following events occurs—

(i) the first 13 weeks of the claimant's award of housing benefit have expired;

(ii) the relevant authority determines an eligible rent in accordance with paragraph (2) which is equal to or exceeds it or is based on a maximum rent (LHA) determined by virtue of regulation 13C(2)(d)(iii) (change of dwelling);

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- (iii) the determination of an eligible rent in accordance with paragraph (3)(a) (protection on death); or
- (iv) the determination of a maximum rent by virtue of regulation 13 or an eligible rent under regulation 12B.

(8) Where an eligible rent ceases to apply by virtue of paragraph (7)(a)(i) (expiry of protection on death) or (7)(b)(i) (expiry of 13 week protection), the eligible rent that shall apply instead shall be the one which would have applied but for paragraphs (3)(a) and (5)(a).]

Textual Amendments

F9 Regs. 12B-12D inserted (with application in accordance with reg. 1(5)(6)(7) of the amending S.I.) by [Housing Benefit \(State Pension Credit\) \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2869\)](#), regs. 1(3), 5

Maximum rent

[^{F10}13.—(1) The maximum rent shall be determined in accordance with paragraphs (2) to (6) where—

- (a) a local authority has applied for a determination in accordance with regulation 14 (requirement to refer to rent officers), a redetermination in accordance with regulation 15 or 16, or a substitute determination or substitute redetermination in accordance with regulation 17 and a rent officer has made a determination, redetermination, substitute determination or substitute redetermination in exercise of the Housing Act functions; or
- (b) an authority is not required to apply to the rent officer for a determination because—
 - (i) regulation 14(2)(a) applies; or
 - (ii) regulation 14(2)(b) applies because paragraph 2(2) of Schedule 2 applies.

(2) In a case where the rent officer has determined a claim-related rent, but is not required to notify the relevant authority of a local reference rent, the maximum rent shall be that claim-related rent.

(3) Subject to the limit specified in paragraph (4), in a case where the rent officer has determined both a local reference rent of which he is required to notify the relevant authority and a claim-related rent, the maximum rent shall be the local reference rent.

(4) In a case to which paragraph 8 of Schedule 3 to the Consequential Provisions Regulations applies, where the rent officer has determined and is required to notify the relevant authority of a local reference rent the maximum rent shall not exceed twice that local reference rent.

(5) Where the maximum rent is derived from—

- (a) a claim-related rent and the notification under paragraph 9(1)(c) of Schedule 1 to the Rent Officers Order states that an ineligible amount in respect of meals has been included in that claim-related rent; or
- (b) a local reference rent and the notification under paragraph 9(1)(da) of Schedule 1 to the Rent Officers Order states that an ineligible amount in respect of meals has been included in that local reference rent,

in determining the maximum rent the relevant authority shall deduct an amount determined in accordance with paragraph 2 of Schedule 1 to these Regulations in respect of meals.

(6) This regulation is subject to regulations 13ZA (protection on death and 13 week protection) and 13ZB (change in reckonable rent).

(7) In this regulation—

“claim-related rent” means the rent notified by the rent officer under paragraph 9(1) of Schedule 1 to the Rent Officers Order ;

“local reference rent” means the rent determined by a rent officer under paragraph 4 of Schedule 1 to the Rent Officers Order .

Textual Amendments

F10 Regs. 13-13ZB substituted for reg. 13 (with application in accordance with reg. 1(5)(6)(7) of the amending S.I.) by [Housing Benefit \(State Pension Credit\) \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2869\)](#), regs. 1(3), **6**

Protection on death and 13 week protection

13ZA.—(1) In a case where the claimant occupies a dwelling which is the same as that occupied by him at the date of death of a linked person, the maximum rent shall be either—

- (a) the maximum rent which applied before the death occurred; or
- (b) in a case where there was no maximum rent, the reckonable rent due before the death occurred,

for a period of 12 months from the date of such a death.

(2) For the purposes of paragraph (1), a claimant shall be treated as occupying the dwelling if paragraph (13) of regulation 7 (circumstances in which a person is or is not to be treated as occupying a dwelling as his home) is satisfied and for that purpose sub-paragraph (b) of that paragraph of that regulation shall be treated as if it were omitted.

(3) Subject to paragraph (4), where the relevant authority is satisfied that the claimant or a linked person was able to meet the financial commitments for his dwelling when they were entered into, there shall be no maximum rent during the first 13 weeks of the claimant’s award of housing benefit.

(4) Paragraph (3) shall not apply where a claimant or the claimant’s partner was previously entitled to benefit in respect of an award of housing benefit which fell wholly or partly less than 52 weeks before the commencement of the claimant’s current award of housing benefit.

Textual Amendments

F10 Regs. 13-13ZB substituted for reg. 13 (with application in accordance with reg. 1(5)(6)(7) of the amending S.I.) by [Housing Benefit \(State Pension Credit\) \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2869\)](#), regs. 1(3), **6**

Change in reckonable rent

13ZB.—(1) In a case where—

- (a) the authority has determined a maximum rent under regulation 13 or 13ZA; and
- (b) during the period for which that maximum rent applies the reckonable rent in respect of the dwelling by reference to which that maximum rent was determined is reduced to a sum which is less than that maximum rent,

the maximum rent shall be reduced to an amount equal to the reduced reckonable rent.

(2) This paragraph applies in a case where—

- (a) a rent officer has made a determination in exercise of the Housing Act functions pursuant to an application by an authority under regulation 14(1)(e) (pre-tenancy determination);

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- (b) subsequent to that determination the reckonable rent for that dwelling is changed; and
- (c) a maximum rent is to be determined in relation to a claim for housing benefit by a claimant.

(3) In a case to which paragraph (2) applies, where the reckonable rent is reduced to a figure below the figure that would have been the maximum rent if the reckonable rent had not changed, the maximum rent shall be the reckonable rent as so reduced.

(4) In any other case to which paragraph (2) applies, the authority shall treat the reckonable rent to be that applicable to the determination by the rent officer referred to in paragraph (2)(a).]

Textual Amendments

F10 Regs. 13-13ZB substituted for reg. 13 (with application in accordance with reg. 1(5)(6)(7) of the amending S.I.) by [Housing Benefit \(State Pension Credit\) \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2869\)](#), regs. 1(3), 6

[^{F11} When a maximum rent (LHA) is to be determined

13C.—(1) A relevant authority shall determine a maximum rent (LHA) in accordance with regulation 13D (determination of a maximum rent (LHA)) in any case where paragraphs (2) or (3) apply.

- (2) This paragraph applies where a relevant authority has received—
 - (a) a claim on which a rent allowance may be awarded, where the date of claim falls on or after 7th April 2008;
 - (b) relevant information regarding a claim on which a rent allowance may be awarded, where the date of claim falls on or after 7th April 2008;
 - (c) in relation to an award of housing benefit where the eligible rent was determined without reference to regulation 13A or 13D, a notification of a change of dwelling (as defined in regulation 2) where the change occurs on or after 7th April 2008; or
 - (d) in relation to an award of housing benefit where a maximum rent (LHA) was determined in accordance with regulation 13D—
 - (i) notification of a change of a kind which affects the category of dwelling applicable to the claim;
 - (ii) notification of the death of a linked person, where the notification does not fall within head (i); or
 - (iii) notification of a change of dwelling.
- (3) This paragraph applies on the anniversary of the LHA date.
- (4) Where the LHA date is 29th February, the anniversary of the LHA date shall be 28th February.
- (5) This regulation does not apply in a case where—
 - (a) the landlord is a registered social landlord;
 - (b) paragraph 4(1)(b) of Schedule 3 to the Consequential Provisions Regulations (savings provision) applies;
 - (c) the tenancy is an excluded tenancy of a type [^{F12}mentioned in any of paragraphs 4 to 11] of Schedule 2;
 - (d) the claim or award relates to—

- (i) periodical payments of kind falling within regulation 12(1) (rent) which a person is liable to make in relation to a houseboat, caravan or mobile home which he occupies as his home; or
- (ii) rent payable in relation to a hostel; or
- (e) rent under the tenancy is attributable to board and attendance, and—
 - (i) the relevant authority has made an application to the rent officer in accordance with regulation 13D(10) (board and attendance determination), regulation 15 (applications to the rent officer for determinations) or regulation 17 (substitute determinations or substitute redeterminations); and
 - (ii) the rent officer has determined that a substantial part of the rent under the tenancy is fairly attributable to board and attendance and has notified the relevant authority of this in accordance with article 4C, 4D or 4E of the Rent Officers Order .
- (6) In this regulation—
 - “the LHA date” means the date by reference to which the local housing allowance used to determine the maximum rent (LHA) was identified;
 - “registered social landlord” has the same meaning as in Part 1 of the Housing Act 1996 or, in Scotland, sections 57 and 59 of the Housing (Scotland) Act 2001.

Textual Amendments

- F11** Regs. 13C-13E inserted (with application in accordance with reg. 1(5)(6)(7) of the amending S.I.) by [Housing Benefit \(State Pension Credit\) \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2869\)](#), regs. 1(3), 7
- F12** Words in reg. 13C(5)(c) substituted by SI 2007/2869 reg. 7 (as amended) (7.4.2008) by [Housing Benefit \(Local Housing Allowance, Information Sharing and Miscellaneous\) Amendment Regulations 2008 \(S.I. 2008/586\)](#), regs. 1, 5(4)(a)

Determination of a maximum rent (LHA)

- 13D.**—(1) Subject to paragraph (3) to (11), the maximum rent (LHA) shall be the local housing allowance determined by the rent officer by virtue of article 4B(2A) or (4) of the Rent Officers Order which is applicable to—
- (a) the broad rental market area in which the dwelling to which the claim or award of housing benefit relates is situated at the relevant date; and
 - (b) the category of dwelling which applies at the relevant date in accordance with paragraph (2).
- (2) The category of dwelling which applies is—
- (a) the category specified in paragraph 1(1)(a) of Schedule 3B to the Rent Officers Order (one bedroom shared accommodation) where paragraph (b) does not apply because neither sub-paragraph (b)(i) nor (ii) are satisfied in the claimant’s case and—
 - (i) neither the claimant nor his partner (where he has one) is a person to whom paragraph 6 of Schedule 3 (severe disability premium) applies; or
 - ^{F13}(ii) the claimant’s partner is not a care leaver;]
 - (b) the category specified in paragraph 1(1)(b) of Schedule 3B to the Rent Officers Order (one bedroom self contained accommodation) where that applies in the claimant’s case at the relevant date in accordance with the size criteria [^{F14}as set out in paragraph (3)] and—

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- (i) the claimant (together with his partner where he has one) has the exclusive use of two or more rooms; or
 - (ii) the claimant (together with his partner where he has one) has the exclusive use of one room, a bathroom and toilet and a kitchen or facilities for cooking, and in this sub-paragraph “room” means a bedroom or room suitable for living in except for a room which the claimant shares with any person other than a member of his household, a non-dependant of his, or a person who pays rent to him or his partner; or
 - (c) in any other case, the category which corresponds with the number of bedrooms to which the claimant is entitled in accordance with paragraph (3).
- (3) The claimant shall be entitled to one bedroom for each of the following categories of occupier (and each occupier shall come within the first category only which applies to him)—
- (a) a couple (within the meaning of Part 7 of the Act);
 - (b) a person who is not a child;
 - (c) two children of the same sex;
 - (d) two children who are less than 10 years old;
 - (e) a child.
- (4) The relevant authority shall determine —
- (a) the cap rent (in accordance with the definition in paragraph (12)); and
 - (b) whether the cap rent exceeds the applicable local housing allowance.
- (5) Where the applicable local housing allowance exceeds the cap rent, for the purpose of determining the appropriate maximum housing benefit, the amount of the claimant’s liability shall be the amount of the applicable local housing allowance.
- (6) Where paragraph (5) applies, the maximum rent (LHA) shall be the lower of—
- (a) the applicable local housing allowance; or
 - (b) the amount equal to the cap rent determined in accordance with paragraph (4)(a) plus £15.
- (7) Where no local housing allowance applicable to a claim or award of housing benefit falling within paragraph (2)(c) has been determined, the relevant authority shall—
- (a) apply to the rent officer for local housing allowance determinations for the category of dwelling applicable to the claim or award of housing benefit for each broad rental market area falling within its area, in whole or in part, at the relevant date, which shall be specified in the application; and
 - (b) apply the local housing allowance so determined for the broad rental market area in which the dwelling to which the claim or award of housing benefit relates is situated at the relevant date.
- (8) Subject to paragraph (9), where—
- (a) the relevant authority receives a request from a person stating that—
 - (i) he is contemplating occupying as his home a dwelling within the area of the relevant authority which contains a specified number of bedrooms, exceeding five, and
 - (ii) that if he does so, he is likely to claim housing benefit; and
 - (b) no local housing allowance determination is in effect for a broad rental market area falling within, in whole or in part, the area of the relevant authority for the category of dwelling containing the number of bedrooms specified in the request,
- the relevant authority shall apply to the rent officer for local housing allowance determinations for each broad rental market area falling within its area, in whole or in part, for the category of dwelling

containing the number of bedrooms specified in the request, and in this sub-paragraph “bedroom” means has the meaning specified in paragraph 1(2) of Schedule 3B to the Rent Officers Order .

(9) The request must—

- (a) be made on a form approved by the relevant authority for the purpose of making a request under paragraph (8);
- (b) be properly completed; and
- (c) contain the following matters—
 - (i) the signature of the prospective occupier;
 - (ii) the signature of the person to whom the prospective occupier would incur liability to make such payments;
 - (iii) a statement that the person in paragraph (ii) agrees to the application being made for that determination; and
 - (iv) an indication that the prospective occupier is contemplating occupying the dwelling as his home and that if he does so, he is likely to claim housing benefit.

(10) The relevant authority shall apply to the rent officer for a board and attendance determination to be made in accordance with article 4C of the Rent Officers Order where—

- (a) the relevant authority is required to determine a maximum rent (LHA) by virtue of regulation 13C; and
- (b) part of the rent under the tenancy appears to the relevant authority to be likely to be attributable to board and attendance.

(11) Where an application to a rent officer is required in accordance with paragraph (10) it shall be made within the same period following the day on which the relevant authority becomes obliged to determine a maximum rent (LHA) by virtue of regulation 13C as would be required if the application were to be made under regulation 14(1).

(12) In this regulation—

“cap rent” means the aggregate of such payments specified in regulation 12(1) (rent) which the claimant is liable to pay, or is treated as liable to pay by virtue of regulation 8 (circumstances in which a person is treated as liable to make payments in respect of a dwelling) subject to regulation 12B(3) (mixed use accommodation), (4) (more than one person liable to make payments) and (6) (discretion in relation to eligible rent);

“care leaver” means a person who has not attained the age of 22 and—

- (a) has ceased to be the subject of a care order made pursuant to section 31(1)(a) of the Children Act 1989 which had previously been made in respect to him either—
 - (i) after he attained the age of 16 years; or
 - (ii) before he attained the age of 16 years, but had continued after he attained that age;
- (b) was formerly provided with accommodation under section 20 of the Children Act 1989;
- (c) has ceased to be subject to a supervision requirement by a children’s hearing under section 70 of the Children (Scotland) Act 1995 (“the 1995 Act”) made in respect of him which had continued after he attained the age of 16 years, other than a case where—
 - (i) the ground of referral was based on the sole condition as to the need for compulsory measures of care specified in section 52(1)(i) of the 1995 Act (commission of offences by child); or
 - (ii) he was required by virtue of the supervision requirement to reside with a parent or guardian of his within the meaning of the 1995 Act, or with a friend or relative of his or of his parent or guardian;

Status: Point in time view as at 07/04/2008.

Changes to legislation: There are currently no known outstanding effects for the The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, PART 3. (See end of Document for details)

- (d) has ceased to be a child in relation to whom the parental rights and responsibilities were transferred to a local authority under a parental responsibilities order made in accordance with section 86 of the 1995 Act or treated as so vested in accordance with paragraph 3 of Schedule 3 to that Act, either—
 - (i) after he attained the age of 16 years; or
 - (ii) before he attained the age of 16 years, but had continued after he attained that age; or
- (e) has ceased to be provided with accommodation by a local authority under section 25 of the 1995 Act where he has previously been provided with accommodation by the authority under that provision either—
 - (i) after he attained the age of 16 years; or
 - (ii) before he attained the age of 16 years, but had continued to be in such accommodation after he attained that age;

“occupiers” means the persons whom the relevant authority is satisfied occupy as their home the dwelling to which the claim or award relates except for any joint tenant who is not a member of the claimant’s household;

“relevant date” means, as the case may require—

- (a) the date of the claim to which the claim or relevant information referred to in regulation 13C (2) (a) or (b) relates;
- (b) the date of the change of dwelling, change which affects the category of dwelling, or date of death, to which a notification referred to in regulation 13C(2)(c) or (d) relates; or
- (c) the date on which the anniversary of the LHA date referred to in regulation 13C(3) falls.

“tenancy” includes

- (a) in Scotland, any other right of occupancy; and
- (b) in any other case, a licence to occupy premises,

and reference to a tenant, landlord or any other expression appropriate to a tenancy shall be construed accordingly.

Textual Amendments

- F11** Regs. 13C-13E inserted (with application in accordance with reg. 1(5)(6)(7) of the amending S.I.) by [Housing Benefit \(State Pension Credit\) \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2869\)](#), regs. 1(3), 7
- F13** Reg. 13D(2)(a)(ii) substituted by SI 2007/2869 reg. 7 (as amended) (7.4.2008) by [Housing Benefit \(Local Housing Allowance, Information Sharing and Miscellaneous\) Amendment Regulations 2008 \(S.I. 2008/586\)](#), regs. 1, **5(4)(b)(i)**
- F14** Words in reg. 13D(2)(b) inserted by SI 2007/2869 reg. 7 (as amended) (7.4.2008) by [Housing Benefit \(Local Housing Allowance, Information Sharing and Miscellaneous\) Amendment Regulations 2008 \(S.I. 2008/586\)](#), regs. 1, **5(4)(b)(ii)**

Publication of local housing allowances

13E.—(1) A relevant authority shall take such steps as appear to it to be appropriate for the purpose of securing that information in relation to broad rental market areas falling in whole or in part within its area, and local housing allowances applicable to such broad rental market areas, is brought to the attention of persons who may be entitled to housing benefit from the authority.]

Textual Amendments

- F11** Regs. 13C-13E inserted (with application in accordance with reg. 1(5)(6)(7) of the amending S.I.) by [Housing Benefit \(State Pension Credit\) \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2869\)](#), regs. 1(3), 7

Requirement to refer to rent officers

14.—^{F15}(1) Subject to the following provisions of this regulation, a relevant authority shall apply to a rent officer for a determination to be made in pursuance of the Housing Act functions where—

- (a) it has received a claim on which rent allowance may be awarded and any of the circumstances specified in regulation 13C(5)(a) to (e) (rent allowance cases for which a maximum rent (standard local rent) is not to be determined) apply;
- (b) it has received relevant information regarding a claim on which rent allowance may be awarded and any of the circumstances specified in regulation 13C(5)(a) to (e) apply;
- (c) it has received a notification of a change relating to a rent allowance and a maximum rent (LHA) does not fall to be determined under regulation 13C (determination of a maximum rent (LHA));
- (d) it has received a notification of a change of dwelling and any of the circumstances specified in regulation 13C(5)(a) to (e) apply;
- (e) it has received, except in the case where any liability to make payments in respect of a dwelling would be to a housing authority, a request from a person (“the prospective occupier”), on a properly completed form approved for the purpose by the relevant authority, which includes the specified matters and any of the circumstances specified in regulation 13C(5)(a) to (d) apply;
- (f) 52 weeks have expired since it last made an application under sub-paragraph (a), (b), (c), (d) [^{F20}, (e) or (h)] in relation to the claim or award in question and—
 - (i) a maximum rent (LHA) determined under regulation 13D does not apply; and
 - (ii) a maximum rent (LHA) is not to be determined under regulation 13D; ^{F21}...
- (g) 52 weeks have expired since an application was made under sub-paragraph (f) or a previous application was made under this sub-paragraph, whichever last occurred, and—
 - (i) a maximum rent (LHA) determined under regulation 13D does not apply; and
 - (ii) a maximum rent (LHA) is not to be determined under regulation 13D; ^{F22} or
- (h) has received notification that any of the circumstances in regulation 13C(5) apply.]

(2) An application shall not be required under paragraph (1) where a claim, relevant information regarding a claim, notification or request relates to either—

- (a) a dwelling in a hostel if, during the period of 12 months ending on the day on which that claim, relevant information regarding a claim, notification or request is received by the relevant authority—
 - (i) a rent officer has already made a determination in the exercise of the Housing Act functions in respect of a dwelling in that hostel which is a similar dwelling to the dwelling to which the claim, relevant information regarding a claim, notification or request relates; and
 - (ii) there has been no change relating to a rent allowance that has affected the dwelling in respect of which that determination was made; or
- (b) an “excluded tenancy” within the meaning of Schedule 2 (excluded tenancies).

Status: Point in time view as at 07/04/2008.

Changes to legislation: There are currently no known outstanding effects for the The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, PART 3. (See end of Document for details)

(3) The provision of information to the rent officer in accordance with regulation 95A(5) shall be treated as an application to the rent officer under paragraph (1).

(4) Where a relevant authority receives a request pursuant to paragraph (1)(e) (request from prospective occupier) and it is a case where, by reason of paragraph (2) (hostels or excluded tenancies), an application to a rent officer is not required, the authority shall—

- (a) return it to the prospective occupier, indicating why no such application is required; and
- (b) where it is not required by reason of either paragraph (2)(a) (hostels) of this regulation or paragraph 2 of Schedule 2 (cases where the rent officer has already made a determination), shall also send him a copy of that determination within 4 days of the receipt of that request by the authority.

(5) Where an application to a rent officer is required by paragraph (1) it shall be made within 3 days, or as soon as practicable after that date, of—

- (a) the relevant authority receiving a claim on which rent allowance may be awarded;
- (b) the relevant authority receiving relevant information regarding a claim on which rent allowance may be awarded;
- (c) the relevant authority receiving a notification of a change relating to a rent allowance;
- (d) the relevant authority receiving a notification of a change of dwelling; or
- (e) the day on which the period mentioned in paragraph (1)(f) or (g) expired,

except that, in the case of a request to which paragraph (1)(e) (request from prospective occupier) applies, the application shall be made within 2 days of the receipt of that request by the authority.

(6) In calculating any period of days mentioned in paragraphs (4) or (5), no regard shall be had to a day on which the offices of the relevant authority are closed for the purposes of receiving or determining claims.

(7) For the purpose of this regulation a dwelling in a hostel shall be regarded as similar to another dwelling in that hostel if each dwelling provides sleeping accommodation for the same number of persons.

(8) In this regulation—

“change relating to a rent allowance” means a change or increase to which paragraph 2(3)(a), (b), (c) or (d) of Schedule 2 applies;

“prospective occupier” shall include a person currently in receipt of housing benefit in respect of a dwelling which he occupies as his home and who is contemplating entering into a new agreement to occupy that dwelling, but only where his current agreement commenced 11 months or more before the request under paragraph (1)(e);

“specified matters” means—

- (a) the signature of the prospective occupier;
- (b) the signature of the person to whom the prospective occupier would incur liability to make such payments;
- (c) a statement that the person in paragraph (b) agrees to the application being made for that determination; and
- (d) an indication that the prospective occupier is contemplating occupying the dwelling as his home and that if he does so, he is likely to claim housing benefit;

“tenancy” includes—

- (a) in Scotland, any other right of occupancy; and
- (b) in any other case, a licence to occupy premises,

and reference to a tenant, landlord or any other expression appropriate to a tenancy shall be construed accordingly;

^{F23} ...]

Textual Amendments

- F15** Reg. 14 substituted (with application in accordance with reg. 1(5)(6)(7) of the amending S.I.) by [Housing Benefit \(State Pension Credit\) \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2869\)](#), regs. 1(3), **8**
- F16** Reg. 14(2)(3) omitted (7.4.2008) by virtue of [Housing Benefit \(State Pension Credit\) \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2869\)](#), regs. 1(2), **3(1)(a)**
- F17** Reg. 14(4A) inserted (7.4.2008) by [Housing Benefit \(State Pension Credit\) \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2869\)](#), regs. 1(2), **3(1)(b)**
- F18** Words in reg. 14(4A) substituted by SI 2007/2869 reg. 3(1)(b) (as amended) (7.4.2008) by [Housing Benefit \(Local Housing Allowance, Information Sharing and Miscellaneous\) Amendment Regulations 2008 \(S.I. 2008/586\)](#), regs. 1, **5(2)(a)**
- F19** Reg. 14(9) omitted (7.4.2008) by virtue of [Housing Benefit \(State Pension Credit\) \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2869\)](#), regs. 1(2), **3(1)(a)**
- F20** Words in reg. 14(1)(f) substituted by SI 2007/2869 reg. 8 (as amended) (7.4.2008) by [Housing Benefit \(Local Housing Allowance, Information Sharing and Miscellaneous\) Amendment Regulations 2008 \(S.I. 2008/586\)](#), regs. 1, **5(5)(a)(i)**
- F21** Word in reg. 14(1)(f)(ii) omitted by SI 2007/2869 reg. 8 (as amended) (7.4.2008) by virtue of [Housing Benefit \(Local Housing Allowance, Information Sharing and Miscellaneous\) Amendment Regulations 2008 \(S.I. 2008/586\)](#), regs. 1, **5(5)(a)(ii)**
- F22** Reg. 14(1)(h) and word added by SI 2007/2869 reg. 8 (as amended) (7.4.2008) by [Housing Benefit \(Local Housing Allowance, Information Sharing and Miscellaneous\) Amendment Regulations 2008 \(S.I. 2008/586\)](#), regs. 1, **5(5)(b)**
- F23** Words in reg. 14(8) omitted by SI 2007/2869 reg. 8 (as amended) (7.4.2008) by virtue of [Housing Benefit \(Local Housing Allowance, Information Sharing and Miscellaneous\) Amendment Regulations 2008 \(S.I. 2008/586\)](#), regs. 1, **5(5)(c)**

Applications to the rent officer for redeterminations

^{F24}**15.**—(1) Subject to paragraph (2) and regulation 16 (application for redetermination by rent officer), where a relevant authority has obtained from a rent officer either or both of the following—

- (a) a determination on a reference made under regulation 13D(10) (board and attendance determination) or regulation 14 (requirement to refer to rent officers);
- (b) a redetermination on a reference made under regulation 16(2) (application for redetermination by rent officer),

the authority may apply to the rent officer for a redetermination of any determination or redetermination he has made which has effect at the date of the application.

(2) No application shall be made for a further redetermination of a redetermination made in response to an application under paragraph (1).

Status: Point in time view as at 07/04/2008.

Changes to legislation: There are currently no known outstanding effects for the The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, PART 3. (See end of Document for details)

Textual Amendments

F24 Regs. 15-18 substituted (with application in accordance with reg. 1(5)(6)(7) of the amending S.I.) by [Housing Benefit \(State Pension Credit\) \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2869\)](#), regs. 1(3), **9**

Application for a redetermination by a rent officer

16.—(1) This paragraph applies where—

- (a) a person affected makes written representations which are signed by him, to a relevant authority concerning a decision which it makes in relation to him;
- (b) those representations relate, in whole or in part, to a rent officer's determination or redetermination in exercise of the Housing Act functions except for functions relating to broad rental market area determinations and local housing allowance determinations or amended determinations; and
- (c) those representations are made no later than one month after the day on which the person affected was notified of the decision by the relevant authority.

(2) Subject to paragraphs (3) and (4), where paragraph (1) applies, the relevant authority shall, within 7 days of receiving the representations, apply to the rent officer for a redetermination or, as the case may be, a further redetermination in exercise of the Housing Act functions and a copy of those representations shall accompany the local authority's application.

(3) Except where paragraph (4) applies, a relevant authority, in relation to any determination by a rent officer of an application under regulation 13D(10) (board and attendance determination) or 14(1) (requirement to refer to rent officers), shall not apply for a redetermination under paragraph (2) more than once in respect of an individual claimant's dwelling to which that determination relates.

(4) Paragraph (2) shall operate so as to require a relevant authority to make a second application where the following conditions are met in addition to those imposed by that paragraph—

- (a) the written representations made under paragraph (1) relate to a redetermination by a rent officer made in response to an application by the relevant authority under regulation 15 (application to the rent officer for redetermination);
- (b) by the time of that application, the rent officer has already provided a redetermination under this regulation of a determination made in response to an application under regulation 13D(10) or 14(1); and
- (c) both the application under this regulation referred to in sub-paragraph (b) and the second application for which this paragraph provides relate to the same claimant.

(5) Where a decision has been revised in consequence of a redetermination, substitute determination or substitute redetermination by a rent officer in exercise of the Housing Act functions (except for those relating to broad rental market area determinations and local housing allowance determinations or amended determinations) and that redetermination, substitute determination or substitute redetermination has led to—

- (a) a reduction in the maximum rent, the redetermination, substitute determination or substitute redetermination shall be a change of circumstances;
- (b) an increase in the maximum rent, the redetermination, substitute determination or substitute redetermination shall have effect in place of the original determination.

Textual Amendments

F24 Regs. 15-18 substituted (with application in accordance with reg. 1(5)(6)(7) of the amending S.I.) by [Housing Benefit \(State Pension Credit\) \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2869\)](#), regs. 1(3), **9**

Substitute determinations or substitute redeterminations

17.—(1) In a case where either—

- (a) the appropriate authority discovers that an application it has made to the rent officer contained an error in respect of any of the following—
 - (i) the size of the dwelling;
 - (ii) the number of occupiers;
 - (iii) the composition of the household;
 - (iv) the terms of the tenancy; or
- (b) the rent officer has, in accordance with article 7A(1) or (2) of the Rent Officers Order , notified an appropriate authority of an error he has made (other than in the application of his professional judgement),

the authority shall apply to the rent officer for a substitute determination, substitute redetermination, board and attendance redetermination, substitute board and attendance determination or substitute board and attendance redetermination, as the case may be.

(2) In its application to the rent officer the relevant authority shall state the nature of the error and withdraw any previous application relating to the same case for a redetermination or substitute determination or substitute redetermination, which it has made but to which the rent officer has not yet responded.

Textual Amendments

F24 Regs. 15-18 substituted (with application in accordance with reg. 1(5)(6)(7) of the amending S.I.) by [Housing Benefit \(State Pension Credit\) \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2869\)](#), regs. 1(3), **9**

Application of provisions to substitute determinations or substitute redeterminations

18. Regulations 15, 16 and 17 apply to a substitute determination or substitute redetermination as they apply to the determination or redetermination it replaces.]

Textual Amendments

F24 Regs. 15-18 substituted (with application in accordance with reg. 1(5)(6)(7) of the amending S.I.) by [Housing Benefit \(State Pension Credit\) \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2869\)](#), regs. 1(3), **9**

[^{F25}Amended determinations

18A.—(1) This regulation applies where a decision has been revised in consequence of an amended broad rental market area determination or amended local housing allowance determination by a rent officer.

Status: Point in time view as at 07/04/2008.

Changes to legislation: There are currently no known outstanding effects for the *The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, PART 3*. (See end of Document for details)

(2) Where that amended determination has led to a reduction in the maximum rent (LHA) applicable to a claimant, the amended determination shall be a change of circumstances in relation to that claimant.

(3) Where that amended determination has led to an increase in the maximum rent (LHA) applicable to a claimant, the amended determination shall have effect in place of the original determination.]

Textual Amendments

F25 Reg. 18A inserted (with application in accordance with reg. 1(5)(6)(7) of the amending S.I.) by [Housing Benefit \(State Pension Credit\) \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2869\)](#), regs. 1(3), **10**

Status:

Point in time view as at 07/04/2008.

Changes to legislation:

There are currently no known outstanding effects for the The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, PART 3.