

## SCHEDULES

### SCHEDULE 3

Regulation 26(4)

Claimant treated as occupying or not occupying accommodation

#### PART 1

Treated as occupying accommodation

##### **The occupation condition: the general rule**

1.—(1) The general rule is that a claimant is to be treated as occupying as their home the accommodation which the claimant normally occupies as their home.

(2) Subject to the following provisions of this Part, no claimant is to be treated as occupying accommodation which comprises more than one dwelling.

(3) Where none of those provisions applies and the claimant occupies more than one dwelling, regard is to be had to all the circumstances in determining which dwelling the claimant normally occupies as their home, including (among other things) any persons with whom the claimant occupies each dwelling.

(4) In this paragraph—  
“Dwelling” means a “dwelling house” within the meaning of Article 4 (Interpretation: definition of “dwelling house”, etc.) of, and Schedule 5 to the Rates (Northern Ireland) Order 1977<sup>M1</sup>. Dwelling also includes any garage, garden and outbuildings normally occupied by the claimant as his home, including any part thereof not so occupied which it is impracticable or unreasonable to sell separately, together with –

- (a) any agricultural land adjoining that dwelling, and
- (b) any land not adjoining that dwelling which it is impracticable or unreasonable to sell separately.

##### **Marginal Citations**

**M1** [S.I. 1977/2157 \(N.I. 28\)](#).

##### **Claimant living in other accommodation during essential repairs**

2.—(1) Where a claimant—

- (a) is required to move into accommodation (“the other accommodation”) on account of essential repairs being carried out to the accommodation the claimant normally occupies as their home,
- (b) intends to return to the accommodation which is under repair, and
- (c) meets the payment condition and the liability condition in respect of either the other accommodation or the accommodation which they normally occupy as their home (but not both),

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the claimant is to be treated as normally occupying as their home the accommodation in respect of which those conditions are met.

- (2) A claimant is subject to the general rule in paragraph 1 where—
- (a) sub-paragraph (1)(a) and (b) apply to the claimant; but
  - (b) the claimant meets the payment condition and the liability condition in respect of both the other accommodation and the accommodation which they normally occupy as their home.

### **Claimant housed in two dwellings by provider of social housing**

3.—(1) In sub-paragraph (2), “relevant claimant” means a claimant who meets all of the following conditions—

- (a) the first condition is that the claimant has been housed in two dwellings (“accommodation A” and “accommodation B”) by a provider of social housing on account of the number of children and qualifying young persons living with the claimant;
- (b) the second condition is that the claimant normally occupies both accommodation A and accommodation B with children or qualifying young persons for whom the claimant is responsible;
- (c) the third condition is that the claimant meets the payment condition and the liability condition in respect of both accommodation A and accommodation B (and for these purposes it is irrelevant whether the claimant's liability is to the same or a different person).

(2) In the case of a relevant claimant, both accommodation A and accommodation B are to be treated as the single accommodation which the relevant claimant normally occupies as their home.

(3) In sub-paragraph (1), “provider of social housing” has the meaning given in paragraph 2 of Schedule 4.

### **Moving home: adaptations to new home for disabled person**

4.—(1) Sub-paragraph (2) applies where—

- (a) the claimant has moved into accommodation (“the new accommodation”) and, immediately before the move, met the payment condition and liability condition in respect of the new accommodation, and
- (b) there was a delay in moving in that it was necessary to enable the new accommodation to be adapted to meet the disablement needs of a person specified in sub-paragraph (3).

(2) The claimant is to be treated as occupying both the new accommodation and the accommodation from which the move was made (“the old accommodation”) if—

- (a) immediately before the move, the claimant was entitled to the inclusion of the housing costs element in an award of universal credit in respect of the old accommodation, and
- (b) the delay in moving into the new accommodation was reasonable.

(3) A person is specified in this sub-paragraph if the person is—

- (a) a claimant or any child or qualifying young person for whom a claimant is responsible, and
- (b) in receipt of—

(i) the care component of disability living allowance at the middle or highest rate,

[<sup>F1</sup>(ia) the care component of child disability payment at the middle or highest rate in accordance with regulation 11(5) of the DACYP Regulations;]

(ii) attendance allowance, <sup>F2</sup> ...

(iii) the daily living component of personal independence payment.

[<sup>F3</sup>or

(iv) the daily living component of adult disability payment at the standard or enhanced rate]

(4) No claimant may be treated as occupying both the old accommodation and the new accommodation under this paragraph for more than one month.

#### Textual Amendments

- F1** Sch. 3 para. 4(3)(b)(ia) inserted (26.7.2021) by The Social Security (Scotland) Act 2018 (Disability Assistance for Children and Young People) (Consequential Modifications) Order 2021 (S.I. 2021/786), art. 1(2), **Sch. 12 para. 7(2)**
- F2** Word in Sch. 3 para. 4(3)(b)(ii) omitted (21.3.2022) by virtue of The Social Security (Disability Assistance for Working Age People) (Consequential Amendments) Order 2022 (S.I. 2022/177), arts. 1(2), **28(7)(a)**
- F3** Sch. 3 para. 4(3)(b)(iv) and word inserted (21.3.2022) by The Social Security (Disability Assistance for Working Age People) (Consequential Amendments) Order 2022 (S.I. 2022/177), arts. 1(2), **28(7)(b)**

#### Claimant living in other accommodation because of reasonable fear of violence

5.—(1) This paragraph applies where—

- (a) a claimant is occupying accommodation (“the other accommodation”) other than the accommodation which they normally occupy as their home (“the home accommodation”), and
- (b) it is unreasonable to expect the claimant to return to the home accommodation on account of the claimant's reasonable fear of violence in the home, or by a former partner, against the claimant or any child or qualifying young person for whom the claimant is responsible, but
- (c) the claimant intends to return to the home accommodation.

(2) The claimant is to be treated as normally occupying both the home accommodation and the other accommodation as their home if—

- (a) the claimant meets the payment condition and the liability condition in respect of both the home accommodation and other accommodation, and
- (b) it is reasonable to include an amount in the housing costs element for the payments in respect of both the home accommodation and the other accommodation.

(3) Where the claimant meets the payment condition and the liability condition in respect of one accommodation only, the claimant is to be treated as normally occupying that accommodation as their home but only if it is reasonable to include an amount in the housing costs element for the payments in respect of that accommodation.

(4) No claimant may be treated as occupying both the home accommodation and the other accommodation under sub-paragraph (2) for more than 12 months.

#### Moving in delayed by adaptations to accommodation to meet disablement needs

6.—(1) The claimant is to be treated as having occupied accommodation before they moved into it where—

- (a) the claimant has since moved in and, immediately before the move, met the payment condition and the liability condition in respect of the accommodation,
- (b) there was a delay in moving in that was necessary to enable the accommodation to be adapted to meet the disablement needs of a relevant person, and

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- (c) it was reasonable to delay moving in.
- (2) “Relevant person” means a person specified in paragraph 4(3).
- (3) No claimant may be treated as occupying accommodation under this paragraph for more than one month.

### **Moving into accommodation following stay in hospital or care home**

7.—(1) The claimant is to be treated as having occupied accommodation before they moved into it where—

- (a) the claimant has since moved in and, immediately before the move, met the payment condition and the liability condition in respect of that accommodation, and
- (b) the liability to make the payments arose while the claimant was a patient or accommodated in a care home (or, in the case of a joint claim, while both joint claimants were patients or were accommodated in a care home).

(2) No claimant may be treated as occupying the accommodation under this paragraph for more than one month.

(3) In this paragraph—

“care home” has the meaning given in paragraph 1 of Schedule 1;

“patient” means a person who is undergoing medical or other treatment as an in-patient in any hospital or similar institution.

## **PART 2**

### **Treated as not occupying accommodation**

#### **Periods of temporary absence exceeding 6 months**

8.—(1) Subject to sub-paragraphs (2) and (3), a claimant is to be treated as no longer occupying accommodation from which they are temporarily absent where the absence exceeds, or is expected to exceed, 6 months.

(2) Sub-paragraph (1) does not apply to a claimant who falls within paragraph 2.

(3) Where, a claimant who falls within paragraph 5 is temporarily absent from the accommodation which they normally occupy as their home, the claimant is to be treated as no longer occupying that accommodation where the absence exceeds, or is expected to exceed, 12 months.

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