

STATUTORY INSTRUMENTS

1997 No. 1984

HOUSING, ENGLAND AND WALES

The Rent Officers (Housing Benefit Functions) Order 1997

<i>Made</i>	- - - -	<i>12th August 1997</i>
<i>Laid before Parliament</i>		<i>12th August 1997</i>
<i>Coming into force</i>		
<i>Articles 1, 8 and 10(1)</i>		<i>18th August 1997</i>
<i>Remainder</i>		<i>3rd September 1997</i>

The Secretary of State for the Environment, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of the powers conferred upon them by section 122 of the Housing Act 1996^{M1}, and of all other powers enabling them in that behalf, hereby make the following Order—

Modifications etc. (not altering text)

- C1** Instrument applied (with effect in accordance with Sch. of the amending S.I.) by [Rent Officers \(Housing Benefit Functions\) \(Local Housing Allowance\) Amendment Order 2005 \(S.I. 2005/236\)](#), art. 4, [Sch.](#)

Marginal Citations

- M1** 1996 c.52.

Citation and commencement **E+W+S**

- 1.—(1) This Order may be cited as the Rent Officers (Housing Benefit Functions) Order 1997.
(2) This article and articles 8 and 10(1) shall come into force on 18th August 1997 and all the other articles shall come into force on 3rd September 1997.

Interpretation **E+W+S**

- 2.—(1) In this Order, unless the context otherwise requires—

^{F1} ...

“assured tenancy” has the same meaning as in Part I of the Housing Act 1988, except that it includes a tenancy which would be an assured tenancy but for paragraph 2 [^{F2}, 8] or 10 of

Schedule 1 to that Act and a licence which would be an assured tenancy (within the extended meaning given in this definition) were it a tenancy;

[^{F3}“board and attendance determination” means a determination made in accordance with article 4C;

[^{F4}“broad rental market area” has the meaning specified in paragraph 4 of Part I of Schedule 3A [^{F5}or paragraph 4 of Schedule 3B, as the case may be,] to this Order;]

[^{F4}“broad rental market area” has the meaning specified in paragraph 4 of Schedule 3B;]

[^{F6}“broad rental market area determination” means a determination made in accordance with article 4B(1) [^{F7}or 4B(1A), as the case may be];]

[^{F6}“broad rental market area determination” means a determination made in accordance with article 4B(1A);]

“child” means a person under the age of 16;

“determination” means a determination made in accordance with Part I or IV of Schedule 1 to this Order;

“dwelling” means any residential accommodation whether or not consisting of the whole or part of a building and whether or not comprising separate and self-contained premises;

[^{F8}[^{F9}“hostel” has the same meaning as in regulation 2(1) of the Housing Benefit Regulations or, as the case may be, regulation 2(1) of the Housing Benefit (State Pension Credit) Regulations;]

[^{F8} “hostel” has the same meaning as in regulation 2(1) of the Housing Benefit Regulations or, as the case may be, regulation 2(1) of the Housing Benefit (State Pension Credit) Regulations;]

[^{F10}[^{F11} “the Housing Benefit Regulations” mean the Housing Benefit Regulations 2006;

[^{F10} “the Housing Benefit (State Pension Credit) Regulations” means the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006;]

[^{F12}“introductory standard contract” has the meaning given by the Renting Homes (Wales) Act 2016 (see section 16 of that Act);]

“local authority” has the same meaning as in the Social Security Administration Act 1992 ^{M2} in relation to England and in relation to Wales;

[^{F13}[^{F3}“local housing allowance determination” means a determination made in accordance with article 4B(2) [^{F14}or article 4B(2A), as the case may be];]

[^{F13}“local housing allowance determination” means a determination made in accordance with article 4B(2A);]

[^{F12}“occupation contract” has the meaning given by the Renting Homes (Wales) Act 2016 (see section 7 of that Act);]

“occupier” means a person (whether or not identified by name) who is stated, in the application for the determination, to occupy the dwelling as his home;

[^{F15}[^{F3}“pathfinder authority” means a local authority specified in column (1) of the table in Part II of Schedule 3A, on and after the date specified in column (2) of that table in relation to that authority;]

[^{F16}“person who requires overnight care” has the meaning given by regulation 2(1) of the Housing Benefit Regulations and the Housing Benefit (State Pension Credit) Regulations;]

[^{F12}“private landlord” has the meaning given by the Renting Homes (Wales) Act 2016 (see section 10 of that Act);]

[^{F12}“private registered provider of social housing” has the meaning given by section 80(3) of the Housing and Regeneration Act 2008;]

“redetermination” means a redetermination made in accordance with article 4;

[^{F12}“registered social landlord” means a person registered in the register maintained under section 1 of the Housing Act 1996;]

[^{F17}[^{F18}“relevant date” means the date specified by a pathfinder authority in an application for a local housing allowance determination made in accordance with regulation 13A(4)(a) of the Housing Benefit Regulations or, as the case may be, regulation 13A(4)(a) of the Housing Benefit (State Pension Credit) Regulations;]]

[^{F17} “relevant date” means the date specified by a local authority in an application for a local housing allowance determination made in accordance with regulation 13D(7)(a) of the Housing Benefit Regulations or, as the case may be, regulation 13D(7)(a) of the Housing Benefit (State Pension Credit) Regulations;]

[^{F19}“relevant period” means—

- (a) in relation to a determination, the period of five working days (or, where the determination does not relate to a prospective tenancy and the rent officer intends to inspect the dwelling before making the determination, 25 working days) beginning with—
 - (i) where the rent officer requests further information under article 5, the date on which he receives the information; and
 - (ii) in any other case, the date on which he receives the application for the determination; and
- (b) in relation to a redetermination, the period of 20 working days beginning with—
 - (i) where the rent officer requests further information under article 5, the date on which he receives the information; and
 - (ii) in any other case, the date on which he receives the application for that redetermination;]

“relevant time” means the time the application [^{F20}or board and attendance determination] is made or, if earlier, the tenancy ends;

[^{F21}[^{F22}“rent” means any of the periodical payments referred to in regulation 12(1) of the Housing Benefit Regulations or, as the case may be, regulation 12(1) of the Housing Benefit (State Pension Credit) Regulations;]]

[^{F21} “rent” means any of the periodical payments referred to in regulation 12(1) of the Housing Benefit Regulations or, as the case may be, regulation 12(1) of the Housing Benefit (State Pension Credit) Regulations;]

[^{F12}“secure contract” has the meaning given by the Renting Homes (Wales) Act 2016 (see section 8 of that Act);]

“size criteria” means the standards relating to bedrooms and rooms suitable for living in specified in Schedule 2 to this Order;

[^{F12}“standard contract” has the meaning given by the Renting Homes (Wales) Act 2016 (see section 8 of that Act), but does not include—

- (a) an introductory standard contract,
- (b) a prohibited conduct standard contract within the meaning given by the Renting Homes (Wales) Act 2016 (see section 116 of that Act), or
- (c) a supported standard contract within the meaning given by the Renting Homes (Wales) Act 2016 (see section 143 of that Act);]

“tenancy” includes—

- (a) a licence; and
- (b) a prospective tenancy or licence; and

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

[^{F23}working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971.]

^{F24F25} ...

(2) In this Order any reference to a notice or application is to a notice or application in writing, except in a case where the recipient consents (whether generally or specifically) to the notice or application being transmitted by electronic means.

Textual Amendments

- F1** Words in art. 2(1)(as inserted by art 2(2) of [The Rent Officers \(Housing Benefit Functions\) \(Amendment\) Order 2012 \(S.I. 2012/646\)](#) omitted (1.9.2013) by virtue of [The Rent Officers \(Housing Benefit and Universal Credit Functions\) \(Amendment\) Order 2013 \(S.I. 2013/1544\)](#), arts. 1, **2(2)**
- F2** Word in art. 2(1) inserted (31.8.2004) by [The Rent Officers \(Housing Benefit Functions\) \(Student Accommodation\) Amendment Order 2004 \(S.I. 2004/2101\)](#), arts. 1, **2(1)**
- F3** Words in art. 2(1) inserted (24.9.2003) by [Rent Officers \(Housing Benefit Functions\) \(Local Housing Allowance\) Amendment Order 2003 \(S.I. 2003/2398\)](#), arts. 1(1), **2(2)**
- F4** Words in art. 2 substituted (7.4.2008) by [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **6(3)(a)** (with arts. 2, 6(1), (2))
- F5** Words in art. 2 inserted (20.3.2008) by [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(3), **4(1)(a)** (with art. 2)
- F6** Words in art. 2 substituted (7.4.2008) by [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **6(3)(b)** (with arts. 2, 6(1), (2))
- F7** Words in art. 2 inserted (20.3.2008) by [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(3), **4(1)(b)** (with art. 2)
- F8** Words in art. 2 substituted (7.4.2008) by [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **10(1)(a)** (with art. 2)
- F9** Words in art. 2 substituted (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. 11(2)(a)** (with regs. 2, 3, Sch. 3, 4)
- F10** Words in art. 2 inserted (7.4.2008) by [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **10(1)(b)** (with art. 2)
- F11** Words in art. 2 inserted (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. 11(2)(b)** (with regs. 2, 3, Sch. 3, 4)
- F12** Words in art. 2(1) inserted (W.) (1.12.2022) by [The Renting Homes \(Wales\) Act 2016 \(Consequential Amendments to Secondary Legislation\) Regulations 2022 \(S.I. 2022/907\)](#), reg. 1(2), **Sch. 1 para. 17(a)**
- F13** Words in art. 2 substituted (7.4.2008) by [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **6(3)(c)** (with arts. 2, 6(1), (2))
- F14** Words in art. 2 inserted (20.3.2008) by [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(3), **4(1)(c)** (with art. 2)
- F15** Words in art. 2 omitted (7.4.2008) by virtue of [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **6(3)(d)** (with arts. 2, 6(1), (2))

- F16** Words in art. 2(1) inserted (1.4.2011) by The Rent Officers (Housing Benefit Functions) Amendment Order 2010 (S.I. 2010/2836), arts. 1(3), **3(2)**
- F17** Words in art. 2 substituted (7.4.2008) by Rent Officers (Housing Benefit Functions) Amendment Order 2007 (S.I. 2007/2871), arts. 1(4), **6(3)(e)** (with arts. 2, 6(1), (2))
- F18** Words in art. 2 substituted (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. 11(2)(c)** (with regs. 2, 3, Sch. 3, 4)
- F19** Words in art. 2 inserted (E.W.) (3.4.2000) by The Rent Officers (Housing Benefit Functions) (Amendment) Order 2000 (S.I. 2000/1), arts. 1(1), **3**
- F20** Words in art. 2(1) inserted (24.9.2003) by Rent Officers (Housing Benefit Functions) (Local Housing Allowance) Amendment Order 2003 (S.I. 2003/2398), arts. 1(1), **2(3)**
- F21** Words in art. 2 substituted (7.4.2008) by Rent Officers (Housing Benefit Functions) Amendment Order 2007 (S.I. 2007/2871), arts. 1(4), **10(1)(c)** (with art. 2)
- F22** Words in art. 2 substituted (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. 11(2)(d)** (with regs. 2, 3, Sch. 3, 4)
- F23** Words in art. 2 added (20.3.2008) by Rent Officers (Housing Benefit Functions) Amendment Order 2007 (S.I. 2007/2871), arts. 1(3), **4(1)(d)** (with art. 2)
- F24** Words in art. 2 omitted (6.3.2006) by virtue of The Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006 (S.I. 2006/217), reg. 1(1), **Sch. 2 para. 11(2)(e)** (with regs. 2, 3, Sch. 3, 4)
- F25** Words in art. 2 omitted (7.4.2008) by virtue of Rent Officers (Housing Benefit Functions) Amendment Order 2007 (S.I. 2007/2871), arts. 1(4), **10(1)(d)** (with art. 2)

Marginal Citations

M2 1992 c.5.

Determinations **E+W+S**

3.—(1) Subject to ^{F26}articles 3A and 6], where a local authority, in accordance with regulations made under section 136(2) or (3) of the Social Security Administration Act 1992 ^{F27}or section 122(5) of the Housing Act 1996], applies to a rent officer for determinations in respect of a tenancy of a dwelling, a rent officer shall—

- (a) make the determinations in accordance with Part I of Schedule 1 (determinations);
- (b) comply with Part II of Schedule 1 when making the determinations (assumptions etc.); and
- (c) give notice in accordance with Part III of Schedule 1 (notifications) ^{F28}[within the relevant period or as soon as is practicable after that period].

(2) A rent officer for each registration area (within the meaning of section 62 of the Rent Act 1977 ^{M3}), on the first working day of each month, shall—

- (a) make determinations in accordance with Part IV of Schedule 1 (indicative rent levels) in relation to the area of each local authority ^{F29}... within the registration area;
- (b) comply with paragraph 8(2) of Part II of Schedule 1 (assumptions etc.) when making the determinations; and
- (c) give to the local authority notice of the determinations relating to its area when they have been made.

Textual Amendments

- F26** Words in art. 3(1) substituted (E.W.) (2.7.2001) by [The Rent Officers \(Housing Benefit Functions\) \(Amendment\) Order 2001 \(S.I. 2001/1325\)](#), arts. 1(1), **3(1)**
- F27** Words in art. 3(1) inserted (E.W.) (3.4.2000) by [The Rent Officers \(Housing Benefit Functions\) \(Amendment\) Order 2000 \(S.I. 2000/1\)](#), arts. 1(1), **4(b)**
- F28** Words in art. 3(1)(c) added (E.W.) (3.4.2000) by [The Rent Officers \(Housing Benefit Functions\) \(Amendment\) Order 2000 \(S.I. 2000/1\)](#), arts. 1(1), **4(c)**
- F29** Words in art. 3(2)(a) (as inserted by [Rent Officers \(Housing Benefit Functions\) \(Local Housing Allowance\) Amendment Order 2003 \(S.I. 2003/2398\)](#)) omitted (7.4.2008) by virtue of [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **5(1)** (with art. 2)

Marginal Citations

- M3** 1977 c.42; amended by paragraph 13(1) of Schedule 8 to the [Local Government Act 1985 \(c.51\)](#), [paragraph 3\(2\)](#) of Schedule 8 to the [Local Government \(Wales\) Act 1994 \(c.19\)](#) and S.I. 1995/3264.

[^{F30}Transitional arrangements for determination of Single Room Rents with effect from 2nd July 2001 **E+W+S**

3A. In a case where the rent officer has made and notified an authority of a determination of a single room rent pursuant to paragraph 5 of Schedule 1 in the period of 12 months before 2nd July 2001 that determination shall cease to have effect on ^{F31} ... 2nd July 2001 and a rent officer shall—

- (a) make a new determination of that single room rent in accordance with Part I of Schedule 1;
- (b) comply with Part II of Schedule 1; and
- (c) give notice in accordance with Part III of Schedule 1 within the relevant period or as soon as is practicable after that period;

without an application for a determination under ^{F32}[^{F33} regulation 14 of the Housing Benefit Regulations or, as the case may be, regulation 14 of the Housing Benefit (State Pension Credit) Regulations] having been made.]

Textual Amendments

- F30** Art. 3A inserted (2.7.2001) by [The Rent Officers \(Housing Benefit Functions\) \(Amendment\) Order 2001 \(S.I. 2001/1325\)](#), arts. 1(1), **3(2)**
- F31** Words in art. 3A omitted (E.W.) (2.7.2001) by virtue of [The Rent Officers \(Housing Benefit Functions\) \(Amendment\) \(No.2\) Order 2001 \(S.I. 2001/2317\)](#), arts. 1(1), **2(2)**
- F32** Words in art. 3A substituted (7.4.2008) by [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **10(2)** (with art. 2)
- F33** Words in art. 3A substituted (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. 11(3)** (with regs. 2, 3, Sch. 3, 4)

[^{F34}Redeterminations **E+W+S**

4.—(1) Subject to article 6, where the local authority applies to a rent officer for a redetermination of any determination or redetermination in respect of a tenancy of a dwelling the rent officer shall, in accordance with Schedule 3—

- (a) make redeterminations of any effective determinations and any effective redeterminations in respect of that tenancy; and

- (b) give notice within the relevant period or as soon as is practicable after that period.
- (2) For the purposes of paragraph (1)—
 - (a) “effective determinations” means any determinations made in accordance with Part I of Schedule 1 which have effect at the date of the application for a redetermination of a determination or redetermination; and
 - (b) “effective redeterminations” means any redeterminations made in accordance with Schedule 3 which have effect at that date.
- (3) A rent officer whose advice is sought as provided for in Schedule 3 shall give that advice.

Textual Amendments

- F34** Art. 4 and 4A substituted for art. 4 (E.W.) (3.4.2000) by [The Rent Officers \(Housing Benefit Functions\) \(Amendment\) Order 2000 \(S.I. 2000/1\)](#), arts. 1(1), 5

Substitute determinations and substitute redeterminations **E+W+S**

4A.—(1) Where a local authority applies to a rent officer for a substitute determination, in accordance with ^{F35}[^{F36} regulation 17 of the Housing Benefit Regulations or, as the case may be, regulation 17 of the Housing Benefit (State Pension Credit) Regulations], the provisions of this Order shall apply to that substitute determination as they apply to a determination, but as if references to the relevant time were references to the date the application for the original determination was made or, if earlier, the date the tenancy ended.

(2) Where a local authority applies to a rent officer for a substitute redetermination, in accordance with that regulation, the provisions of this Order shall apply to that substitute redetermination as they apply to a redetermination.]

Textual Amendments

- F34** Art. 4 and 4A substituted for art. 4 (E.W.) (3.4.2000) by [The Rent Officers \(Housing Benefit Functions\) \(Amendment\) Order 2000 \(S.I. 2000/1\)](#), arts. 1(1), 5
- F35** Words in art. 4A substituted (7.4.2008) by [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **10(3)** (with art. 2)
- F36** Words in art. 4A substituted (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. 11(4)** (with regs. 2, 3, Sch. 3, 4)

^{F37}**Broad rental market area determinations and local housing allowance determinations **E+W+S****

4B.—(1) [^{F38}On the day on which this article comes into force in relation to a [^{F39}pathfinder authority] and so often thereafter as a rent officer, having regard to the definition of “broad rental market area” in paragraph (1) of article 2, considers appropriate, a rent officer shall—

- (a) determine one or more broad rental market areas which will (during the month which next begins after the determination is made) fall, in whole or in part, within the area of that local authority so that every part of the area of that authority falls within a broad rental market area and no part of the area of that authority falls within more than one broad rental market area; and
- (b) give to that authority a notice which—

- (i) specifies the area contained within each broad rental market area as falls, in whole or in part, within the area of that authority, by reference to the postcodes for each such broad rental market area; and
- (ii) identifies such of those postcodes as fall within the area of that authority.]

[^{F40}(1A) [^{F41}At such times as a rent officer considers appropriate, a rent officer shall, if the Secretary of State agrees], in relation to each local authority,—

- (a) determine one or more broad rental market areas which will (during the month which next begins after the determination is made) fall, in whole or in part, within the area of the local authority so that every part of the area of that local authority falls within a broad rental market area and no part of the area of that authority falls within more than one broad rental market area; and
- (b) give to that local authority a notice which—
 - (i) specifies the area contained within each broad rental market area as falls, in whole or in part, within the area of that authority, by reference to the postcodes for each such broad rental market area; and
 - (ii) identifies such of those postcodes as fall within the area of that authority.]

[^{F42}(1B) The power in paragraph (1A) is not limited by paragraph [^{F43}2(2)] of Schedule 3B.]

(2) [^{F38}No more than 5 and not less than 3 working days before the end of each month a rent officer shall—

- (a) determine, in accordance with the provisions of Part I of Schedule 3A—
 - (i) a local housing allowance for each of the categories of dwelling set out in paragraph 1 of that Part; and
 - (ii) local housing allowances for such other categories of dwelling of more than six rooms as a rent officer believes are likely to be required for the purpose of calculating housing benefit,
 for each broad rental market area falling within, in whole or in part, the area of any local authority which is (or will be) a pathfinder authority during the month which follows; and
- (b) give to each such authority notice of the local housing allowance determinations made in accordance with paragraph (a) for each broad rental market area falling within, in whole or in part, the area of that authority.]

[^{F44}(2A) [^{F45}In 2014 and in each subsequent year, on the date specified in paragraph (2B),] 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.]

[^{F46}(2B) The date specified for the purposes of paragraph (2A) is the last working day of January [^{F47}and also the 31st March 2020].]

(3) [^{F38}Any broad rental market area determination made in accordance with paragraph (1), or local housing allowance determination made in accordance with paragraph (2), shall take effect on the first working day of the month which begins after the day on which the determination is made.]

[^{F48}(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

[^{F49}(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 [^{F50}, and the determinations made on the 31st March 2020 shall take effect (on 1st April 2020) in place of the determinations made on the 31st January 2020].]

^{F51}(4)

^{F55}(4A)

(5) Where a rent officer has made a local housing allowance determination in accordance with paragraph (4)—

(a) he shall give notice of the determination to the [^{F56}local authority] that made the application;

(b) any local housing allowance determination made in accordance with sub-paragraph (4)(a) shall take effect for the month in which the relevant date falls [^{F57}, except that no such determination can have effect before 7th April 2008]; and

(c) any local housing allowance determination made in accordance with sub-paragraph (4)(b) shall take effect for the month in which notice is given in accordance with sub-paragraph (a) [^{F58}, except that no such determination can have effect before 7th April 2008].

[^{F59}(6) Where a rent officer has made a local housing allowance determination in accordance with paragraph (2A) ^{F60} ... he shall—

(a) make an approximate monthly allowance determination in relation to that local housing allowance determination; and

(b) give notice of the approximate monthly allowance determination to each authority to which he is required to give notice of the local housing allowance determination when he gives notice of that determination.]

Textual Amendments

- F37** Art. 4B–4E inserted (24.9.2003) by [Rent Officers \(Housing Benefit Functions\) \(Local Housing Allowance\) Amendment Order 2003 \(S.I. 2003/2398\)](#), arts. 1(1), **2(5)**
- F38** Art. 4B(1)(2)(3) omitted (7.4.2008) by virtue of [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **6(4)(a)** (with arts. 2, 6(1), (2))
- F39** Words in art. 4B(1) substituted (20.3.2008) by [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(3), **4(2)(a)** (with art. 2)
- F40** Art. 4B(1A) inserted (20.3.2008) by [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(3), **4(2)(b)** (with art. 2)
- F41** Words in art. 4B(1A) substituted (E.W.) (2.4.2012) by [The Rent Officers \(Housing Benefit Functions\) \(Amendment\) Order 2012 \(S.I. 2012/646\)](#), arts. 1, **2(3)(a)**
- F42** Art. 4B(1B) inserted (23.1.2017) by [The Rent Officers \(Housing Benefit and Universal Credit Functions\) \(Local Housing Allowance Amendments\) Order 2016 \(S.I. 2016/1179\)](#), arts. 1, **2(2)**
- F43** Word in art. 4B(1B) substituted (30.1.2020) by [The Rent Officers \(Housing Benefit and Universal Credit Functions\) \(Amendment\) Order 2020 \(S.I. 2020/27\)](#), arts. 1, **2(2)**

- F44** Art. 4B(2A) (as inserted by art. 4(2)(c), Rent Officers (Housing Benefit Functions) Amendment Order 2007 (S.I. 2007/2871)) substituted (2.4.2012) by The Rent Officers (Housing Benefit Functions) (Amendment) Order 2012 (S.I. 2012/646), arts. 1, **2(3)(b)**
- F45** Words in art. 4B(2A) substituted (1.9.2013) by The Rent Officers (Housing Benefit and Universal Credit Functions) (Amendment) Order 2013 (S.I. 2013/1544), arts. 1, **2(3)(a)**
- F46** Art. 4B(2B) substituted (8.1.2015) by The Rent Officers (Housing Benefit and Universal Credit Functions) (Local Housing Allowance Amendments) Order 2014 (S.I. 2014/3126), arts. 1, **2(2)**
- F47** Words in art. 4B(2B) added (30.3.2020) by The Social Security (Coronavirus) (Further Measures) Regulations 2020 (S.I. 2020/371), regs. 1(1), **4(1)(a)(i)**
- F48** Art. 4B(3A)(as inserted by art. 4(2)(d), Rent Officers (Housing Benefit Functions) Amendment Order 2007 (S.I. 2007/2871))(3B) substituted for art. 4B(3A) (2.4.2012) by The Rent Officers (Housing Benefit Functions) (Amendment) Order 2012 (S.I. 2012/646), arts. 1, **2(3)(c)**
- F49** Art. 4B(3A)(b) substituted (31.1.2022) by The Rent Officers (Housing Benefit and Universal Credit Functions) (Amendment and Modification) Order 2021 (S.I. 2021/1380), arts. 1(1), **2(2)**
- F50** Words in art. 4B(3B) added (30.3.2020) by The Social Security (Coronavirus) (Further Measures) Regulations 2020 (S.I. 2020/371), regs. 1(1), **4(1)(a)(ii)**
- F51** Art. 4B(4) omitted (18.3.2011, (as substituted by art. 6(4)(b) 2007/2871)) by virtue of The Rent Officers (Housing Benefit Functions) Amendment Order 2010 (S.I. 2010/2836), arts. 1(2), **2(2)(a)(ii)**
- F52** Art. 4B(4) substituted (7.4.2008, reproduced for savings purposes) by Rent Officers (Housing Benefit Functions) Amendment Order 2007 (S.I. 2007/2871), arts. 1(4), **6(4)(b)** (with arts. 2, 6(1), (2))
- F53** Words in art. 4B(4)(a) substituted (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. 11(5)(a)** (with regs. 2, 3, Sch. 3, 4)
- F54** Words in art. 4B(4)(b) substituted (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. 11(5)(b)** (with regs. 2, 3, Sch. 3, 4)
- F55** Art. 4B(4A) omitted (18.3.2011) by virtue of The Rent Officers (Housing Benefit Functions) Amendment Order 2010 (S.I. 2010/2836), arts. 1(2), **2(2)(a)(iii)**
- F56** Words in art. 4B(5)(a) substituted (7.4.2008) by Rent Officers (Housing Benefit Functions) Amendment Order 2007 (S.I. 2007/2871), arts. 1(4), **6(4)(c)(i)** (with arts. 2, 6(1), (2))
- F57** Words in art. 4B(5)(b) inserted (7.4.2008) by Rent Officers (Housing Benefit Functions) Amendment Order 2007 (S.I. 2007/2871), arts. 1(4), **6(4)(c)(ii)** (with arts. 2, 6(1), (2))
- F58** Words in art. 4B(5)(c) inserted (7.4.2008) by Rent Officers (Housing Benefit Functions) Amendment Order 2007 (S.I. 2007/2871), arts. 1(4), **6(4)(c)(iii)** (with arts. 2, 6(1), (2))
- F59** Art. 4B(6) inserted (20.3.2008) by Rent Officers (Housing Benefit Functions) Amendment Order 2007 (S.I. 2007/2871), arts. 1(3), **4(2)(e)** (with art. 2)
- F60** Words in art. 4B(6) omitted (18.3.2011) by virtue of The Rent Officers (Housing Benefit Functions) Amendment Order 2010 (S.I. 2010/2836), arts. 1(2), **2(2)(b)**

Board and attendance determinations and notifications **E+W+S**

[^{F61}Where a relevant authority makes an application to a rent officer in accordance with regulation 13D(10) of the Housing Benefit Regulations or, as the case may be, regulation 13D(10) of the Housing Benefit (State Pension Credit) Regulations, a rent officer shall determine whether or not a substantial part of the rent under the tenancy at the relevant time is fairly attributable to board and attendance.]

[^{F61}Where a rent officer determines that a substantial part of the rent under the tenancy at the relevant time is fairly attributable to board and attendance, he shall—

- (a) notify the relevant authority accordingly; and

- (b) treat the application as if it had been made in accordance with regulation 14(1) of the Housing Benefit Regulations or, as the case may be regulation 14(1) of the Housing Benefit (State Pension Credit) Regulations.]

(3) Where a rent officer determines that a substantial part of the rent under the tenancy at the relevant time is not fairly attributable to board and attendance, he shall notify the pathfinder authority accordingly.

[^{F64}Where an application for a board and attendance determination is treated as if it had been made in accordance with regulation 14(1) of the Housing Benefit Regulations or, as the case may be, regulation 14(1) of the Housing Benefit (State Pension Credit) Regulations, then, for the purposes of paragraph (a)(ii) of the definition of “relevant period” in article 2(1), it shall be treated as having been received on the day on which the further information provided in accordance with regulation 114A(4) of the Housing Benefit Regulations or regulation 95A(4) of the Housing Benefit (State Pension Credit) Regulations is received.]

Textual Amendments

- F37** Art. 4B–4E inserted (24.9.2003) by [Rent Officers \(Housing Benefit Functions\) \(Local Housing Allowance\) Amendment Order 2003](#) (S.I. 2003/2398), arts. 1(1), **2(5)**
- F61** Art. 4C(1)(2) substituted (7.4.2008) by [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007](#) (S.I. 2007/2871), arts. 1(4), **6(5)** (with arts. 2, 6(1), (2))
- F62** Words in art. 4C(1) substituted (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. 11(6)(a)** (with regs. 2, 3, Sch. 3, 4)
- F63** Words in art. 4C(2)(b) substituted (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. 11(6)(b)** (with regs. 2, 3, Sch. 3, 4)
- F64** Art. 4C(4) substituted (7.4.2008) by [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007](#) (S.I. 2007/2871), arts. 1(4), **7(2)** (with arts. 2, 7(1))
- F65** Words in art. 4C(4) substituted (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. 11(6)(c)** (with regs. 2, 3, Sch. 3, 4)

Board and attendance redeterminations **E+W+S**

4D.—(1) Subject to article 6, where a [^{F66}pathfinder authority[^{F66}local authority]] applies to a rent officer for a redetermination of a board and attendance determination or board and attendance redetermination, the rent officer shall, in accordance with paragraph (2)—

- (a) make a redetermination of—
- (i) the board and attendance determination, provided it was made in accordance with article 4C and had effect at the date of the application for it to be redetermined; or
- (ii) the board and attendance redetermination provided it was made in accordance with head (i), and had effect at the date of the application for it to be redetermined; and
- (b) notify the pathfinder authority of the redetermination.

(2) When making a board and attendance redetermination under this article, the rent officer shall seek, and have regard to, the advice of one or two other rent officers in relation to the redetermination.

(3) A rent officer whose advice is sought in accordance with paragraph (2) shall give that advice.

(4) Article 4C shall apply in relation to a board and attendance redetermination but as if the references to the relevant time were references to the date on which the original application for a board and attendance determination was made, or if earlier, to the date on which the tenancy ended.

Textual Amendments

- F37** Art. 4B–4E inserted (24.9.2003) by [Rent Officers \(Housing Benefit Functions\) \(Local Housing Allowance\) Amendment Order 2003 \(S.I. 2003/2398\)](#), arts. 1(1), **2(5)**
- F66** Words in art. 4E substituted (7.4.2008) by [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **6(6)** (with arts. 2, 6(1), (2))

Substitute board and attendance determinations and substitute board and attendance redeterminations **E+W+S**

4E.—(1) Where a [^{F66} pathfinder authority [^{F66} local authority]] applies to a rent officer for a substitute board and attendance determination in accordance with ^{F67}[^{F68} regulation 17 of the Housing Benefit Regulations or, as the case may be, regulation 17 of the Housing Benefit (State Pension Credit) Regulations], the provisions of this Order shall apply to that substitute board and attendance determination as they apply to a board and attendance determination but as if references to the relevant time were references to the date on which the original application for a board and attendance determination was made or, if earlier, the date on which the tenancy ended.

(2) Where a pathfinder authority applies to a rent officer for a substitute board and attendance redetermination in accordance with ^{F67}[^{F68} regulation 17 of the Housing Benefit Regulations or, as the case may be, regulation 17 of the Housing Benefit (State Pension Credit) Regulations], the provisions of this Order shall apply to that substitute board and attendance redetermination as they apply to a board and attendance redetermination.]

Textual Amendments

- F37** Art. 4B–4E inserted (24.9.2003) by [Rent Officers \(Housing Benefit Functions\) \(Local Housing Allowance\) Amendment Order 2003 \(S.I. 2003/2398\)](#), arts. 1(1), **2(5)**
- F66** Words in art. 4E substituted (7.4.2008) by [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **6(6)** (with arts. 2, 6(1), (2))
- F67** Words in art. 4E substituted (7.4.2008) by [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **10(4)** (with art. 2)
- F68** Words in art. 4E substituted (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. 11(7)** (with regs. 2, 3, Sch. 3, 4)

Insufficient information **E+W+S**

5. If a rent officer needs further information in order to make a determination under article 3(1)^{F69}, a redetermination under article 4, a board and attendance determination under article 4C or a board and attendance redetermination under article 4D]^{F70}, he shall serve notice on the local authority requesting that information [^{F70}where the information supplied under regulation 114A of the Housing Benefit Regulations or regulation 95A of the Housing Benefit (State Pension Credit) Regulations was incomplete or incorrect, he shall serve notice on the local authority requesting it to supply the further information required under regulation 114A or regulation 95A, as the case may be, or to confirm whether the information already supplied is correct and, if it is not, to supply the correct information]]^{F71}

Textual Amendments

- F69** Words in art. 5 substituted (24.9.2003) by Rent Officers (Housing Benefit Functions) (Local Housing Allowance) Amendment Order 2003 (S.I. 2003/2398), arts. 1(1), **2(6)**
- F70** Words in art. 5 substituted (7.4.2008) by Rent Officers (Housing Benefit Functions) Amendment Order 2007 (S.I. 2007/2871), arts. 1(4), **7(3)** (with arts. 2, 7(1))
- F71** Words in art. 5 omitted (E.W.) (3.4.2000) by virtue of The Rent Officers (Housing Benefit Functions) (Amendment) Order 2000 (S.I. 2000/1), arts. 1(1), **6**

Exceptions **E+W+S**

6.—(1) No determination^{F72}, redetermination, board and attendance determination or board and attendance redetermination] shall be made if the application for it is withdrawn.

(2) No determination shall be made under paragraph 3, 4 or 5 of Part I of Schedule 1 if the tenancy is of residential accommodation, within the meaning of ^{F73}^{F74} regulation 9(4) of the Housing Benefit Regulations or, as the case may be, regulation 9(4) of the Housing Benefit (State Pension Credit) Regulations] (registered homes etc.)^{M4}, or in a hostel.

(3) No determination shall be made under paragraph 5 of Part I of Schedule 1 unless the local authority states in the application that the claimant is, or may be, a young individual (which has the same meaning as in ^{F75}^{F76} the Housing Benefit Regulations and the Housing Benefit (State Pension Credit) Regulations]).

(4) If the rent officer becomes aware that an application is not one which gives rise to a duty to make a determination^{F77}, redetermination, board and attendance determination or a board and attendance redetermination], the rent officer shall give the local authority notice to that effect.

Textual Amendments

- F72** Words in art. 6(1) substituted (24.9.2003) by Rent Officers (Housing Benefit Functions) (Local Housing Allowance) Amendment Order 2003 (S.I. 2003/2398), arts. 1(1), **2(7)(a)**
- F73** Words in art. 6(2) substituted (7.4.2008) by Rent Officers (Housing Benefit Functions) Amendment Order 2007 (S.I. 2007/2871), arts. 1(4), **10(5)(a)** (with art. 2)
- F74** Words in art. 6(2) substituted (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. 11(8)(a)** (with regs. 2, 3, Sch. 3, 4)
- F75** Words in art. 6(3) substituted (7.4.2008) by Rent Officers (Housing Benefit Functions) Amendment Order 2007 (S.I. 2007/2871), arts. 1(4), **10(5)(b)** (with art. 2)
- F76** Words in art. 6(3) substituted (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. 11(8)(b)** (with regs. 2, 3, Sch. 3, 4)
- F77** Words in art. 6(4) substituted (24.9.2003) by Rent Officers (Housing Benefit Functions) (Local Housing Allowance) Amendment Order 2003 (S.I. 2003/2398), arts. 1(1), **2(7)(b)**

Marginal Citations

- M4** Paragraph (3) was added by S.I. 1990/2564.

Special cases **E+W+S**

- 7.—(1)** This Order shall apply as specified in Schedule 4 in relation to—
- (a) mooring charges payable for a houseboat;

- (b) payments in respect of the site on which a caravan or mobile home stands; or
- (c) payments under a rental purchase agreement.

(2) Terms used in paragraph (1) have the same meaning in this article and in Schedule 4 as they have in ^{F78}[^{F79} regulation 12(1) of the Housing Benefit Regulations or, as the case may be, regulation 12(1) of the Housing Benefit (State Pension Credit) Regulations] ^{M5}.

- ^{F80}(3)
- ^{F80}(4)

Textual Amendments

- F78** Words in art. 7 substituted (7.4.2008) by [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **10(6)** (with art. 2)
- F79** Words in art. 7(2) substituted (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. 11(9)** (with regs. 2, 3, Sch. 3, 4)
- F80** Art. 7(3)(4) omitted (E.W.) (3.4.2000) by virtue of [The Rent Officers \(Housing Benefit Functions\) \(Amendment\) Order 2000 \(S.I. 2000/1\)](#), arts. 1(1), 7 (with art. 16)

Marginal Citations

- M5** Amended by [S.I. 1988/1971](#).

[^{F81}Errors E+W+S

7A.—[

^{F82}(1)] If a rent officer is of the opinion that he has made an error (other than in the application of his professional judgement) in relation to a determination or redetermination, he shall notify the local authority which made the application for that determination or redetermination of the error as soon as practicable after he becomes aware of it.]

^{F83}(2) If a rent officer is of the opinion that he has made an error (other than in the application of his professional judgement) in relation to a board and attendance determination or board and attendance redetermination, he shall notify the [^{F84}pathfinder authority [^{F84}local authority]] which made the application for that board and attendance determination or board and attendance redetermination of the error as soon as practicable after he becomes aware of it.

(3) [^{F85}If a rent officer is of the opinion that he has made an error (other than in the application of his professional judgement) in relation to a broad rental market area determination [^{F86}determined in accordance with article 4B(1)] or a local housing allowance determination [^{F87}determined in accordance with article 4B(2)], he shall notify any pathfinder authority to which notification of that determination was sent of the error, and the amended determination, as soon as practicable after he becomes aware of it.]]

^{F88}(4) If a rent officer is of the opinion that he has made an error (other than in the application of his professional judgement) in relation to a broad rental market area determination determined in accordance with article 4B(1A) or a local housing allowance determination determined in accordance with article 4B(2A), he shall notify any local authority to which notification of that determination was sent of the error, and the amended determination, as soon as practicable after he becomes aware of it.]

Textual Amendments

- F81** Art. 7A inserted (E.W.) (3.4.2000) by [The Rent Officers \(Housing Benefit Functions\) \(Amendment\) Order 2000 \(S.I. 2000/1\)](#), arts. 1(1), **8**
- F82** Art. 7A(1): art. 7A renumbered as art. 7A(1) (24.9.2003) by [Rent Officers \(Housing Benefit Functions\) \(Local Housing Allowance\) Amendment Order 2003 \(S.I. 2003/2398\)](#), arts. 1(1), **2(8)**
- F83** Arts. 7A(2)-(3) inserted (24.9.2003) by [Rent Officers \(Housing Benefit Functions\) \(Local Housing Allowance\) Amendment Order 2003 \(S.I. 2003/2398\)](#), arts. 1(1), **2(8)**
- F84** Words in art. 7A(2) substituted (7.4.2008) by [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **6(7)(a)** (with arts. 2, 6(1), (2))
- F85** Art. 7A(3) omitted (7.4.2008) by virtue of [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **6(7)(b)** (with arts. 2, 6(1), (2))
- F86** Words in art. 7A(3) inserted (20.3.2008) by [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(3), **4(3)(a)(i)** (with art. 2)
- F87** Words in art. 7A(3) inserted (20.3.2008) by [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(3), **4(3)(a)(ii)** (with art. 2)
- F88** Art. 7A(4) inserted (20.3.2008) by [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(3), **4(3)(b)** (with art. 2)

Amendment to 1995 Order **E+W+S**

8. The Rent Officers (Additional Functions) Order 1995 shall be amended by the insertion at the end of article 6 (special cases) of the following—

“(3) In a case where the local authority states in the application that the rent includes charges for general counselling or any other support services which are eligible for housing benefit solely by virtue of paragraph 1(f)(iii) of Schedule 1 to the 1987 Regulations (landlord’s support services: supported accommodation) or solely by virtue of that provision and paragraph 1(f)(ii) of that Schedule, the rent officer shall assume when making a determination on a redetermination that—

- (a) the services were not to be provided or made available; and
- (b) the rent payable under the tenancy at the relevant time is such amount as is specified in the application as the rent which would have been payable under the tenancy at that time if those items were not to be provided or made available.

(4) In a case where the local authority states in the application that the rent includes charges for general counselling or any other support services and the charges—

- (a) are eligible for housing benefit by virtue of paragraph 1(f)(iii) of Schedule 1 to the 1987 Regulations (landlord’s support services: supported accommodation) or that provision and paragraph 1(f)(ii) of that Schedule; and
- (b) are also eligible for housing benefit by virtue of paragraph 1(f)(i) of that Schedule (support services: other exceptions);

the rent officer shall include in the notice to the local authority, required under article 3(1)(c), a statement of the amount of the rent payable for the tenancy (which has the same meaning as in paragraph 3(1) of Schedule 1 to this Order) which relates to those charges.”.

Revocations **E+W+S**

9. The Rent Officers (Additional Functions) Order 1995 ^{M6}, the Rent Officers (Additional Functions) (Amendment) Order 1995 ^{M7}, the Rent Officers (Additional Functions) (Amendment No.

2) Order 1995 ^{M8}, the Rent Officers (Additional Functions) (Amendment) Order 1996 ^{M9} and the Rent Officers (Additional Functions) (Amendment) Order 1997 ^{M10} are hereby revoked.

Marginal Citations

- M6** S.I. 1995/1642; amended by S.I. 1995/2365 and 3148, S.I. 1996/959 and 1997/1000.
M7 S.I. 1995/2365.
M8 S.I. 1995/3148.
M9 S.I. 1999/959.
M10 S.I. 1997/1000.

Application **E+W+S**

10.—(1) The amendment made by article 8 does not have effect in a case where an application for a determination is made before the date that article comes into force.

(2) The remaining articles of the Order (other than paragraph (1)) do not have effect in a case where an application is made for a determination before the date those articles come into force.

Commencement Information

- 11** Art. 10 partly in force; art. 10 not in force at Royal Assent see art. 1; art. 10(1) in force at (18.8.1997) by S.I. 1997/1984 {art. 1}; art. 10(2) in force at (3.9.1997) by S.I. 1997/984, **art. 1**

Signed by authority of the Secretary of State

Hilary Armstrong
 Minister of State,
 Department of the Environment, Transport and
 the Regions

Signed by authority of the Secretary of State

Win Griffiths
 Parliamentary Under Secretary of State for
 Wales, Welsh Office

SCHEDULE 1 **E+W+S**

Article 3(1)

Article 3(1)(a)

PART I **E+W+S**

DETERMINATIONS

Significantly high rents **E+W+S**

1.—(1) The rent officer shall determine whether, in his opinion, the rent payable under the tenancy of the dwelling at the relevant time is significantly higher than the rent which the landlord might reasonably have been expected to obtain under the tenancy at that time.

(2) If the rent officer determines under sub-paragraph (1) that the rent is significantly higher, the rent officer shall also determine the rent which the landlord might reasonably have been expected to obtain under the tenancy at the relevant time.

(3) When making a determination under this paragraph, the rent officer shall have regard to the level of rent under similar tenancies of similar dwellings in the [^{F89}vicinity] (or as similar as regards tenancy, dwelling and [^{F89}vicinity] as is reasonably practicable) and shall assume that no one who would have been entitled to housing benefit had sought or is seeking the tenancy.

[^{F90}(4) For the purposes of this paragraph and paragraph 2 “vicinity” means—

- (a) the area immediately surrounding the dwelling; or
- (b) where, for the purposes of sub-paragraph (2)(c) of paragraph 2, there is no dwelling in the area immediately surrounding the dwelling which satisfies the description in heads (i), (ii) and (iii) of that sub-paragraph, the area nearest to the dwelling where there is such a dwelling.]

Textual Amendments

F89 Word in Sch. 1 para. 1(3) substituted (6.11.2001) by [The Rent Officers \(Housing Benefit Functions\) \(Amendment\) Order 2001 \(S.I. 2001/3561\)](#), arts. 1, **2(2)(a)**

F90 Sch. 1 para. 1(4) added (6.11.2001) by [The Rent Officers \(Housing Benefit Functions\) \(Amendment\) Order 2001 \(S.I. 2001/3561\)](#), arts. 1, **2(2)(b)**

Size and rent **E+W+S**

2.—(1) The rent officer shall determine whether the dwelling, at the relevant time, exceeds the size criteria for the occupiers.

(2) If the rent officer determines that the dwelling exceeds the size criteria, the rent officer shall also determine the rent which a landlord might reasonably have been expected to obtain, at the relevant time, for a tenancy which is—

- (a) similar to the tenancy of the dwelling;
- (b) on the same terms other than the term relating to the amount of rent; and
- (c) of a dwelling which is in the same [^{F91}vicinity] as the dwelling, but which—
 - (i) accords with the size criteria for the occupiers;
 - (ii) is in a reasonable state of repair; and

(iii) corresponds in other respects, in the rent officer's opinion, as closely as is reasonably practicable to the dwelling.

(3) When making a determination under sub-paragraph (2), the rent officer shall have regard to the same matter and make the same assumption as specified in paragraph 1(3), except that in judging the similarity of other tenancies and dwellings the comparison shall be with the tenancy of the second dwelling referred to in sub-paragraph (2) and shall assume that no one who would have been entitled to housing benefit had sought or is seeking that tenancy.

Textual Amendments

F91 Word in Sch. 1 para. 2(c) substituted (6.11.2001) by [The Rent Officers \(Housing Benefit Functions\) \(Amendment\) Order 2001 \(S.I. 2001/3561\)](#), arts. 1, 2(3)

Exceptionally high rents **E+W+S**

3.—(1) The rent officer shall determine whether, in his opinion, the rent payable for the tenancy of the dwelling at the relevant time is exceptionally high.

(2) In sub-paragraph (1) “rent payable for the tenancy” means—

- (a) where a determination is made under sub-paragraph (2) of paragraph 2, the rent determined under that sub-paragraph;
- (b) where no determination is so made and a determination is made under sub-paragraph (2) of paragraph 1, the rent determined under that sub-paragraph; and
- (c) in any other case, the rent payable under the tenancy [^{F92}at the relevant time].

(3) If the rent officer determines under sub-paragraph (1) that the rent is exceptionally high, the rent officer shall also determine the highest rent, which is not an exceptionally high rent and which a landlord might reasonably have been expected to obtain at the relevant time (on the assumption that no one who would have been entitled to housing benefit had sought or is seeking the tenancy) for an assured tenancy of a dwelling [^{F93}in England, or an occupation contract of a dwelling in Wales,] which—

- (a) is in the same [^{F94}neighbourhood] as the dwelling;
- (b) has the same number of bedrooms and rooms suitable for living in as the dwelling (or, where the dwelling exceeds the size criteria for the occupiers, accords with the size criteria); and
- (c) is in a reasonable state of repair.

(4) For the purpose of determining whether a rent is an exceptionally high rent under this paragraph, the rent officer shall have regard to the levels of rent under assured tenancies [^{F95}or occupation contracts] of dwellings which—

- (a) are in the same [^{F96}neighbourhood] as the dwelling (or in as similar a locality as is reasonably practicable); and
- (b) have the same number of bedrooms and rooms suitable for living in as the dwelling (or, in a case where the dwelling exceeds the size criteria for the occupiers, accord with the size criteria).

[^{F97}(5) For the purposes of this paragraph and paragraph 4(6) “neighbourhood” means—

- (a) where the dwelling is in a town or city, the part of that town or city where the dwelling is located which is a distinct area of residential accommodation; or

- (b) where the dwelling is not in a town or city, the area surrounding the dwelling which is a distinct area of residential accommodation and where there are dwellings satisfying the description in sub-paragraph (4)(b).]

Textual Amendments

- F92** Words in Sch. 1 para. 3(2)(c) inserted (E.W.) (3.4.2000) by [The Rent Officers \(Housing Benefit Functions\) \(Amendment\) Order 2000 \(S.I. 2000/1\)](#), arts. 1(1), **9**
- F93** Words in Sch. 1 para. 3(3) inserted (W.) (1.12.2022) by [The Renting Homes \(Wales\) Act 2016 \(Consequential Amendments to Secondary Legislation\) Regulations 2022 \(S.I. 2022/907\)](#), reg. 1(2), **Sch. 1 para. 17(b)(i)**
- F94** Word in Sch. 1 para. 3(3)(a) substituted (6.11.2001) by [The Rent Officers \(Housing Benefit Functions\) \(Amendment\) Order 2001 \(S.I. 2001/3561\)](#), arts. 1, **2(4)(a)**
- F95** Words in Sch. 1 para. 3(4) inserted (W.) (1.12.2022) by [The Renting Homes \(Wales\) Act 2016 \(Consequential Amendments to Secondary Legislation\) Regulations 2022 \(S.I. 2022/907\)](#), reg. 1(2), **Sch. 1 para. 17(b)(ii)**
- F96** Word in Sch. 1 para. 3(4)(a) substituted (6.11.2001) by [The Rent Officers \(Housing Benefit Functions\) \(Amendment\) Order 2001 \(S.I. 2001/3561\)](#), arts. 1, **2(4)(a)**
- F97** Sch. 1 para. 3(5) added (6.11.2001) by [The Rent Officers \(Housing Benefit Functions\) \(Amendment\) Order 2001 \(S.I. 2001/3561\)](#), arts. 1, **2(4)(b)**

Local reference rents **E+W+S**

4.—(1) The rent officer shall make a determination of a local reference rent in accordance with the formula—

$$R = \frac{H + L}{2}$$

where—R is the local reference rent;

H is the highest rent, in the rent officer's opinion,—

(a) which a landlord might reasonably have been expected to obtain, at the relevant time, for an assured tenancy of a dwelling [^{F98}in England, or an occupation contract of a dwelling in Wales,] which meets the criteria in sub-paragraph (2); and

(b) which is not an exceptionally high rent; and

L is the lowest rent, in the rent officer's opinion,—

(a) which a landlord might reasonably have been expected to obtain, at the relevant time, for an assured tenancy of a dwelling [^{F99}in England, or an occupation contract of a dwelling in Wales,] which meets the criteria in sub-paragraph (2); and

(b) which is not an exceptionally low rent; and

(2) The criteria are—

(a) that the dwelling under the assured tenancy [^{F100}or occupation contract]—

(i) is in the same [^{F101}broad rental market area (local reference rent)] as the dwelling;

(ii) is in a reasonable state of repair; and

Changes to legislation: There are currently no known outstanding effects for the The Rent Officers (Housing Benefit Functions) Order 1997. (See end of Document for details)

- (iii) has the same number of bedrooms and rooms suitable for living in as the dwelling (or, in a case where the dwelling exceeds the size criteria for the occupiers, accords with the size criteria); and
- (b) if the tenant does not have the use under the tenancy of the dwelling [F102 at the relevant time] of more than one bedroom or room suitable for living in [F103 and neither the tenant nor the tenant’s partner is a person who requires overnight care]—
 - (i) that under the assured tenancy [F104 or occupation contract] the tenant does not have the use of more than one bedroom or room suitable for living in;
 - (ii) if the rent under the tenancy [F105 at the relevant time] includes payments for board and attendance and the rent officer considers the amount fairly attributable to board and attendance is a substantial part of the rent, that a substantial part of the rent under the assured tenancy [F106 or occupation contract] is fairly attributable to board and attendance;
 - (iii) if sub-paragraph (ii) does not apply and the tenant shares a [F107 kitchen, toilet, bathroom and room suitable for living in] with a person other than a member of his household, a non-dependant or a person who pays rent to the tenant, that the assured tenancy [F108 or occupation contract] provides for the tenant to share a [F107 kitchen, toilet, bathroom and room suitable for living in]; and
 - (iv) if sub-paragraphs (ii) and (iii) do not apply, that the circumstances described in sub-paragraphs (ii) and (iii) do not apply in relation to the assured tenancy [F109 or occupation contract].
- (3) Where ascertaining H and L under sub-paragraph (1), the rent officer:
 - (a) shall assume that no one who would have been entitled to housing benefit had sought or is seeking the tenancy; and
 - (b) shall exclude the amount of any rent which, in the rent officer’s opinion, is fairly attributable to the provision of services which are ineligible to be met by housing benefit;
 - F110 ...
 - (c) F110 ...
- (4) In sub-paragraph (2)(b)—

“bedroom or room suitable for living in” does not include a room which the tenant shares with any person other than—

 - (a) a member of his household;
 - (b) a non-dependant (as defined in this sub-paragraph); or
 - (c) a person who pays rent to the tenant; and

F111 [F112 “non-dependant” means a non-dependant of the tenant within the meaning of regulation 3 of the Housing Benefit Regulations or, as the case may be, regulation 3 of the Housing Benefit (State Pension Credit) Regulations;]
- (5) In sub-paragraph (3), “services” means services performed or facilities (including the use of furniture) provided for, or rights made available to, the tenant, but not [F113, in the case of a tenancy where a substantial part of the rent under the tenancy is fairly attributable to board and attendance, the provision of meals (including the preparation of meals or provision of unprepared food).]
- [F114(6) For the purposes of this paragraph and paragraph 5 “broad rental market area (local reference rent)” means the area within which a tenant of the dwelling could reasonably be expected to live having regard to facilities and services for the purposes of health, education, recreation, personal

banking and shopping, taking account of the distance of travel, by public and private transport, to and from those facilities and services.

- (7) A broad rental market area (local reference rent) must contain—
- (a) residential premises of a variety of types, including such premises held on a variety of tenures; and
 - (b) sufficient privately rented residential premises, to ensure that, in the rent officer’s opinion, the local reference rents for tenancies in the area are representative of the rents that a landlord might reasonably be expected to obtain in that area.]

Textual Amendments

- F98** Words in Sch. 1 para. 4(1)(a) inserted (W.) (1.12.2022) by [The Renting Homes \(Wales\) Act 2016 \(Consequential Amendments to Secondary Legislation\) Regulations 2022 \(S.I. 2022/907\)](#), reg. 1(2), **Sch. 1 para. 17(b)(iii)(aa)**
- F99** Words in Sch. 1 para. 4(1)(a) inserted (W.) (1.12.2022) by [The Renting Homes \(Wales\) Act 2016 \(Consequential Amendments to Secondary Legislation\) Regulations 2022 \(S.I. 2022/907\)](#), reg. 1(2), **Sch. 1 para. 17(b)(iii)(bb)**
- F100** Words in Sch. 1 para. 4(2)(a) inserted (W.) (1.12.2022) by [The Renting Homes \(Wales\) Act 2016 \(Consequential Amendments to Secondary Legislation\) Regulations 2022 \(S.I. 2022/907\)](#), reg. 1(2), **Sch. 1 para. 17(b)(iv)**
- F101** Words in Sch. 1 para. 4(2) substituted (5.1.2009) by [Rent Officers \(Housing Benefit Functions\) Amendment \(No.2\) Order 2008 \(S.I. 2008/3156\)](#), arts. 1, **2(3)(a)(i)**
- F102** Words in Sch. 1 para. 4(2)(b) inserted (E.W.) (3.4.2000) by [The Rent Officers \(Housing Benefit Functions\) \(Amendment\) Order 2000 \(S.I. 2000/1\)](#), arts. 1(1), **10(a)(i)**
- F103** Words in Sch. 1 para. 4(2)(b) inserted (1.4.2011) by [The Rent Officers \(Housing Benefit Functions\) Amendment Order 2010 \(S.I. 2010/2836\)](#), arts. 1(3), **3(3)**
- F104** Words in Sch. 1 para. 4(2)(b)(i) inserted (W.) (1.12.2022) by [The Renting Homes \(Wales\) Act 2016 \(Consequential Amendments to Secondary Legislation\) Regulations 2022 \(S.I. 2022/907\)](#), reg. 1(2), **Sch. 1 para. 17(b)(v)**
- F105** Words in Sch. 1 para. 4(2)(b)(ii) inserted (E.W.) (3.4.2000) by [The Rent Officers \(Housing Benefit Functions\) \(Amendment\) Order 2000 \(S.I. 2000/1\)](#), arts. 1(1), **10(a)(ii)**
- F106** Words in Sch. 1 para. 4(2)(b)(ii) inserted (W.) (1.12.2022) by [The Renting Homes \(Wales\) Act 2016 \(Consequential Amendments to Secondary Legislation\) Regulations 2022 \(S.I. 2022/907\)](#), reg. 1(2), **Sch. 1 para. 17(b)(vi)**
- F107** Words in Sch. 1 para. 4(2)(b)(iii) substituted (E.W.) (2.7.2001) by [The Rent Officers \(Housing Benefit Functions\) \(Amendment\) \(No.2\) Order 2001 \(S.I. 2001/2317\)](#), arts. 1(1), **2(3)**
- F108** Words in Sch. 1 para. 4(2)(b)(iii) inserted (W.) (1.12.2022) by [The Renting Homes \(Wales\) Act 2016 \(Consequential Amendments to Secondary Legislation\) Regulations 2022 \(S.I. 2022/907\)](#), reg. 1(2), **Sch. 1 para. 17(b)(vii)**
- F109** Words in Sch. 1 para. 4(2)(b)(iv) inserted (W.) (1.12.2022) by [The Renting Homes \(Wales\) Act 2016 \(Consequential Amendments to Secondary Legislation\) Regulations 2022 \(S.I. 2022/907\)](#), reg. 1(2), **Sch. 1 para. 17(b)(viii)**
- F110** Sch. 1 para. 4(3)(c) omitted (1.4.2003 for specified purposes, 7.4.2003 for specified purposes) by virtue of [Rent Officers \(Housing Benefit Functions\) Amendment Order 2003 \(S.I. 2003/478\)](#), arts. 1(1), **2(2)**
- F111** Words in Sch. 1 para. 4(4) substituted (7.4.2008) by [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **10(7)(a)** (with art. 2)
- F112** Words in Sch. 1 para. 4(4) substituted (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. 11(10)(a)** (with regs. 2, 3, Sch. 3, 4)
- F113** Words in Sch. 1 para. 4(5) substituted (E.W.) (3.4.2000) by [The Rent Officers \(Housing Benefit Functions\) \(Amendment\) Order 2000 \(S.I. 2000/1\)](#), arts. 1(1), **10(c)** (with art. 16)

F114 Sch. 1 para. 4(6)(7) substituted for Sch. 1 para. 4(6) (5.1.2009) by [Rent Officers \(Housing Benefit Functions\) Amendment \(No.2\) Order 2008 \(S.I. 2008/3156\)](#), arts. 1, **2(3)(a)(ii)**

Single room rents **E+W+S**

5.—(1) The rent officer shall determine a single room rent in accordance with the following formula—

$$S = \frac{H + L}{2}$$

where—S is the single room rent;

H is the highest rent, in the rent officer's opinion,—

- (a) which a landlord might reasonably have been expected to obtain, at the relevant time, for an assured tenancy of a dwelling ^{F115}in England, or an occupation contract of a dwelling in Wales,] which meets the criteria in sub-paragraph (2); and
- (b) which is not an exceptionally high rent.

L is the lowest rent, in the rent officer's opinion,—

- (a) which a landlord might reasonably have been expected to obtain, at the relevant time, for an assured tenancy of a dwelling ^{F116}in England, or an occupation contract of a dwelling in Wales,] which meets the criteria in sub-paragraph (2); and
- (b) which is not an exceptionally low rent.

(2) The criteria are—

- (a) that the dwelling under the assured tenancy ^{F117}or occupation contract] is in the same ^{F118}broad rental market area (local reference rent)] as the dwelling and is in a reasonable state of repair;
- (b) that, under the assured tenancy ^{F119}or occupation contract], the tenant—
 - (i) has the exclusive use of one bedroom;
 - (ii) does not have the use of any other bedroom ^{F120}...;
 - ^{F121}(ii) shares the use of a room suitable for living in]
 - (iii) shares the use of a toilet ^{F122}and bathroom]; and
 - (iv) shares the use of a kitchen and does not have the exclusive use of facilities for cooking food; and
- (c) that the rent does not include any payment for board and attendance.

(3) Sub-paragraphs ^{F123}[^{F124}(3) and (5)] of paragraph 4 apply when ascertaining H and L under ^{F125}[^{F126}this paragraph] as if the reference in those sub-paragraphs to H and L were to H and L under this paragraph.

Textual Amendments

- F115** Words in Sch. 1 para. 5(1) inserted (W.) (1.12.2022) by [The Renting Homes \(Wales\) Act 2016 \(Consequential Amendments to Secondary Legislation\) Regulations 2022 \(S.I. 2022/907\)](#), reg. 1(2), [Sch. 1 para. 17\(b\)\(ix\)\(aa\)](#)
- F116** Words in Sch. 1 para. 5(1) inserted (W.) (1.12.2022) by [The Renting Homes \(Wales\) Act 2016 \(Consequential Amendments to Secondary Legislation\) Regulations 2022 \(S.I. 2022/907\)](#), reg. 1(2), [Sch. 1 para. 17\(b\)\(ix\)\(bb\)](#)
- F117** Words in Sch. 1 para. 5(2)(a) inserted (W.) (1.12.2022) by [The Renting Homes \(Wales\) Act 2016 \(Consequential Amendments to Secondary Legislation\) Regulations 2022 \(S.I. 2022/907\)](#), reg. 1(2), [Sch. 1 para. 17\(b\)\(x\)](#)
- F118** Words in Sch. 1 para. 5(2) substituted (5.1.2009) by [Rent Officers \(Housing Benefit Functions\) Amendment \(No.2\) Order 2008 \(S.I. 2008/3156\)](#), arts. 1, [2\(3\)\(b\)](#)
- F119** Words in Sch. 1 para. 5(2)(b) inserted (W.) (1.12.2022) by [The Renting Homes \(Wales\) Act 2016 \(Consequential Amendments to Secondary Legislation\) Regulations 2022 \(S.I. 2022/907\)](#), reg. 1(2), [Sch. 1 para. 17\(b\)\(xi\)](#)
- F120** Words in Sch. 1 para. 5(2)(b)(ii) deleted (E.W.) (2.7.2001) by [The Rent Officers \(Housing Benefit Functions\) \(Amendment\) Order 2001 \(S.I. 2001/1325\)](#), arts. 1(1), [4\(a\)](#)
- F121** Sch. 1 para. 5(2)(b)(iia) inserted (E.W.) (2.7.2001) by [The Rent Officers \(Housing Benefit Functions\) \(Amendment\) Order 2001 \(S.I. 2001/1325\)](#), arts. 1(1), [4\(b\)](#)
- F122** Words in Sch. 1 para. 5(2)(b)(iii) inserted (E.W.) (2.7.2001) by [The Rent Officers \(Housing Benefit Functions\) \(Amendment\) Order 2001 \(S.I. 2001/1325\)](#), arts. 1(1), [4\(c\)](#)
- F123** Words in Sch. 1 para. 5(3) substituted (24.9.2003 for specified purposes in accordance with arts. 1(1)) by [Rent Officers \(Housing Benefit Functions\) \(Local Housing Allowance\) Amendment Order 2003 \(S.I. 2003/2398\)](#), arts. 1(1), [2\(9\)\(a\)](#)
- F124** Words in Sch. 1 para. 5(3) substituted (13.3.2005) by [Rent Officers \(Housing Benefit Functions\) \(Local Housing Allowance\) Amendment Order 2005 \(S.I. 2005/236\)](#), arts. 1(2), [3\(a\)](#)
- F125** Words in Sch. 1 para. 5(3) substituted (24.9.2003 for specified purposes in accordance with arts. 1(1)) by [Rent Officers \(Housing Benefit Functions\) \(Local Housing Allowance\) Amendment Order 2003 \(S.I. 2003/2398\)](#), arts. 1(1), [2\(9\)\(b\)](#)
- F126** Words in Sch. 1 para. 5(3) substituted (13.3.2005) by [Rent Officers \(Housing Benefit Functions\) \(Local Housing Allowance\) Amendment Order 2005 \(S.I. 2005/236\)](#), arts. 1(2), [3\(b\)](#)

^{F127} Claim-related rent **E+W+S**

^{F128}In this paragraph, and in paragraph 9, “claim-related rent” means the claim-related rent determined by the rent officer in accordance with paragraph (2A).]

(2) ^{F129}Where a rent officer makes any determinations under paragraphs 1, 2 or 3, he shall also determine which rent is the claim-related rent.]

^{F130}(2A) The rent officer shall determine that the claim-related rent is—

- (a) where he makes a determination under sub-paragraph (2) of paragraph 1, sub-paragraph (2) of paragraph 2 and sub-paragraph (3) of paragraph 3, the lowest of the three rents determined under those sub-paragraphs;
- (b) where he makes a determination under only two of the sub-paragraphs referred to in paragraph (a), the lower of the two rents determined under those sub-paragraphs;
- (c) where he makes a determination under only one of the sub-paragraphs referred to in paragraph (a), the rent determined under that sub-paragraph;
- (d) where he does not make a determination under any of the sub-paragraphs referred to in sub-paragraph (a), the rent payable under the tenancy of the dwelling at the relevant time.]

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(3) ^{F131}Where the dwelling is not in a hostel,] the rent officer shall also determine the total amount of ineligible charges, as defined in paragraph 7, which he has not included in the claim-related rent because of the assumptions made in accordance with that paragraph.]

Textual Amendments

F127 Sch. 1 para. 6 substituted (3.4.2000) by [The Rent Officers \(Housing Benefit Functions\) \(Amendment\) Order 2000 \(S.I. 2000/1\)](#), arts. 1(1), **II** (with art. 16)

F128 Sch. 1 para. 6(1) substituted (7.4.2008) by [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **9(2)(a)** (with arts. 2, 7(1))

F129 Sch. 1 para. 6(2) omitted (7.4.2008) by virtue of [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **9(2)(c)** (with arts. 2, 7(1))

F130 Sch. 1 para. 6(2A) inserted (7.4.2008) by [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **9(2)(b)** (with arts. 2, 7(1))

F131 Words in Sch. 1 para. 6(3) omitted (7.4.2008) by virtue of [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **9(2)(d)** (with arts. 2, 7(1))

Article 3(1)(b)

PART II E+W+S

ASSUMPTIONS etc.

^{F132}**Ineligible charges and support charges** E+W+S

^{F133}“ineligible charges” means service charges which are ineligible to be met by housing benefit by virtue of regulation 12B(2) (rent) of and Schedule 1 (ineligible service charges) to the Housing Benefit Regulations or, as the case may be, regulation 12B(2) of and Schedule 1 to the Housing Benefit (State Pension Credit) Regulations except in the case of a tenancy where the rent includes payments for board and attendance, and the rent officer considers that a substantial part of the rent under the tenancy is fairly attributable to board and attendance, charges specified in paragraph 1(a) (i) of Schedule 1 to the Housing Benefit Regulations or, as the case may be, in paragraph 1(a)(i) of Schedule 1 to the Housing Benefit (State Pension Credit) Regulations (charges for meals).]

(2) When making a determination under paragraph 1, 2 or 3 of this Schedule, the rent officer shall assume that—

(a) the items to which the ineligible charges relate; ^{F136} ...

^{F136}(b)

were not to be provided or made available.

^{F137}For the purposes of paragraphs 1, 2, 3, and 6 of Part 1 of this Schedule, the rent officer shall assume that the rent payable under the tenancy at the relevant time is—

- (a) where an amount is notified to the rent officer under regulation 114A(4)(b) of the Housing Benefit Regulations or, as the case may be, regulations 95A(4)(b) of the Housing Benefit (State Pension Credit) Regulations in respect of that tenancy, that notified amount less the total of any ineligible charges included in that amount; or
- (b) in any other case, the total amount stated under regulation 114A(3)(d) of the Housing Benefit Regulations or, as the case may be regulation 95A(3)(d) of the Housing Benefit (State Pension Credit) Regulations less the total of any ineligible charges included in that stated amount.]

(4) The total of any ineligible charges, referred to in sub-paragraph (3), shall be the total of the amounts (excluding any amount which he considers is negligible) of any charges included in the notified amount or the stated amount, as the case may be, which, in the rent officer's opinion, are at the relevant time fairly attributable to any items to which ineligible charges relate.]

Textual Amendments

- F132** Sch. 1 para. 7 substituted (3.4.2000) by [The Rent Officers \(Housing Benefit Functions\) \(Amendment\) Order 2000 \(S.I. 2000/1\)](#), arts. 1(1), **12** (with art. 16)
- F133** Sch. 1 para. 7(1) substituted (7.4.2008) by [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **8(2)** (with arts. 2, 7(1))
- F134** Words in Sch. 1 para. 7(1) substituted (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. 11(10)(b)(i)** (with regs. 2, 3, Sch. 3, 4)
- F135** Sch. 1 para. 7(1)(b) omitted (1.4.2003 for specified purposes, 7.4.2003 for specified purposes) by virtue of [Rent Officers \(Housing Benefit Functions\) Amendment Order 2003 \(S.I. 2003/478\)](#), arts. 1(1), **2(3)(a)(ii)**
- F136** Sch. 1 para. 7(2)(b) omitted (1.4.2003 for specified purposes, 7.4.2003 for specified purposes) by virtue of [Rent Officers \(Housing Benefit Functions\) Amendment Order 2003 \(S.I. 2003/478\)](#), arts. 1(1), **2(3)(b)**
- F137** Sch. 1 para. 7(3) substituted (7.4.2008) by [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **7(4)** (with arts. 2, 7(1))
- F138** Words in Sch. 1 para. 7(3) substituted (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. 11(10)(b)(ii)(aa)** (with regs. 2, 3, Sch. 3, 4)
- F139** Words in Sch. 1 para. 7(3) substituted (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. 11(10)(b)(ii)(bb) (with regs. 2, 3, Sch. 3, 4)

Housing associations etc. **E+W+S**

8.—(1) [^{F140}In a case][^{F140}In relation to England, in a case] where the local authority states in the application that the landlord is a housing association or a charity, the rent officer shall assume that the landlord is not such a body.

[^{F141}(1A) In relation to Wales, in a case where the local authority states in the application that the landlord is a housing association, a community landlord, or a charity, the rent officer shall assume that the landlord is not such a body.]

(2) [^{F142}The rent officer][^{F142}In relation to England, the rent officer] shall not take into account the rent under any tenancy where the landlord is a housing association or where the landlord is a charity and the dwelling is provided by the landlord in the pursuit of its charitable purposes.

[^{F143}(2A) In relation to Wales, the rent officer shall not take into account the rent under any occupation contract where the landlord is a housing association or a community landlord, or where the landlord is a charity and the dwelling is provided by the landlord in the pursuit of its charitable purposes.]

(3) In this paragraph—

“charity” has the same meaning as in the Charities Act 1993 ^{M11}, except that it includes a Scottish charity (which has the same meaning as in section 1(7) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 ^{M12}); and

[^{F144}“community landlord” has the meaning given by the Renting Homes (Wales) Act 2016 (see section 9 of that Act);]

“housing association” has the same meaning as in the Housing Associations Act 1985^{M13}.

Textual Amendments

- F140** Words in Sch. 1 para. 8(1) substituted (W.) (1.12.2022) by The Renting Homes (Wales) Act 2016 (Consequential Amendments to Secondary Legislation) Regulations 2022 (S.I. 2022/907), reg. 1(2), **Sch. 1 para. 17(b)(xii)**
- F141** Sch. 1 para. 8(1A) inserted (W.) (1.12.2022) by The Renting Homes (Wales) Act 2016 (Consequential Amendments to Secondary Legislation) Regulations 2022 (S.I. 2022/907), reg. 1(2), **Sch. 1 para. 17(b)(xiii)**
- F142** Words in Sch. 1 para. 8(2) substituted (W.) (1.12.2022) by The Renting Homes (Wales) Act 2016 (Consequential Amendments to Secondary Legislation) Regulations 2022 (S.I. 2022/907), reg. 1(2), **Sch. 1 para. 17(b)(xiv)**
- F143** Sch. 1 para. 8(2A) inserted (W.) (1.12.2022) by The Renting Homes (Wales) Act 2016 (Consequential Amendments to Secondary Legislation) Regulations 2022 (S.I. 2022/907), reg. 1(2), **Sch. 1 para. 17(b)(xv)**
- F144** Words in Sch. 1 para. 8(3) inserted (W.) (1.12.2022) by The Renting Homes (Wales) Act 2016 (Consequential Amendments to Secondary Legislation) Regulations 2022 (S.I. 2022/907), reg. 1(2), **Sch. 1 para. 17(b)(xvi)**

Marginal Citations

- M11** 1993 c.10.
- M12** 1990 c.40.
- M13** 1985 c.69; see **section 1(1)**.

Article 3(1)(c)

PART III **E+W+S**

NOTIFICATIONS OF PART I DETERMINATIONS

Notifications **E+W+S**

9.—^{F145}(1) Subject to sub-paragraph (2), the rent officer shall give notice to the local authority of—

- (a) the claim-related rent determined under Part I;
- (b) where the dwelling is not in a hostel, the total amount of ineligible charges determined under paragraph 6(3) in relation to that claim-related rent;
- (c) ^{F146}where that claim-related rent includes an amount which would be ineligible for housing benefit under paragraph 1(a)(i) of Schedule 1 to the Housing Benefit Regulations or, as the case may be, paragraph 1(a)(i) of Schedule 1 to the Housing Benefit (State Pension Credit) Regulations (charges for meals), the inclusion of an ineligible amount in respect of meals;
- (d) any rent determined by the rent officer under paragraph 4 (local reference rents); and
- ^{F148}(da) where any rent determined under paragraph 4 includes an amount which would be ineligible for housing benefit under the provisions referred to in sub-paragraph (c), the inclusion of an ineligible amount in respect of meals; and]
- (e) any rent determined by the rent officer under paragraph 5 (single room rents).]

(2) If the rent officer determines a rent under—

Changes to legislation: There are currently no known outstanding effects for the *The Rent Officers (Housing Benefit Functions) Order 1997*. (See end of Document for details)

- (a) paragraph 4 (local reference rents); or
- (b) paragraph 5 (single room rents);

which is equal to or more than the [^{F149}claim-related rent], the rent officer shall give notice to the local authority of this in place of giving notice of the determination made under paragraph 4 or, as the case may be, paragraph 5 ^{F150}....

^{F151}(3)

Textual Amendments

F145 Sch. 1 para. 9(1) substituted (3.4.2000) by [The Rent Officers \(Housing Benefit Functions\) \(Amendment\) Order 2000 \(S.I. 2000/1\)](#), arts. 1(1), **13(1)(a)** (with art. 16)

F146 Sch. 1 para. 9(1)(c) substituted (7.4.2008) by [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **9(3)(a)** (with arts. 2, 7(1))

F147 Words in Sch. 1 para. 9(1)(c) substituted (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. 11(10)(c)** (with regs. 2, 3, Sch. 3, 4)

F148 Sch. 1 para. 9(1)(da) inserted (7.4.2008) by [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **9(3)(b)** (with arts. 2, 7(1))

F149 Words in Sch. 1 para. 9(2) substituted (E.W.) (3.4.2000) by [The Rent Officers \(Housing Benefit Functions\) \(Amendment\) Order 2000 \(S.I. 2000/1\)](#), arts. 1(1), **13(1)(b)(i)** (with art. 16)

F150 Words in Sch. 1 para. 9(2) omitted (E.W.) (3.4.2000) by virtue of [The Rent Officers \(Housing Benefit Functions\) \(Amendment\) Order 2000 \(S.I. 2000/1\)](#), arts. 1(1), **13(1)(b)(ii)** (with art. 16)

F151 Sch. 1 para. 9(3) omitted (E.W.) (3.4.2000) by virtue of [The Rent Officers \(Housing Benefit Functions\) \(Amendment\) Order 2000 \(S.I. 2000/1\)](#), arts. 1(1), **13(1)(c)** (with art. 16)

^{F152}**10.**

Textual Amendments

F152 Sch. 1 para. 10 omitted (E.W.) (3.4.2000) by virtue of [The Rent Officers \(Housing Benefit Functions\) \(Amendment\) Order 2000 \(S.I. 2000/1\)](#), arts. 1(1), **13(2)** (with art. 16)

Article 3(2)(a)

PART IV **E+W+S**

INDICATIVE RENT LEVELS

11.—(1) The rent officer shall determine the indicative rent level for each category described in sub-paragraph (3) in accordance with the following formula—

$$I = \frac{H + 3L}{4}$$

where—I is the indicative rent level;

Changes to legislation: There are currently no known outstanding effects for the The Rent Officers (Housing Benefit Functions) Order 1997. (See end of Document for details)

H is the highest rent, in the rent officer’s opinion,—

(a) which a landlord might reasonably be expected to obtain at the time the determination is being made for an assured tenancy of a dwelling [^{F153}in England, or an occupation contract of a dwelling in Wales,] meeting the criteria in sub-paragraph (2); and

(b) which is not an exceptionally high rent; and

L is the lowest rent, in the rent officer’s opinion,—

(a) which a landlord might reasonably be expected to obtain at the time the determination is being made for an assured tenancy of a dwelling [^{F154}in England, or an occupation contract of a dwelling in Wales,] meeting the criteria in sub-paragraph (2); and

(b) which is not an exceptionally low rent.

(2) The criteria are that—

(a) the dwelling is in the area of the local authority;

(b) the dwelling is in a reasonable state of repair; and

(c) the dwelling and tenancy accord with the category to which the determination relates.

(3) The categories for the purposes of this paragraph are—

(a) a dwelling where the tenant does not have use of more than one room where a substantial part of the rent under the tenancy is fairly attributable to board and attendance;

(b) a dwelling where the tenant does not have use of more than one room, the tenancy provides for him to share a kitchen or toilet and paragraph (a) does not apply;

(c) a dwelling where the tenant does not have use of more than one room and where paragraphs (a) and (b) do not apply;

(d) a dwelling where the tenant does not have use of more than two rooms and where none of paragraphs (a) to (c) applies;

(e) a dwelling where the tenant does not have use of more than three rooms and where none of paragraphs (a) to (d) applies;

(f) a dwelling where the tenant does not have use of more than four rooms and where none of paragraphs (a) to (e) applies;

(g) a dwelling where the tenant does not have use of more than five rooms and where none of paragraphs (a) to (f) applies; and

(h) a dwelling where the tenant does not have use of more than six rooms and where none of paragraphs (a) to (g) applies.

(4) When ascertaining H and L under sub-paragraph (1), the rent officer:

(a) shall assume that no one who would have been entitled to housing benefit had sought or is seeking the tenancy; and

(b) shall exclude the amount of any rent which, in the rent officer’s opinion, is fairly attributable to the provision of services which are ineligible to be met by housing benefit;

^{F155} ...

^{F155}(c)

(5) In this paragraph—

“room” means a bedroom or room suitable for living in and in paragraphs (a), (b) and (c) of sub-paragraph (3) does not include a room which the tenant shares with any person other than—

(a) a member of his household;

- (b) a non-dependant of the tenant (within the meaning of ^{F156}[^{F157} regulation 3 of the Housing Benefit Regulations or, as the case may be, regulation 3 of the Housing Benefit (State Pension Credit) Regulations]); or
 - (c) a person who pays rent to the tenant; and
- “services” has the meaning given by paragraph 4(5).

Textual Amendments

- F153** Words in Sch. 1 para. 11(1) inserted (W.) (1.12.2022) by [The Renting Homes \(Wales\) Act 2016 \(Consequential Amendments to Secondary Legislation\) Regulations 2022 \(S.I. 2022/907\)](#), reg. 1(2), **Sch. 1 para. 17(b)(xvii)(aa)**
- F154** Words in Sch. 1 para. 11(1) inserted (W.) (1.12.2022) by [The Renting Homes \(Wales\) Act 2016 \(Consequential Amendments to Secondary Legislation\) Regulations 2022 \(S.I. 2022/907\)](#), reg. 1(2), **Sch. 1 para. 17(b)(xvii)(bb)**
- F155** Sch. 1 para. 11(4)(c) and word omitted (1.4.2003 for specified purposes, 7.4.2003 for specified purposes) by virtue of [Rent Officers \(Housing Benefit Functions\) Amendment Order 2003 \(S.I. 2003/478\)](#), arts. 1(1), **2(4)**
- F156** Words in Sch. 1 para. 11(5)(b) substituted (7.4.2008) by [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **10(7)(b)** (with art. 2)
- F157** Words in Sch. 1 para. 11(5)(b) substituted (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. 11(10)(c)** (with regs. 2, 3, Sch. 3, 4)

SCHEDULE 2 **E+W+S**

Article 2

SIZE CRITERIA

1. One bedroom or room suitable for living in shall be allowed for each of the following categories of occupier (and each occupier shall come within only the first category for which he is eligible)—

- ^{F158}(za) a member of a couple who cannot share a bedroom;
- (zb) a member of a couple who can share a bedroom;]
 - (a) [^{F159}a couple]^{F160} ...;
 - (b) a person who is not a child;
- ^{F161}(ba) a child who cannot share a bedroom;]
 - (c) two children of the same sex;
 - (d) two children who are less than ten years old;
 - (e) a child.

^{F162}but the claimant is only entitled to a bedroom in respect of a child who cannot share a bedroom ^{F163}or a member of a couple who cannot share a bedroom] if there is a bedroom in the dwelling occupied as the home that is additional to those to which the claimant would be entitled if the child ^{F164}or the member of the couple] were able to share a bedroom.]

Changes to legislation: There are currently no known outstanding effects for the *The Rent Officers (Housing Benefit Functions) Order 1997*. (See end of Document for details)

Textual Amendments

- F158** Sch. 2 para. 1(za)(zb) inserted (1.4.2017) by [The Housing Benefit and Universal Credit \(Size Criteria\) \(Miscellaneous Amendments\) Regulations 2017 \(S.I. 2017/213\)](#), regs. 1(1), **2(2)(a)**
- F159** Words in Sch. 2 para. 1(a) substituted (5.12.2005) by [The Civil Partnership \(Pensions, Social Security and Child Support\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2877\)](#), art. 1, **Sch. 3 para. 29** (with art. 3)
- F160** Words in Sch. 2 para. 1(a) omitted (1.4.2017) by virtue of [The Housing Benefit and Universal Credit \(Size Criteria\) \(Miscellaneous Amendments\) Regulations 2017 \(S.I. 2017/213\)](#), regs. 1(1), **2(2)(b)**
- F161** Sch. 2 para. 1(ba) inserted (4.12.2013) by [The Rent Officers \(Housing Benefit Functions\) Amendment \(No. 2\) Order 2013 \(S.I. 2013/2827\)](#), arts. 1, **2(2)(a)(i)**
- F162** Words in Sch. 2 para. 1 added (4.12.2013) by [The Rent Officers \(Housing Benefit Functions\) Amendment \(No. 2\) Order 2013 \(S.I. 2013/2827\)](#), arts. 1, **2(2)(a)(ii)**
- F163** Words in Sch. 2 para. 1 inserted (1.4.2017) by [The Housing Benefit and Universal Credit \(Size Criteria\) \(Miscellaneous Amendments\) Regulations 2017 \(S.I. 2017/213\)](#), regs. 1(1), **2(2)(c)(i)**
- F164** Words in Sch. 2 para. 1 inserted (1.4.2017) by [The Housing Benefit and Universal Credit \(Size Criteria\) \(Miscellaneous Amendments\) Regulations 2017 \(S.I. 2017/213\)](#), regs. 1(1), **2(2)(c)(ii)**

- ^{F165}**1A.** One additional bedroom is allowed where on the application for the determination—
- (a) ^{F166}one or more of the following persons is stated as being a person who requires overnight care—
- (i) the tenant;
 - (ii) the tenant’s partner;
 - (iii) a person (other than the tenant or the tenant’s partner) who occupies the dwelling as their home;
 - (iv) a child or young person in respect of whom the tenant or the tenant’s partner is a qualifying parent or carer; or]
- (b) the tenant or the tenant’s partner is (or both of them are) stated as being a qualifying parent or carer.

Textual Amendments

- F165** Sch. 2 para. 1A(as inserted by art.3(4) [The Rent Officers \(Housing Benefit Functions\) Amendment Order 2010 \(S.I. 2010/2836\)](#)),Sch. 2 para. 1B substituted for Sch. 2 para. 1A (1.4.2013) by [The Rent Officers \(Housing Benefit Functions\) Amendment Order 2013 \(S.I. 2013/666\)](#), arts. 1, **2(2)(a)**
- F166** Sch. 2 para. 1A(a) substituted (1.4.2017) by [The Housing Benefit and Universal Credit \(Size Criteria\) \(Miscellaneous Amendments\) Regulations 2017 \(S.I. 2017/213\)](#), regs. 1(1), **2(3)**

1B. Two additional bedrooms are allowed where sub-paragraphs (a) and (b) of paragraph 1A both apply.]

Textual Amendments

- F165** Sch. 2 para. 1A(as inserted by art.3(4) [The Rent Officers \(Housing Benefit Functions\) Amendment Order 2010 \(S.I. 2010/2836\)](#)),Sch. 2 para. 1B substituted for Sch. 2 para. 1A (1.4.2013) by [The Rent Officers \(Housing Benefit Functions\) Amendment Order 2013 \(S.I. 2013/666\)](#), arts. 1, **2(2)(a)**

2. The number of rooms (excluding any allowed under paragraph 1) suitable for living in allowed are—

- (a) if there are less than four occupiers, one;
- (b) if there are more than three and less than seven occupiers, two; and
- (c) in any other case, three.

[^{F167}3. In this Schedule “child who cannot share a bedroom”^{F168}, “couple”, “member of a couple who cannot share a bedroom” and “qualifying parent or carer” have the meaning given by regulation 2(1) of the Housing Benefit Regulations [^{F169}and reference to a member of a couple who can share a bedroom is to be construed in accordance with regulation 2(6) of those Regulations].]

Textual Amendments

- F167** Sch. 2 para. 3(as added by art. **2(2)(b)** of [The Rent Officers \(Housing Benefit Functions\) Amendment Order 2013 \(S.I. 2013/666\)](#)) substituted (4.12.2013) by [The Rent Officers \(Housing Benefit Functions\) Amendment \(No. 2\) Order 2013 \(S.I. 2013/2827\)](#), arts. 1, **2(2)(b)**
- F168** Words in Sch. 2 para. 3 inserted (1.4.2017) by [The Housing Benefit and Universal Credit \(Size Criteria\) \(Miscellaneous Amendments\) Regulations 2017 \(S.I. 2017/213\)](#), regs. 1(1), **2(4)(a)**
- F169** Words in Sch. 2 para. 3 inserted (1.4.2017) by [The Housing Benefit and Universal Credit \(Size Criteria\) \(Miscellaneous Amendments\) Regulations 2017 \(S.I. 2017/213\)](#), regs. 1(1), **2(4)(b)**

SCHEDULE 3 **E+W+S**

Article 4

REDETERMINATIONS

[^{F170}1. Schedules 1 and 2 shall apply in relation to a redetermination as they apply to a determination, but as if references in those Schedules to the relevant time were references to the date the application for the original determination was made or, if earlier, the date the tenancy ended.]

Textual Amendments

- F170** Sch. 3 para. 1 substituted (3.4.2000) by [The Rent Officers \(Housing Benefit Functions\) \(Amendment\) Order 2000 \(S.I. 2000/1\)](#), arts. 1(1), **15**

2. The rent officer making the redetermination shall seek and have regard to the advice of one or two other rent officers in relation to the redetermination.

[^{F171}SCHEDULE 3A **E+W+S**

Articles 2(2) and 4B

PART I

Textual Amendments

- F171** Sch. 3A inserted (24.9.2003) by [Rent Officers \(Housing Benefit Functions\) \(Local Housing Allowance\) Amendment Order 2003 \(S.I. 2003/2398\)](#), arts. 1(1), 2(10), **Sch. 2**

^{F172}Categories of dwelling **E+W+S**

1.—(1) The categories of dwelling for which a rent officer is required to determine a local housing allowance in accordance with article 4B(2)(a)(i) are—

- (a) a dwelling where the tenant has the exclusive use of only one bedroom and where the tenancy provides for him to—
 - (i) share the use of a kitchen, a bathroom and toilet and a room suitable for living in;
 - (ii) have the exclusive use of a kitchen or facilities for cooking and share the use of a bathroom and toilet and a room suitable for living in; or
 - (iii) have the exclusive use of a bathroom and toilet and share the use of a kitchen and a room suitable for living in;
- (b) a dwelling where the tenant has the use of only two rooms;
- (c) a dwelling where the tenant has the use of only three rooms;
- (d) a dwelling where the tenant has the use of only four rooms;
- (e) a dwelling where the tenant has the use of only five rooms;
- (f) a dwelling where the tenant has the use of only six rooms.

(2) In sub-paragraph (1)(b) to (f) of this paragraph and in paragraph 3 “room” means a bedroom or room suitable for living in, except for a room which the tenant shares with any person other than—

- (a) a member of his household;
- (b) a non-dependant of the tenant (within the meaning of ^{F173}^{F174} regulation 3 of the Housing Benefit Regulations or, as the case may be, regulation 3 of the Housing Benefit (State Pension Credit) Regulations); or
- (c) a person who pays rent to the tenant.

Textual Amendments

F172 Sch. 3A omitted (7.4.2008) by virtue of [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **6(8)** (with arts. 2, 6(1), (2))

F173 Words in Sch. 3A para. 1(2)(b) substituted (7.4.2008) by [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **10(8)** (with art. 2)

F174 Words in Sch. 3A para. 1(2)(b) substituted (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. 11(11)** (with regs. 2, 3, Sch. 3, 4)

Formula for local housing allowance for category of dwelling in paragraph 1(1)(a) **E+W+S**

2.—(1) The rent officer shall determine a local housing allowance for the category of dwelling in paragraph 1(1)(a) in accordance with the following formula—

where $A = \frac{H+L}{2}$

A is the local housing allowance;

H is the highest rent which, in the rent officer’s opinion—

- (a) a landlord might reasonably have been expected to obtain, at the date of the determination, for an assured tenancy of a dwelling which meets the criteria specified in sub-paragraph (2); and
- (b) is not an exceptionally high rent;

- L is the lowest rent which, in the rent officer's opinion—
- (a) a landlord might reasonably have been expected to obtain, at the date of the determination, for an assured tenancy of a dwelling which meets the criteria specified in sub-paragraph (2); and
 - (b) is not an exceptionally low rent.
- (2) The criteria are—
- (a) that the dwelling under the assured tenancy—
 - (i) is in the broad rental market area for which the local housing allowance is being determined; and
 - (ii) is in a reasonable state of repair;
 - (b) that under the assured tenancy, the tenant has the exclusive use of only one bedroom and the tenancy provides for him to—
 - (i) share the use of a kitchen, a bathroom and toilet and a room suitable for living in;
 - (ii) have the exclusive use of a kitchen or facilities for cooking and share the use of a bathroom and toilet and a room suitable for living in; or
 - (iii) have the exclusive use of a bathroom and toilet and share the use of a kitchen and a room suitable for living in; and
 - (c) that the rent does not include any payment for board and attendance.
- (3) When ascertaining H and L under sub-paragraph (1) the rent officer shall—
- (a) assume that no one who would have been entitled to housing benefit had sought or is seeking the tenancy; and
 - (b) exclude the amount of any rent which, in the rent officer's opinion, is fairly attributable to the provision of services performed for, or facilities (including the use of furniture) provided for, or rights made available to, the tenant which are ineligible to be met by housing benefit.
- (4) When ascertaining H and L under sub-paragraph (1) the rent officer may, where he is not satisfied that—
- (a) the broad rental market area contains a sufficient number of dwellings that accord with the category of dwelling set out in paragraph 1(1)(a) to enable him to make a local housing allowance determination; or
 - (b) he has sufficient other information about the market in the broad rental market area to enable him to make a local housing allowance determination,
- take account of rents in other similar areas in which he believes a comparable market exists.

[^{F175} Blackpool	17th November 2003
Brighton and Hove	2nd February 2004
Conwy	9th February 2004
Coventry	12th January 2004
East Riding of Yorkshire	18th April 2005
Guildford	4th July 2005
Leeds	9th February 2004
Lewisham	1st December 2003

North East Lincolnshire	9th February 2004
Norwich	13th June 2005
Pembrokeshire	20th June 2005
St Helens	23rd May 2005
Salford	25th July 2005
South Norfolk	6th June 2005
Teignbridge	12th January 2004
Wandsworth	11th April 2005.]

Textual Amendments

F172 Sch. 3A omitted (7.4.2008) by virtue of [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **6(8)** (with arts. 2, 6(1), (2))

F175 Words in Sch. 3A Pt. 2 substituted (13.3.2005) by [Rent Officers \(Housing Benefit Functions\) \(Local Housing Allowance\) Amendment Order 2005 \(S.I. 2005/236\)](#), arts. 1(2), **2(2)**

Formula for local housing allowance for other categories of dwelling **E+W+S**

3.—(1) For categories of dwelling other than the category of dwelling in paragraph 1(1)(a), the rent officer shall determine a local housing allowance in accordance with the formula—

$B = \frac{H+L}{2}$
where

B is the local housing allowance;

H is the highest rent which, in the rent officer's opinion—

- (a) a landlord might reasonably have been expected to obtain, at the date of the determination, for an assured tenancy of a dwelling which meets the criteria specified in sub-paragraph (2); and
- (b) is not an exceptionally high rent; and

L is the lowest rent which, in the rent officer's opinion—

- (a) a landlord might reasonably have been expected to obtain, at the date of the determination, for an assured tenancy of a dwelling which meets the criteria specified in sub-paragraph (2); and
- (b) is not an exceptionally low rent.

(2) The criteria are that the dwelling under the assured tenancy—

- (a) is in the broad rental market area for which the local housing allowance is being determined;
- (b) is in a reasonable state of repair; and
- (c) has the same number of rooms as the category of dwelling in respect of which the local housing allowance is being determined.

(3) Sub-paragraphs (3) and (4) of paragraph 2 apply when ascertaining H and L under this paragraph as if the reference in those sub-paragraphs to H and L were to H and L under this paragraph, except that “in respect of which the local housing allowance is being determined” shall be substituted for “set out in paragraph 1(1)(a)”.

Changes to legislation: There are currently no known outstanding effects for the *The Rent Officers (Housing Benefit Functions) Order 1997*. (See end of Document for details)

Textual Amendments

F172 Sch. 3A omitted (7.4.2008) by virtue of [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **6(8)** (with arts. 2, 6(1), (2))

Broad rental market area **E+W+S**

4. In this Schedule “broad rental market area” means an area—
- (a) comprising two or more distinct areas of residential accommodation, each distinct area of residential accommodation adjoining at least one other in the area;
 - (b) within which a person could reasonably be expected to live having regard to facilities and services for the purposes of health, education, recreation, personal banking and shopping, taking account of the distance of travel, by public and private transport, to and from facilities and services of the same type and similar standard; and
 - (c) containing residential premises of a variety of types, and including such premises held on a variety of tenancies.

PART II

<i>Column (1) Local authority</i>	<i>Column (2) Date</i>
Blackpool	17th November 2003
Brighton and Hove	2nd February 2004
Conwy	9th February 2004
Coventry	12th January 2004
Edinburgh	9th February 2004
Leeds	9th February 2004
Lewisham	1st December 2003
North East Lincolnshire	9th February 2004
Teignbridge	12th January 2004]]

Textual Amendments

F172 Sch. 3A omitted (7.4.2008) by virtue of [Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **6(8)** (with arts. 2, 6(1), (2))

[^{F176}SCHEDULE
3B **E+W+S**]

Article 4B

Broad rental market area determinations and local housing allowance determinations

<p>Textual Amendments</p> <p>F176 Sch. 3B inserted (20.3.2008) by Rent Officers (Housing Benefit Functions) Amendment Order 2007 (S.I. 2007/2871), arts. 1(3), 4(4) (with art. 2)</p> <hr/> <p>Modifications etc. (not altering text)</p> <p>C2 Sch. 3B modified (28.1.2021) by The Rent Officers (Housing Benefit and Universal Credit Functions) (Modification) Order 2020 (S.I. 2020/1519), arts. 1, 2</p> <p>C3 Sch. 3B modified (31.1.2022) by The Rent Officers (Housing Benefit and Universal Credit Functions) (Amendment and Modification) Order 2021 (S.I. 2021/1380), arts. 1(1), 5</p> <p>C4 Sch. 3B modified (31.1.2023) by The Rent Officers (Housing Benefit and Universal Credit Functions) (Modification) Order 2023 (S.I. 2023/6), arts. 1(1), 2</p>
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Categories of dwelling **E+W+S**

1.—(1) The categories of dwelling for which a rent officer is required to determine a local housing allowance in accordance with [^{F177} article 4B(2A)(a)] are—

- (a) a dwelling where the tenant has the exclusive use of only one bedroom and where the tenancy provides for him to share the use of one or more of—
 - (i) a kitchen;
 - (ii) a bathroom;
 - (iii) a toilet; or
 - (iv) a room suitable for living in;
- (b) a dwelling where the tenant (together with his partner where he has one) has the exclusive use of only one bedroom and exclusive use of a kitchen, a bathroom, a toilet and a room suitable for living in;
- (c) a dwelling where the tenant has the use of only two bedrooms;
- (d) a dwelling where the tenant has the use of only three bedrooms;
- (e) a dwelling where the tenant has the use of only four bedrooms;

^{F178}(f)

(2) In—

- (a) sub-paragraph (1)(b) “partner” has the same meaning as in regulation 2 of the Housing Benefit Regulations or, as the case may be, regulation 2 of the Housing Benefit (State Pension Credit) Regulations ;
- (b) sub-paragraph (1)(c) [^{F179}to (e)] “bedroom” means a bedroom, except for a bedroom which the tenant shares with any person other than—
 - (i) a member of his household;
 - (ii) a non-dependant of the tenant (within the meaning of regulation 3 of the Housing Benefit Regulations or, as the case may be, regulation 3 of the Housing Benefit (State Pension Credit) Regulations); or
 - (iii) a person who pays rent to the tenant.

Textual Amendments

- F177** Words in Sch. 3B para. 1(1) substituted (E.W.) (2.4.2012) by [The Rent Officers \(Housing Benefit Functions\) \(Amendment\) Order 2012 \(S.I. 2012/646\)](#) , arts. 1 , **2(4)(a)**
- F178** Sch. 3B para. 1(1)(f) omitted (18.3.2011) by virtue of [The Rent Officers \(Housing Benefit Functions\) Amendment Order 2010 \(S.I. 2010/2836\)](#) , arts. 1(2) , **2(3)(a)(i)**
- F179** Words in Sch. 3B para. 1(2)(b) substituted (18.3.2011) by [The Rent Officers \(Housing Benefit Functions\) Amendment Order 2010 \(S.I. 2010/2836\)](#) , arts. 1(2) , **2(3)(a)(ii)**

Local housing allowance for category of dwelling in paragraph 1 E+W+S

^{F180}2.—(1) Subject to [^{F181}paragraphs] 3 (anomalous local housing allowances [^{F182}and 3A (minimum local housing allowance)]), the rent officer must determine a local housing allowance for each category of dwelling in paragraph 1 as follows.

- ^{F183}(2) The local housing allowance for any category of dwelling is the lower of—
 - (a) the rent at the 30th percentile determined in accordance with sub-paragraphs (4) to (8); and
 - (b) for a category of dwelling listed in column 1 of the following table, the amount listed in column 2 of that table (maximum local housing allowance)—

<i>1. Category of dwelling as specified in paragraph 1</i>	<i>2. Maximum local housing allowance for that category of dwelling</i>
paragraph 1(1)(a) (one bedroom, shared accommodation)	[^{F184} £331.39]
paragraph 1(1)(b) (one bedroom, exclusive use)	[^{F185} £331.39]
paragraph 1(1)(c) (two bedrooms)	[^{F186} £412.86]
paragraph 1(1)(d) (three bedrooms)	[^{F187} £497.10]
paragraph 1(1)(e) (four bedrooms)	[^{F188} £704.22]

- ^{F189}(2A)
- ^{F189}(2B)
- ^{F189}(3)
- ^{F189}(3A)

^{F190}The rent officer must compile a list of rents in ascending order of the rents which, in the rent officer’s opinion, are payable—

- (a) for each category of dwelling specified in paragraph 1—
 - (i) in England, let under an assured tenancy, or
 - (ii) in Wales—
 - (aa) before the day on which section 239 of the Renting Homes (Wales) Act 2016 comes into force, let under an assured tenancy, or
 - (bb) on or after that day, let under a relevant occupation contract; and
 - (b) in the 12 month period ending on the 30th day of the September preceding the date of the determination.]
- (5) In compiling the list of rents, the rent officer must—

Changes to legislation: There are currently no known outstanding effects for the The Rent Officers (Housing Benefit Functions) Order 1997. (See end of Document for details)

- (a) include within it the rent of an assured tenancy [^{F191}or a relevant occupation contract, as the case may be,] in relation to each category of dwelling if—
 - (i) the dwelling let under the assured tenancy [^{F192}or relevant occupation contract] is in the broad rental market area for which the local housing allowance for that category of dwelling is being determined;
 - (ii) the dwelling is in a reasonable state of repair; and
 - (iii) the assured tenancy [^{F193}or relevant occupation contract] permits the tenant to use exclusively or share the use of, as the case may be, the same number and type of rooms as the category of dwelling in relation to which the list is being compiled;
- (b) include within it any rents which are of the same amount;
- (c) where rent is payable other than weekly, use the figure which would be payable if the rent were to be payable weekly by—
 - (i) multiplying the rent by an appropriate figure to obtain the rent for a year;
 - (ii) dividing the total in (i) by 365; and
 - (iii) multiplying the total in (ii) by 7;
- (d) assume that no one who would have been entitled to housing benefit had sought or is seeking the tenancy; and
- (e) exclude the amount of any rent which, in the rent officer’s opinion, is fairly attributable to the provision of services performed for, or facilities (including the use of furniture) provided for, or rights made available to, the tenant which are ineligible to be met by housing benefit.

(6) Sub-paragraph (7) applies where the rent officer is not satisfied that the list of rents in respect of any category of dwelling would contain sufficient rents, payable in the 12 month period ending on the 30th day of the September preceding the date of the determination for dwellings in the broad rental market area, to enable a local housing allowance to be determined which is representative of the rents that a landlord might reasonably be expected to obtain in that area.

(7) In a case where this sub-paragraph applies the rent officer may add to the list rents for dwellings in the same category in other areas in which a comparable market exists.

(8) The rent officer must use the list of rents to determine the rent at the 30th percentile in the list (“R”) by—

- (a) where the number of rents on the list is a multiple of 10, applying the formula—

Where— R = the amount of the rent at P + the amount of the rent at P12

 - (i) P is the position on the list found by multiplying the number of rents on the list by 3 and dividing by 10; and
 - (ii) P1 is the following position on the list;
- (b) where the number of rents on the list is not a multiple of 10, applying the formula—

Where— R = the amount of the rent at P2

P2 is the position on the list found by multiplying the number of rents on the list by 3 and dividing by 10 and rounding the result upwards to the nearest whole number.

^{F194}(9)

(10) 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.]

[
F195(11) In this paragraph, “relevant occupation contract” means—

- (a) a secure contract in relation to which the landlord is a registered social landlord, a private registered provider of social housing, or a private landlord,
- (b) a standard contract, or
- (c) an introductory standard contract in relation to which the landlord is a registered social landlord or a provider of social housing.]

Textual Amendments

- F180** Sch. 3B para. 2 substituted (13.1.2014) by [The Rent Officers \(Housing Benefit and Universal Credit Functions\) \(Local Housing Allowance Amendments\) Order 2013 \(S.I. 2013/2978\)](#), **art. 2(2)**, reg. 1
- F181** Word in Sch. 3B para. 2(1) substituted (31.1.2024) by [The Rent Officers \(Housing Benefit and Universal Credit Functions\) \(Amendment\) Order 2024 \(S.I. 2024/11\)](#), arts. 1(1), **2(2)(a)(i)**
- F182** Words in Sch. 3B para. 2(1) inserted (31.1.2024) by [The Rent Officers \(Housing Benefit and Universal Credit Functions\) \(Amendment\) Order 2024 \(S.I. 2024/11\)](#), arts. 1(1), **2(2)(a)(ii)**
- F183** Sch. 3B para. 2(2) substituted (30.3.2020) by [The Social Security \(Coronavirus\) \(Further Measures\) Regulations 2020 \(S.I. 2020/371\)](#), regs. 1(1), **4(1)(b)**
- F184** Sum in Sch. 3B para. 2(2)(b) table substituted (31.1.2024) by [The Rent Officers \(Housing Benefit and Universal Credit Functions\) \(Amendment\) Order 2024 \(S.I. 2024/11\)](#), arts. 1(1), **2(2)(b)(i)**
- F185** Sum in Sch. 3B para. 2(2)(b) table substituted (31.1.2024) by [The Rent Officers \(Housing Benefit and Universal Credit Functions\) \(Amendment\) Order 2024 \(S.I. 2024/11\)](#), arts. 1(1), **2(2)(b)(ii)**
- F186** Sum in Sch. 3B para. 2(2)(b) table substituted (31.1.2024) by [The Rent Officers \(Housing Benefit and Universal Credit Functions\) \(Amendment\) Order 2024 \(S.I. 2024/11\)](#), arts. 1(1), **2(2)(b)(iii)**
- F187** Sum in Sch. 3B para. 2(2)(b) table substituted (31.1.2024) by [The Rent Officers \(Housing Benefit and Universal Credit Functions\) \(Amendment\) Order 2024 \(S.I. 2024/11\)](#), arts. 1(1), **2(2)(b)(iv)**
- F188** Sum in Sch. 3B para. 2(2)(b) table substituted (31.1.2024) by [The Rent Officers \(Housing Benefit and Universal Credit Functions\) \(Amendment\) Order 2024 \(S.I. 2024/11\)](#), arts. 1(1), **2(2)(b)(v)**
- F189** Sch. 3B para. 2(2) substituted for Sch. 3B para. 2(2A) - (3A) (30.1.2020) by [The Rent Officers \(Housing Benefit and Universal Credit Functions\) \(Amendment\) Order 2020 \(S.I. 2020/27\)](#), arts. 1, **2(3)(a)**
- F190** Sch. 3B para. 2(4) substituted (W.) (1.12.2022) by [The Renting Homes \(Wales\) Act 2016 \(Consequential Amendments to Secondary Legislation\) Regulations 2022 \(S.I. 2022/907\)](#), reg. 1(2), **Sch. 1 para. 17(c)(i)**
- F191** Words in Sch. 3B para. 2(5)(a) inserted (W.) (1.12.2022) by [The Renting Homes \(Wales\) Act 2016 \(Consequential Amendments to Secondary Legislation\) Regulations 2022 \(S.I. 2022/907\)](#), reg. 1(2), **Sch. 1 para. 17(c)(ii)**
- F192** Words in Sch. 3B para. 2(5)(a)(i) inserted (W.) (1.12.2022) by [The Renting Homes \(Wales\) Act 2016 \(Consequential Amendments to Secondary Legislation\) Regulations 2022 \(S.I. 2022/907\)](#), reg. 1(2), **Sch. 1 para. 17(c)(iii)**
- F193** Words in Sch. 3B para. 2(5)(a)(iii) inserted (W.) (1.12.2022) by [The Renting Homes \(Wales\) Act 2016 \(Consequential Amendments to Secondary Legislation\) Regulations 2022 \(S.I. 2022/907\)](#), reg. 1(2), **Sch. 1 para. 17(c)(iv)**
- F194** Sch. 3B para. 2(9) omitted (2.11.2015) by virtue of [The Rent Officers \(Housing Benefit and Universal Credit Functions\) \(Local Housing Allowance Amendments\) Order 2015 \(S.I. 2015/1753\)](#), **art. 2(2)(a)**, reg. 1
- F195** Sch. 3B para. 2(11) inserted (W.) (1.12.2022) by [The Renting Homes \(Wales\) Act 2016 \(Consequential Amendments to Secondary Legislation\) Regulations 2022 \(S.I. 2022/907\)](#), reg. 1(2), **Sch. 1 para. 17(c)(v)**

Changes to legislation: There are currently no known outstanding effects for the *The Rent Officers (Housing Benefit Functions) Order 1997*. (See end of Document for details)

Anomalous local housing allowances **E+W+S**

3.—(1) [^{F196}Subject to paragraph 3A, where—]

- (a) the rent officer has determined the local housing allowance for each of the categories of dwelling in paragraph 1(1) in accordance with the preceding paragraphs of this Schedule; and
- (b) the local housing allowance for a category of dwelling in paragraph 1(1)(b) [^{F197}to (e)] is lower than the local housing allowance for any of the categories of dwelling which precede it,

that local housing allowance [^{F198}is to] be the same as the highest local housing allowance which precedes it.

^{F199}(2)

Textual Amendments

F196 Words in Sch. 3B para. 3(1) substituted (31.1.2024) by [The Rent Officers \(Housing Benefit and Universal Credit Functions\) \(Amendment\) Order 2024 \(S.I. 2024/11\)](#), arts. 1(1), **2(3)(a)**

F197 Words in Sch. 3B para. 3(1)(b) substituted (18.3.2011) by [The Rent Officers \(Housing Benefit Functions\) Amendment Order 2010 \(S.I. 2010/2836\)](#), arts. 1(2), **2(3)(c)(i)**

F198 Words in Sch. 3B para. 3(1) substituted (31.1.2024) by [The Rent Officers \(Housing Benefit and Universal Credit Functions\) \(Amendment\) Order 2024 \(S.I. 2024/11\)](#), arts. 1(1), **2(3)(b)**

F199 Sch. 3B para. 3(2) omitted (18.3.2011) by virtue of [The Rent Officers \(Housing Benefit Functions\) Amendment Order 2010 \(S.I. 2010/2836\)](#), arts. 1(2), **2(3)(c)(ii)**

[^{F200}Minimum local housing allowance **E+W+S**

3A. Where—

- (a) the rent officer has determined the local housing allowance for each of the categories of dwelling in paragraph 1(1) in accordance with paragraph 2 and, where relevant, paragraph 3 (anomalous local housing allowances); and
- (b) the local housing allowance as so determined for a category of dwelling is lower than the local housing allowance determined for that category of dwelling on 31st March 2020,

that local housing allowance is to be the same as the local housing allowance determined for that category of dwelling on 31st March 2020.]

Textual Amendments

F200 Sch. 3B para. 3A and cross-heading inserted (31.1.2024) by [The Rent Officers \(Housing Benefit and Universal Credit Functions\) \(Amendment\) Order 2024 \(S.I. 2024/11\)](#), arts. 1(1), **2(4)**

Broad rental market area **E+W+S**

[^{F201}4. In this Schedule “broad rental market area” means an area within which a person could reasonably be expected to live having regard to facilities and services for the purposes of health, education, recreation, personal banking and shopping, taking account of the distance of travel, by public and private transport, to and from those facilities and services.

Changes to legislation: There are currently no known outstanding effects for the *The Rent Officers (Housing Benefit Functions) Order 1997*. (See end of Document for details)

Textual Amendments

F201 Sch. 3B para. 004 and 5 substituted (5.1.2009) by *Rent Officers (Housing Benefit Functions) Amendment (No.2) Order 2008 (S.I. 2008/3156)* , arts. 1 , **2(4)(b)**

5. A broad rental market area must contain—
- (a) residential premises of a variety of types, including such premises held on a variety of tenures; and
 - (b) sufficient privately rented residential premises to ensure that, in the rent officer’s opinion, the local housing allowance for the categories of dwelling in the area for which the rent officer is required to determine a local housing allowance is representative of the rents that a landlord might reasonably be expected to obtain in that area.]]

Textual Amendments

F201 Sch. 3B para. 004 and 5 substituted (5.1.2009) by *Rent Officers (Housing Benefit Functions) Amendment (No.2) Order 2008 (S.I. 2008/3156)* , arts. 1 , **2(4)(b)**

^{F202}**5A.**

Textual Amendments

F202 Sch. 3B para. 5A omitted (30.1.2020) by virtue of *The Rent Officers (Housing Benefit and Universal Credit Functions) (Amendment) Order 2020 (S.I. 2020/27)*, arts. 1, **2(3)(b)**

^{F203}**6.**

Textual Amendments

F203 Sch. 3B para. 6 omitted (2.11.2015) by virtue of *The Rent Officers (Housing Benefit and Universal Credit Functions) (Local Housing Allowance Amendments) Order 2015 (S.I. 2015/1753)*, **art. 2(2)(c)**, reg. 1

Textual Amendments

F201 Sch. 3B para. 004 and 5 substituted (5.1.2009) by *Rent Officers (Housing Benefit Functions) Amendment (No.2) Order 2008 (S.I. 2008/3156)* , arts. 1 , **2(4)(b)**

F202 Sch. 3B para. 5A omitted (30.1.2020) by virtue of *The Rent Officers (Housing Benefit and Universal Credit Functions) (Amendment) Order 2020 (S.I. 2020/27)*, arts. 1, **2(3)(b)**

F203 Sch. 3B para. 6 omitted (2.11.2015) by virtue of *The Rent Officers (Housing Benefit and Universal Credit Functions) (Local Housing Allowance Amendments) Order 2015 (S.I. 2015/1753)*, **art. 2(2)(c)**, reg. 1

SCHEDULE 4 **E+W+S**

Article 7

SPECIAL CASES

Houseboats **E+W+S**

1. Where an application for a determination or a redetermination relates in whole or in part to mooring charges for a houseboat, this Order applies in relation to that application (or, as the case may be, to that part which relates to those charges) with the following modifications—

- (a) references to a tenancy, a tenancy of a dwelling [^{F204}or an assured tenancy]^{F204}, an assured tenancy or an occupation contract] are references to an agreement under which those charges are payable (and references to a landlord and a tenant shall be construed accordingly); and
- (b) no determination shall be made under paragraph 2 of Part I of Schedule 1 (size criteria) and references to the dwelling exceeding the size criteria shall not apply.

Textual Amendments

F204 Words in Sch. 4 para. 1(a) substituted (W.) (1.12.2022) by [The Renting Homes \(Wales\) Act 2016 \(Consequential Amendments to Secondary Legislation\) Regulations 2022 \(S.I. 2022/907\)](#), reg. 1(2), [Sch. 1 para. 17\(d\)\(i\)](#)

Mobile homes **E+W+S**

2. Where an application for a determination or redetermination relates in whole or in part to payments in respect of the site on which a caravan or a mobile home stands, this Order applies in relation to that application (or, as the case may be, that part which relates to those payments) with the following modifications—

- (a) references to a tenancy, a tenancy of a dwelling [^{F205}or an assured tenancy]^{F205}, an assured tenancy or an occupation contract] are references to an agreement under which those payments are payable (and references to a landlord and a tenant shall be construed accordingly); and
- (b) no determination shall be made under paragraph 2 of Part I of Schedule 1 (size criteria) and references to the dwelling exceeding the size criteria shall not apply.

Textual Amendments

F205 Words in Sch. 4 para. 2(a) substituted (W.) (1.12.2022) by [The Renting Homes \(Wales\) Act 2016 \(Consequential Amendments to Secondary Legislation\) Regulations 2022 \(S.I. 2022/907\)](#), reg. 1(2), [Sch. 1 para. 17\(d\)\(ii\)](#)

Rental purchase agreements **E+W+S**

3. Where an application for a determination or a redetermination relates to a rental purchase agreement, the agreement is to be treated as if it were a tenancy.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order revokes and re-enacts with modifications the Rent Officers (Additional Functions) Order 1995 and revokes the Orders which amended it. It confers functions on rent officers in connection with housing benefit and rent allowance subsidy and requires rent officers to make determinations and redeterminations relating to a tenancy or licence of a dwelling.

The main modifications relate to single room rent determinations under paragraph 5 of Part I of Schedule 1, which are required where the housing benefit claimant is a young individual.

By an amendment (which is not yet in force) made by S.I. 1997/1000 to the 1995 Order, such determinations would also have been required for single claimants as defined in the 1997 Order.

This Order reverses the prospective amendment so that determinations will continue to be required only for young individuals. This Order also changes a criterion in paragraph 5(2)(b)(iv) of Part I of Schedule 1 which is relevant for determining single room rents and provides, in article 6(2), that single room rent determinations are no longer required for the accommodation described specified in that provision (hostels, registered homes etc.).

The other modifications include a requirement for rent officers to make additional assumptions, when making a determination or redetermination, and give additional information to local authorities in the cases specified in article 7(3) and (4) (general counselling or other support services: supported accommodation).

The Order also amends, in article 8, the 1995 Order by adding a requirement relating to supported accommodation similar to that in article 7(3) and (4).

Articles 1, 8 and 10(1) come into force on the 18th August 1997 and the remainder comes into force on the 3rd September 1997. Article 10(1) stops the amendment to the 1995 Order applying to applications for determinations made before article 8 comes into force and article 10(2) stops other provisions affecting applications for determinations made before those provisions come into force.

Changes to legislation:

There are currently no known outstanding effects for the The Rent Officers (Housing Benefit Functions) Order 1997.