
STATUTORY INSTRUMENTS

1997 No. 1995

The Rent Officers (Housing Benefit Functions) (Scotland) Order 1997

Citation and commencement

1.—(1) This Order may be cited as the Rent Officers (Housing Benefit Functions) (Scotland) Order 1997.

(2) This Order shall come into force for the purposes of article 8 on 18th August 1997 and for all other purposes on 3rd September 1997.

Interpretation

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

^{F1} ...

“assured tenancy” has the same meaning as in Part II of the Housing (Scotland) Act 1988, except that it includes a tenancy which would be an assured tenancy but for paragraph [^{F2}7 or] 9 of Schedule 4 to that Act;

[^{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} “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;]

[^{F9}“the Housing Benefit Regulations” means the Housing Benefit Regulations 2006;]

[^{F9}“the Housing Benefit (State Pension Credit) Regulations” means the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006;]

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994^{M1};

[^{F10}[^{F3}“local housing allowance determination” means a determination made in accordance with article 4B(2) [^{F11}or article 4B(2A), as the case may be];]

[^{F10}“local housing allowance determination” means a determination made in accordance with article 4B(2A);]

“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;

[^{F12}[^{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;]

[^{F13}“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;]

[^{F3}“redetermination” means a redetermination made in accordance with article 4;]

[^{F14}[^{F15} “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 F3 or, as the case may be, regulation 13A(4)(a) of the Housing Benefit (State Pension Credit) Regulations;]

[^{F14}“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;]

[^{F16}“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 for the determination [^{F17}or board and attendance determination] is made or, if earlier, the tenancy ends;

[^{F18}“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;]

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

“tenancy” includes any other right of occupancy and a prospective tenancy or right of occupancy and references to a tenant, a landlord or any other expression appropriate to a tenancy shall be construed accordingly; and

^{F19} ...

[^{F20}“working day” means any day other than a Saturday, a Sunday or a day which is a bank holiday in Scotland under the Banking and Financial Dealings Act 1971.]

(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) 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, **3(2)**
- F2** Words 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(2)**
- F3** Words in art. 2(1) inserted (24.9.2003) by [The Rent Officers \(Housing Benefit Functions\) \(Local Housing Allowance\) Amendment Order 2003 \(S.I. 2003/2398\)](#), arts. 1(1), **3(2)**
- F4** Words in art. 2 substituted (7.4.2008) by [The Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **15(3)(a)** (with arts. 2, 11, 15(1)(2))
- F5** Words in art. 2 inserted (20.3.2008) by [The Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(3), **13(1)(a)** (with arts. 2, 11)
- F6** Words in art. 2 substituted (7.4.2008) by [The Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **15(3)(b)** (with arts. 2, 11, 15(1)(2))
- F7** Words in art. 2 inserted (20.3.2008) by [The Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(3), **13(1)(b)** (with arts. 2, 11)
- F8** Words in art. 2 substituted (6.3.2006 for specified purposes, 7.4.2008 for all other purposes) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 2 para. 12(2)(a)** (with regs. 2, 3, Sch. 3, Sch. 4); (2007/2871, reg. 19(1)(a))
- F9** Words in art. 2 inserted (6.3.2006 for specified purposes, 7.4.2008 for all other purposes) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 2 para. 12(2)(b)** (with regs. 2, 3, Sch. 3, Sch. 4); (2007/2871, reg. 19(1)(b))
- F10** Words in art. 2 substituted (7.4.2008) by [The Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **15(3)(c)** (with arts. 2, 11, 15(1)(2))
- F11** Words in art. 2 inserted (20.3.2008) by [The Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(3), **13(1)(c)** (with arts. 2, 11)
- F12** Words in art. 2 omitted (7.4.2008) by virtue of [The Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **15(3)(d)** (with arts. 2, 11, 15(1)(2))
- F13** 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), **5(2)**
- F14** Words in art. 2 substituted (7.4.2008) by [The Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **15(3)(e)** (with arts. 2, 11, 15(1)(2))
- F15** 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. 12(2)(c)** (with regs. 2, 3, Sch. 3, Sch. 4)
- F16** Words in art. 2 inserted (3.4.2000) by [The Rent Officers \(Housing Benefit Functions\) \(Scotland\) Amendment Order 2000 \(S.I. 2000/3\)](#), arts. 1(1), **3**
- F17** Words in art. 2(1) inserted (24.9.2003) by [The Rent Officers \(Housing Benefit Functions\) \(Local Housing Allowance\) Amendment Order 2003 \(S.I. 2003/2398\)](#), arts. 1(1), **3(3)**
- F18** Words in art. 2 substituted (6.3.2006 for specified purposes, 7.4.2008 for all other purposes) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 2 para. 12(2)(d)** (with regs. 2, 3, Sch. 3, Sch. 4); (2007/2871, reg. 19(1)(c))
- F19** Words in art. 2 omitted (6.3.2006 for specified purposes, 7.4.2008 for all other purposes) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 2 para. 12(2)(e)** (with regs. 2, 3, Sch. 3, Sch. 4); (2007/2871, reg. 19(1)(d))

F20 Words in art. 2 added (20.3.2008) by [The Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(3), **13(1)(d)** (with arts. 2, 11)

Marginal Citations

M1 [1994 c.39](#).

Determinations

3.—(1) Subject to ^{F21}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 ^{F22}or section 122(5) of the Housing Act 1996^{M2}, 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) ^{F23}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 43 of the Rent (Scotland) Act 1984 ^{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 ^{F24}relation to the area of each local authority^{F25}, except for a local authority which is a pathfinder authority,] within] the registration area ^{F26}^{F27}except in relation to the area of a local authority which is a pathfinder authority]];
- (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

F21 Words in art. 3 substituted (2.7.2001) by [The Rent Officers \(Housing Benefit Functions\) \(Scotland\) \(Amendment\) Order 2001 \(S.I. 2001/1326\)](#), arts. 1(1), **3(1)**

F22 Words in art. 3(1) inserted (3.4.2000) by [The Rent Officers \(Housing Benefit Functions\) \(Scotland\) Amendment Order 2000 \(S.I. 2000/3\)](#), arts. 1(1), **4(b)**

F23 Words in art. 3(1)(c) added (3.4.2000) by [The Rent Officers \(Housing Benefit Functions\) \(Scotland\) Amendment Order 2000 \(S.I. 2000/3\)](#), arts. 1(1), **4(c)**

F24 Words in art 3(2)(a). inserted (3.8.1997) by [The Rent Officers \(Housing Benefit Functions\) Order 1997 \(S.I. 1997/1984, art. 1,1, 3\(1\)](#)

F25 Words in art. 3(2)(a) inserted (24.9.2003) by [The Rent Officers \(Housing Benefit Functions\) \(Local Housing Allowance\) Amendment Order 2003 \(S.I. 2003/2398\)](#), arts. 1(1), **3(4)**

F26 Words in art. 3(2)(a) inserted (13.3.2005) by [The Rent Officers \(Housing Benefit Functions\) \(Local Housing Allowance\) Amendment Order 2005 \(S.I. 2005/236\)](#), arts. 1(2), **5(2)(a)**

F27 Words in art. 3(2)(a) omitted (7.4.2008) by virtue of [The Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **14(1)** (with arts. 2, 11)

Marginal Citations

M2 [1992 c.5](#).

M3 1984 c.58; section 43 was amended by the [Local Government etc. \(Scotland\) Act 1994 \(c.39\)](#), [Schedule 13](#), paragraph 137(3) and the [Deregulation and Contracting Out Act 1994 \(c.40\)](#), [Schedule 16](#), paragraph 5.

[^{F28}Transitional arrangements for determination of Single Room Rents with effect from 2nd July 2001

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 ^{F29}... 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 [^{F30}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

- F28** Art. 3A inserted (2.7.2001) by [The Rent Officers \(Housing Benefit Functions\) \(Scotland\) \(Amendment\) Order 2001 \(S.I. 2001/1326\)](#), arts. 1(1), **3(2)**
- F29** Words in art. 3A omitted (2.7.2001) by virtue of [The Rent Officers \(Housing Benefit Functions\) \(Scotland\) \(Amendment\) \(No. 2\) Order 2001 \(S.I. 2001/2318\)](#), arts. 1(1), **2(2)**
- F30** Words in art. 3A substituted (6.3.2006 for specified purposes, 7.4.2008 for all other purposes) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), Sch. 2 para. 12(3) (with regs. 2, 3, Sch. 3, Sch. 4); (S.I. 2007/2871, (reg. 19(2))

[^{F31}Redeterminations

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

- F31** Art. 4-4A substituted for art. 4 (3.4.2000) by [The Rent Officers \(Housing Benefit Functions\) \(Scotland\) Amendment Order 2000 \(S.I. 2000/3\)](#), arts. 1(1), 5

Substitute determinations and substitute redeterminations

4A.—(1) Where a local authority applies to a rent officer for a substitute determination, in accordance with [^{F32}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

- F31** Art. 4-4A substituted for art. 4 (3.4.2000) by [The Rent Officers \(Housing Benefit Functions\) \(Scotland\) Amendment Order 2000 \(S.I. 2000/3\)](#), arts. 1(1), 5
- F32** Words in art. 4A substituted (6.3.2006 for specified purposes 7.4.2008 for all other purposes) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), Sch. 2 para. 12(4) (with regs. 2, 3, Sch. 3, Sch. 4) (art. 19(3))

[^{F33}Broad rental market area determinations and local housing allowance determinations

4B.—(1) [^{F34}On the day on which this article comes into force in relation to a [^{F35}local authority][^{F35}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.]

[^{F36}(1A) [^{F37}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.]

[^{F38}(1B) The power in paragraph (1A) is not limited by paragraph [^{F39}2(2)] of Schedule 3B.]

(2) [^{F34}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.]

[^{F40}(2A) [^{F41}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.]

[^{F42}(2B) The date specified for the purposes of paragraph (2A) is the last working day of January [^{F43}and also the 31st March 2020].]

(3) [^{F34}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.]

[^{F44}(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

[^{F45}(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 [^{F46}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].]

- ^{F47}(4)
- ^{F48}[
- ^{F49}(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 [^{F50}pathfinder authority][^{F50}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^{F51}, 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) [^{F52}, except that no such determination can have effect before 7th April 2008].
- [
- ^{F53}(6) Where a rent officer has made a local housing allowance determination in accordance with paragraph (2A)^{F54}... 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

- F33** Art. 4B –4E inserted (24.9.2003) by [The Rent Officers \(Housing Benefit Functions\) \(Local Housing Allowance\) Amendment Order 2003 \(S.I. 2003/2398\)](#), arts. 1(1), **3(5)**
- F34** Art. 4B(1)(2)(3) omitted (7.4.2008) by virtue of [The Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **15(4)(a)** (with arts. 2, 11, 15(1)(2))
- F35** Words in art. 4B(1) substituted (20.3.2008) by [The Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(3), **13(2)(a)** (with arts. 2, 11)
- F36** Art. 4B(1A) inserted (20.3.2008) by [The Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(3), **13(2)(b)** (with arts. 2, 11)
- F37** Words in art. 4B(1A) substituted (2.4.2012) by [The Rent Officers \(Housing Benefit Functions\) \(Amendment\) Order 2012 \(S.I. 2012/646\)](#), arts. 1, **3(3)(a)**
- F38** 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, **3(2)**
- F39** 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, **3(2)**
- F40** Art. 4B(2A) substituted (2.4.2012) by [The Rent Officers \(Housing Benefit Functions\) \(Amendment\) Order 2012 \(S.I. 2012/646\)](#), arts. 1, **3(3)(b)**
- F41** 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, **3(3)(a)**
- F42** 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, **3(2)**
- F43** 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(2)(a)(i)**
- F44** Art. 4B(3A)(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, **3(3)(c)**

- F45** 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), **3(2)**
- F46** 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(2)(a)(ii)**
- F47** Art. 4B(4) omitted (18.3.2011) by virtue of The Rent Officers (Housing Benefit Functions) Amendment Order 2010 (S.I. 2010/2836), arts. 1(2), **4(2)(a)(ii)**
- F48** 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), **4(2)(a)(iii)**
- F49** Art. 4B(4)(4A) substituted for art. 4B(4) (7.4.2008) by The Rent Officers (Housing Benefit Functions) Amendment Order 2007 (S.I. 2007/2871), arts. 1(4), **15(4)(b)** (with arts. 2, 11, 15(1)(2))
- F50** Words in art. 4B(5)(a) substituted (7.4.2008) by The Rent Officers (Housing Benefit Functions) Amendment Order 2007 (S.I. 2007/2871), arts. 1(4), **15(4)(c)(i)** (with arts. 2, 11, 15(1)(2))
- F51** Words in art. 4B(5)(b) inserted (7.4.2008) by The Rent Officers (Housing Benefit Functions) Amendment Order 2007 (S.I. 2007/2871), arts. 1(4), **15(4)(c)(ii)** (with arts. 2, 11, 15(1)(2))
- F52** Words in art. 4B(5)(c) inserted (7.4.2008) by The Rent Officers (Housing Benefit Functions) Amendment Order 2007 (S.I. 2007/2871), arts. 1(4), **15(4)(c)(iii)** (with arts. 2, 11, 15(1)(2))
- F53** Art. 4B(6) inserted (20.3.2008) by The Rent Officers (Housing Benefit Functions) Amendment Order 2007 (S.I. 2007/2871), arts. 1(3), **13(2)(e)** (with arts. 2, 11)
- F54** 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), **4(2)(b)**

Board and attendance determinations and notifications

[^{F55}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.]

[^{F55}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.

[^{F58}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

- F33** Art. 4B–4E inserted (24.9.2003) by The Rent Officers (Housing Benefit Functions) (Local Housing Allowance) Amendment Order 2003 (S.I. 2003/2398), arts. 1(1), **3(5)**

- F55** Art. 4C(1)(2) substituted (7.4.2008) by [The Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **15(5)** (with arts. 2, 11, 15(1)(2))
- F56** 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. 12(6)(a) (with regs. 2, 3, Sch. 3, Sch. 4)
- F57** 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. 12(6)(b) (with regs. 2, 3, Sch. 3, Sch. 4)
- F58** Art. 4C(4) substituted (7.4.2008) by [The Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **16(2)** (with arts. 2, 11, 16(1))
- F59** 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. 12(6)(c) (with regs. 2, 3, Sch. 3, Sch. 4)

Board and attendance redeterminations

4D.—(1) Subject to article 6, where a [^{F60}pathfinder authority][^{F60}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 [^{F60}pathfinder authority][^{F60}local 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

- F33** Art. 4B–4E inserted (24.9.2003) by [The Rent Officers \(Housing Benefit Functions\) \(Local Housing Allowance\) Amendment Order 2003 \(S.I. 2003/2398\)](#), arts. 1(1), **3(5)**
- F60** Words in art. 4E substituted (7.4.2008) by [The Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **15(6)** (with arts. 2, 11, 15(1)(2))

Substitute board and attendance determinations and substitute board and attendance redeterminations

4E.—(1) Where a [^{F60}pathfinder authority][^{F60}local authority] applies to a rent officer for a substitute board and attendance determination in accordance with [^{F61}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 [^{F60}pathfinder authority][^{F60}local authority] applies to a rent officer for a substitute board and attendance redetermination in accordance with [^{F62}regulation 12C of the 1987 Regulations][^{F62}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

- F33** Art. 4B–4E inserted (24.9.2003) by [The Rent Officers \(Housing Benefit Functions\) \(Local Housing Allowance\) Amendment Order 2003 \(S.I. 2003/2398\)](#), arts. 1(1), **3(5)**
- F60** Words in art. 4E substituted (7.4.2008) by [The Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **15(6)** (with arts. 2, 11, 15(1)(2))
- F61** 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. 12(7)** (with regs. 2, 3, Sch. 3, Sch. 2)
- F62** Words in art. 4E substituted (7.4.2008) by [The Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **19(4)** (with arts. 2, 11)

Insufficient information

5. If a rent officer needs further information in order to make a determination under article 3(1)[^{F63}, a redetermination under article 4, a board and attendance determination under article 4C or a board and attendance redetermination under article 4D][^{F64}, he shall serve notice on the local authority requesting that information][^{F64}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][^{F65}....

Textual Amendments

- F63** Words in art. 5 substituted (24.9.2003) by [The Rent Officers \(Housing Benefit Functions\) \(Local Housing Allowance\) Amendment Order 2003 \(S.I. 2003/2398\)](#), arts. 1(1), **3(6)**
- F64** Words in art. 5 substituted (7.4.2008) by [The Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **16(3)** (with arts. 2, 11, 16(1))
- F65** Words in art. 5 omitted (3.4.2000) by virtue of [The Rent Officers \(Housing Benefit Functions\) \(Scotland\) Amendment Order 2000 \(S.I. 2000/3\)](#), arts. 1(1), **6**

Exceptions

6.—(1) No determination[^{F66}, 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 [^{F67}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], 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 ^{F68}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^{F69}, 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

- F66** Words in art. 6(1) substituted (24.9.2003) by [The Rent Officers \(Housing Benefit Functions\) \(Local Housing Allowance\) Amendment Order 2003 \(S.I. 2003/2398\)](#), arts. 1(1), **3(7)(a)**
- F67** Words in art. 6(2) substituted (6.3.2006 for specified purposes, 7.4.2008 for all other purposes) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 2 para. 12(8)(a)** (with regs. 2, 3, Sch. 3, Sch. 4) (S.I. 2007/2871, art. 19(5)(a))
- F68** Words in art. 6(3) substituted (6.3.2006 for specified purposes, 7.4.2008 for all other purposes) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 2 para. 12(8)(b)** (with regs. 2, 3, Sch. 3, Sch. 4); (S.I. 2007/2871, art. 19(5)(b))
- F69** Words in art. 6(4) substituted (24.9.2003) by [The Rent Officers \(Housing Benefit Functions\) \(Local Housing Allowance\) Amendment Order 2003 \(S.I. 2003/2398\)](#), arts. 1(1), **3(7)(b)**

Special cases

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 a 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 ^{F70}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].

- ^{F71}(3)
- ^{F71}(4)

Textual Amendments

- F70** Words in art. 7 substituted (6.3.2006 for specified purposes, 7.4.2008 for all other purposes) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 2 para. 12(9)** (with regs. 2, 3, Sch. 3, Sch. 4); S.I. 2007/2871, art. 19(6))
- F71** Art. 7(3)(4) omitted (3.4.2000) by virtue of [The Rent Officers \(Housing Benefit Functions\) \(Scotland\) Amendment Order 2000 \(S.I. 2000/3\)](#), arts. 1(1), **7** (with art. 16)

^{F72}Errors

7A.—[

^{F73}(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.]

[^{F74}(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 [^{F75}pathfinder authority][^{F75}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) [^{F76}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 [^{F77}determined in accordance with article 4B(1)] or a local housing allowance determination [^{F78}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.]]

[^{F79}(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

- F72** Art. 7A inserted (3.4.2000) by [The Rent Officers \(Housing Benefit Functions\) \(Scotland\) Amendment Order 2000 \(S.I. 2000/3\)](#), arts. 1(1), **8**
- F73** Art. 7A(1): art. 7A renumbered as art. 7A(1) (24.9.2003) by [The Rent Officers \(Housing Benefit Functions\) \(Local Housing Allowance\) Amendment Order 2003 \(S.I. 2003/2398\)](#), arts. 1(1), **3(8)**
- F74** Art. 7A(2)(3) inserted. (24.9.2003) by [The Rent Officers \(Housing Benefit Functions\) \(Local Housing Allowance\) Amendment Order 2003 \(S.I. 2003/2398\)](#), arts. 1(1), **3(8)**
- F75** Words in art. 7A(2) substituted (7.4.2008) by [The Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **15(7)(a)** (with arts. 2, 11, 15(1)(2))
- F76** Art. 7A(3) omitted (7.4.2008) by virtue of [The Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(4), **15(7)(b)** (with arts. 2, 11, 15(1)(2))
- F77** Words in art. 7A(3) inserted (20.3.2008) by [The Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(3), **13(3)(a)(i)** (with arts. 2, 11)
- F78** Words in art. 7A(3) inserted (20.3.2008) by [The Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(3), **13(3)(a)(ii)** (with arts. 2, 11)
- F79** Art. 7A(4) inserted (20.3.2008) by [The Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(3), **13(3)(b)** (with arts. 2, 11)

Amendment to 1995 Order

8.—[^{F80}(1) The Rent Officers (Additional Functions) (Scotland) Order 1995 ^{M4} 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 or 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, 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.”.

(2) The amendment made by paragraph (1) above does not have effect in a case where an application for a determination is made before 18th August 1997.]

Textual Amendments

F80 Art. 8 revoked (03.09.1997) by [The Rent Officers \(Housing Benefit Functions\) \(Scotland\) Order 1997 \(S.I. 1997/1995\)](#), **arts. 1(2), 9(1)** (with art. 9(2))

Marginal Citations

M4 [S.I. 1995/1643](#), amended by the instruments listed in Schedule 5 to this Order.

Revocations and application

9.—(1) Subject to paragraph (2), article 8 of this Order and the Orders specified in Schedule 5 are hereby revoked.

(2) Nothing in articles 2 to 7 has effect in a case where an application for a determination is made before 3rd September 1997 and, in such a case, the [Rent Officers \(Additional Functions\) \(Scotland\) Order 1995](#) shall continue to have effect.

St Andrew’s House, Edinburgh

Malcolm Chisholm
Parliamentary Under Secretary of State, Scottish
Office

Changes to legislation:

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