

[^{F1}SCHEDULE 3B

Article 4B

Broad rental market area determinations and local housing allowance determinations

Textual Amendments

F1 Sch. 3B inserted (20.3.2008) by [The Rent Officers \(Housing Benefit Functions\) Amendment Order 2007 \(S.I. 2007/2871\)](#), arts. 1(3), **13(4)** (with arts. 2, 11)

Modifications etc. (not altering text)

C1 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, **3**

C2 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), **6**

C3 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), **3**

Categories of dwelling

1.—(1) The categories of dwelling for which a rent officer is required to determine a local housing allowance in accordance with article [^{F2}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;

^{F3}(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) [^{F4}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.

Changes to legislation: There are currently no known outstanding effects for the The Rent Officers (Housing Benefit Functions) (Scotland) Order 1997, SCHEDULE 3B. (See end of Document for details)

Textual Amendments	
F2	Word in Sch. 3B para. 1(1) substituted (2.4.2012) by The Rent Officers (Housing Benefit Functions) (Amendment) Order 2012 (S.I. 2012/646) , arts. 1, 3(4)(a)
F3	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), 4(3)(a)(i)
F4	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), 4(3)(a)(ii)

Local housing allowance for category of dwelling in paragraph 1

^{F52}—(1) Subject to ^{F6}paragraphs] 3 (anomalous local housing allowances) ^{F7}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.

- ^{F8}(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)	^{F9} £331.39]
Paragraph 1(1)(b) (one bedroom, exclusive use)	^{F10} £331.39]
Paragraph 1(1)(c) (two bedrooms)	^{F11} £412.86]
Paragraph 1(1)(d) (three bedrooms)	^{F12} £497.10]
Paragraph 1(1)(e) (four bedrooms)	^{F13} £704.22]]

- ^{F14}(2A)
- ^{F14}(2B)
- ^{F15}(2C)
- ^{F14}(3)
- ^{F14}(3A)

(4) 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 a dwelling let under an assured tenancy for each category of dwelling specified in paragraph 1; 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—

- (a) include within it the rent of an assured tenancy in relation to each category of dwelling if—
 - (i) the dwelling let under the assured tenancy 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

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- (iii) the assured tenancy 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— $R = \text{the amount of the rent at } P + \text{the amount of the rent at } P12$

 - (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— $R = \text{the amount of the rent at } P2$

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.

^{F16}(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.]

Textual Amendments

F5 Sch. 3B para. 2 substituted (13.1.2014) by [The Rent Officers \(Housing Benefit and Universal Credit Functions\) \(Local Housing Allowance Amendments\) Order 2013 \(S.I. 2013/2978\)](#), arts. 1, **3(2)**

Changes to legislation: There are currently no known outstanding effects for the The Rent Officers (Housing Benefit Functions) (Scotland) Order 1997, SCHEDULE 3B. (See end of Document for details)

- F6** 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), **3(2)(a)(i)**
- F7** 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), **3(2)(a)(ii)**
- F8** 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(2)(b)**
- F9** 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), **3(2)(b)(i)**
- F10** 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), **3(2)(b)(ii)**
- F11** 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), **3(2)(b)(iii)**
- F12** 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), **3(2)(b)(iv)**
- F13** 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), **3(2)(b)(v)**
- F14** Sch. 3B para. 2(2) substituted for Sch. 3B paras. 2(2A), (2B), (3) and (3A) (30.1.2020) by The Rent Officers (Housing Benefit and Universal Credit Functions) (Amendment) Order 2020 (S.I. 2020/27), arts. 1, **3(3)(a)**
- F15** Sch. 3B para. 2(2C) omitted (25.1.2019) by virtue of The Rent Officers (Housing Benefit and Universal Credit Functions) (Amendment) Order 2018 (S.I. 2018/1332), arts. 1, **3(2)(c)**
- F16** 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. 3(2)(a)**, reg. 1

Anomalous local housing allowances

- 3.—(1) ^{F17}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) ^{F18}to (e) is lower than the local housing allowance for any of the categories of dwelling which precede it,

that local housing allowance ^{F19}is to] be the same as the highest local housing allowance which precedes it.

^{F20}(2)

- Textual Amendments**
- F17** 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), **3(3)(a)**
 - F18** 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), **4(3)(c)(i)**
 - F19** 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), **3(3)(b)**
 - F20** 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), **4(3)(c)(ii)**

[^{F21}Minimum local housing allowance

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

F21 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), **3(4)**

[^{F21}Broad rental market area

[^{F22}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.

Textual Amendments

F21 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), **3(4)**

F22 Sch. 3B paras. 4-5 substituted for Sch. 3B para. 4 (5.1.2009) by The Rent Officers (Housing Benefit Functions) Amendment (No. 2) Order 2008 (S.I. 2008/3156), arts. 1, **3(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

F21 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), **3(4)**

F22 Sch. 3B paras. 4-5 substituted for Sch. 3B para. 4 (5.1.2009) by The Rent Officers (Housing Benefit Functions) Amendment (No. 2) Order 2008 (S.I. 2008/3156), arts. 1, **3(4)(b)**

^{F23}5A.

Changes to legislation: There are currently no known outstanding effects for the The Rent Officers (Housing Benefit Functions) (Scotland) Order 1997, SCHEDULE 3B. (See end of Document for details)

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Textual Amendments

F21 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), **3(4)**

F23 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, **3(3)(b)**

^{F24}6.]

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Textual Amendments

F21 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), **3(4)**

F24 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. 3(2)(c)**, reg. 1

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Textual Amendments

F21 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), **3(4)**

F22 Sch. 3B paras. 4-5 substituted for Sch. 3B para. 4 (5.1.2009) by The Rent Officers (Housing Benefit Functions) Amendment (No. 2) Order 2008 (S.I. 2008/3156), arts. 1, **3(4)(b)**

F23 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, **3(3)(b)**

F24 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. 3(2)(c)**, reg. 1

Changes to legislation:

There are currently no known outstanding effects for the The Rent Officers (Housing Benefit Functions) (Scotland) Order 1997, SCHEDULE 3B.