

Status: Point in time view as at 06/03/2006.

Changes to legislation: There are currently no known outstanding effects for the
The Housing Benefit Regulations 2006, PART 2. (See end of Document for details)

SCHEDULE 10 **E+W+S**

Pathfinder authorities

PART 2 **E+W+S**

Application of the Regulations

1. These Regulations shall apply to pathfinder authorities subject to the provisions of this Part of this Schedule.

2. In regulation 2(1) (interpretation), at the appropriate places, insert—

““amended determination” means a determination made in accordance with article 7A of the Rent Officers Order ^{M1};

“broad rental market area” has the meaning specified in paragraph 4 of Part 1 of Schedule 3A to the Rent Officers Order ^{M2};

“broad rental market area determination” means a determination made in accordance with article 4B(1) of the Rent Officers Order ^{M3};

“commencement date” means in relation to a pathfinder authority specified in Part 1 of Schedule 10, the date specified in that Part in relation to that authority;

“local housing allowance” means an allowance determined in accordance with paragraph 2 or 3 of Part 1 of Schedule 3A to the Rent Officers Order;

“local housing allowance determination” means a determination made in accordance with article 4B(2) of the Rent Officers Order;

“maximum rent (standard local rate)” means the amount determined in accordance with regulation 13A;

“pathfinder authority” means a relevant authority specified in Part 1 of Schedule 10;

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

- (a) the commencement date in relation to a pathfinder authority specified in Part 1 of Schedule 10;
- (b) the date of the claim to which the claim or relevant information relates;
- (c) the date of the change relating to a rent allowance, or the change which affects the category of dwelling, date of death or rent increase, to which a notification referred to in regulation 13A(1)(b)(iii) or (iv) relate; or
- (d) the date on which the period mentioned in regulation 14 (1)(f) or (g) has elapsed;”.

Marginal Citations

M1 Article 7A was inserted by S.I. 2000/1 and amended by S.I. 2003/2398.

M2 Schedule 3A was inserted by S.I. 2003/2395.

M3 Article 4B was inserted by S.I. 2003/2395.

Amendment of regulation 11 **E+W+S**

3. In regulation 11(1) (eligible housing costs), for the words “regulations 12(3),” to the end of the paragraph substitute “regulations 12 and 13 or regulations 12 and 13A, whichever is applicable in his case”.

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Insertion of regulation 11A **E+W+S**

4. After regulation 11(eligible housing costs), insert the following regulation—

“Cases where maximum housing benefit expires

11A. A maximum housing benefit shall not have effect for any benefit week which begins on or after the day which is the first anniversary of the day by reference to which the local housing allowance most recently applicable for the purpose of determining that maximum housing benefit in accordance with regulation 12A(1) to (9) was identified.”

Amendment of regulation 12 **E+W+S**

5. In regulation 12(3)(b), after the words “except where sub-paragraph (a)”, insert “ or regulation 12A(1), (3) or (4) ”.

Insert regulation 12A **E+W+S**

6. After regulation 12 (rent), insert the following regulation—

“Eligible rent and the maximum rent (standard local rate)

12A.—(1) Where, by virtue of paragraph (1) of regulation 13A, a maximum rent (standard local rate) has been, or falls to be, determined in accordance with that regulation, then, except where paragraph (3)(a)(ii), (b)(ii) or (c)(ii), (4)(a) or (6)(a) applies—

- (a) the amount of a person's eligible rent shall be the maximum rent (standard local rate); and
- (b) it shall apply until the earlier of—
 - (i) the determination of a maximum rent (standard local rate) by virtue of regulation 13A(1)(b)(iv); or
 - (ii) the determination of a maximum rent (standard local rate) which relates to the local housing allowance applicable to the case on the first anniversary of the day by reference to which the local housing allowance which was applicable for the purpose of determining the eligible rent in sub-paragraph (a), was identified.

(2) This paragraph applies where a pathfinder authority is required to determine a maximum rent (standard local rate) by virtue of regulation 13A(1)(a) or (b)(i), (ii) or (iii) (aa) or (c) and the claimant has been continuously entitled to and in receipt of housing benefit in respect of the dwelling he occupies as his home for a period which includes the commencement date.

(3) Where paragraph (2) applies, subject to paragraph (9)—

- (a) except where sub-paragraph (b) or (c) applies, the amount of a person's eligible rent shall be—
 - (i) the eligible rent determined in accordance with paragraph (1) where that is not less than the eligible rent which applied on the day before the relevant date; or
 - (ii) the eligible rent which applied on the day before the relevant date;
- (b) where the eligible rent to which the person was entitled on the day before the relevant date was determined by reference to a maximum rent determined in accordance with regulation 13(11)(b), the person's eligible rent shall be—

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- (i) the eligible rent determined in accordance with paragraph (1), where that is not less than the eligible rent which applied on the day before the relevant date; or
- (ii) the eligible rent which applied on the day before the relevant date; or
- (c) where the eligible rent to which the person was entitled on the day before the relevant date was, by virtue of regulation 13(14), determined in accordance with regulation 12(3)(b), the person's eligible rent shall be—
 - (i) the eligible rent determined in accordance with paragraph (1), where that is not less than the eligible rent which applied on the day before the relevant date; or
 - (ii) the eligible rent which applied on the day before the relevant date.
- (4) Subject to paragraph (9), where the pathfinder authority is required to determine a maximum rent (standard local rate) by virtue of regulation 13A(1)(b)(i), (ii) or (iv)(aa) to (cc) and the claimant occupies a dwelling which is the same as that occupied by him at the date of death of any person to whom any of sub-paragraphs (b) to (d) of paragraph (8) applied or, had a claim been made, would have applied, the eligible rent shall be—
 - (a) either—
 - (i) the eligible rent which applied on the day before the death occurred; or
 - (ii) in a case where there was no eligible rent, subject to regulation 12(4) and (7), the reckonable rent due on that day; or
 - (b) the eligible rent determined in accordance with paragraph (1), where it is not less than the eligible rent determined in accordance with sub-paragraph (a).
- (5) For the purpose of paragraph (4), a claimant shall be treated as occupying the dwelling if paragraph (13) of regulation 7 (circumstances in which a person is or is not to be treated as occupying a dwelling as his home) is satisfied and for that purpose that paragraph (13) shall have effect as if sub-paragraph (b) of that paragraph were omitted.
- (6) Subject to paragraphs (7) and (9), where a pathfinder authority is required to determine a maximum rent (standard local rate) by virtue of regulation 13A(1)(b)(i) or (ii) and the pathfinder authority is satisfied that a person to whom paragraph (8) applies was able to meet the financial commitments for his dwelling when they were entered into, the eligible rent shall be—
 - (a) an eligible rent determined in accordance with regulation 12(3)(b); or
 - (b) the eligible rent determined in accordance with paragraph (1), where it is not less than the eligible rent referred to in sub-paragraph (a).
- (7) Paragraph (6) shall not apply in the case of any claim for housing benefit where the claimant was previously entitled to housing benefit in respect of any period which ended less than 52 weeks before the commencement of the period to which the claim relates.
- (8) This paragraph applies to the following persons—
 - (a) the claimant;
 - (b) any member of his family;
 - (c) if the claimant is a member of a polygamous marriage, any partners of his and any child or young person for whom he or a partner is responsible and who is a member of the same household;
 - (d) any relative of the claimant or his partner who occupies the same dwelling as the claimant, whether or not they reside with him, except for a relative who has a

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separate right of occupation of the dwelling which would enable them to continue to occupy it even if the claimant ceased his occupation of it.

- (9) Where a person's eligible rent has been determined in accordance with—
- (a) paragraph (3)(a)(ii), it shall continue to apply until such time as the pathfinder authority determines an eligible rent—
- (i) in accordance with paragraph (1) which is equal to or exceeds it or is based on a maximum rent (standard local rate) determined by virtue of regulation 13A(1)(b)(iv)(dd); or
 - (ii) where the maximum rent (standard local rate) on which it is based relates to the local housing allowance applicable to the case on the anniversary of the day by reference to which the local housing allowance which was applicable for the purpose of determining the eligible rent in paragraph (3)(a)(i) was identified, which is equal to or exceeds it,
- whichever first occurs;
- (b) paragraph (3)(b)(ii), and—
- (i) the pathfinder authority determined a maximum rent (standard local rate) following receipt of a notification of change relating to a rent allowance that falls within paragraph 2(3)(a) of Schedule 2 as a result of the death of one of the occupiers to whom any of sub-paragraphs (b) to (d) of regulation 13(11) applied, it shall continue to apply until—
 - (aa) the period of 12 months from the date of death has expired; or
 - (bb) the pathfinder authority determines an eligible rent in accordance with paragraph (1) which is equal to or exceeds it or is based on a maximum rent (standard local rate) determined by virtue of regulation 13A(1)(b)(iv)(dd),whichever first occurs; or
 - (ii) in any other case, it shall continue to apply until—
 - (aa) the date on which the eligible rent which applied on the day before the relevant date would have ceased to apply; or
 - (bb) the pathfinder authority determines an eligible rent in accordance with paragraph (1) which is equal to or exceeds it or is based on a maximum rent (standard local rate) determined by virtue of regulation 13A(1)(b)(iv)(dd),whichever first occurs;
- (c) paragraph (3)(c)(ii), it shall continue to apply until—
- (i) the date on which the eligible rent which applied on the day before the relevant date would have ceased to apply; or
 - (ii) the pathfinder authority determines an eligible rent in accordance with paragraph (1) which is equal to or exceeds it or is based on a maximum rent (standard local rate) determined by virtue of regulation 13A(1)(b)(iv)(dd),
- whichever first occurs;
- (d) paragraph (4)(a), it shall continue to apply until—
- (i) the period of 12 months from the date of death has expired; or
 - (ii) the pathfinder authority determines an eligible rent in accordance with paragraph (1) which is equal to or exceeds it or is based on a maximum rent (standard local rate) determined by virtue of regulation 13A(1)(b)(iv)(dd),

- whichever first occurs;
- (e) paragraph (6)(a), it shall continue to apply until—
- (i) the first 13 weeks of the claimant's award of housing benefit have expired; or
 - (ii) the pathfinder authority determines an eligible rent in accordance with paragraph (1) which is equal to or exceeds it or is based on a maximum rent (standard local rate) determined by virtue of regulation 13A(1)(b)(iv)(dd), whichever first occurs; and
- (f) paragraph (1)(b)(ii), or sub-paragraph (a)(ii) or this sub-paragraph, that eligible rent (“the earlier eligible rent”) shall continue to apply until—
- (i) the determination of a maximum rent (standard local rate) by virtue of regulation 13A(1)(b)(iv); or
 - (ii) the determination of an eligible rent where the maximum rent (standard local rate) on which it is based relates to the local housing allowance applicable to the case on the first anniversary of the day by reference to which the local housing allowance which was applicable for the purpose of determining the earlier eligible rent was identified, whichever first occurs.
- (10) Where an eligible rent ceases to apply by virtue of sub-paragraph (b)(i)(aa), (b)(ii)(aa), (c)(i), (d)(i) or (e)(i) of paragraph (9), the eligible rent that shall apply instead shall be the one which would have applied but for paragraphs (3)(b)(ii), (3)(c)(ii), (4)(a) and (6)(a).
- (11) In paragraph (4) “reckonable rent” has the same meaning as in regulation 13.”

Insertion of regulations 13A and 13B E+W+S

7. After regulation 13 (maximum rent) insert the following regulations—

“Maximum rent (standard local rate)

13A.—(1) Subject to paragraph (2), where—

- (a) the relevant authority is a pathfinder authority specified in Part I of Schedule 10 and it is the commencement date for that pathfinder authority; or
- (b) a pathfinder authority has received—
 - (i) a claim on which a rent allowance may be awarded, where the date of claim falls on or after the commencement date;
 - (ii) relevant information regarding a claim on which a rent allowance may be awarded, where the date of claim falls on or after the commencement date;
 - (iii) in relation to an award of housing benefit where the maximum rent was determined in accordance with regulation 13—
 - (aa) a notification of a change relating to a rent allowance where the change occurs on or after the commencement date; or
 - (bb) a notification of a change of dwelling where the change occurs on or after 9th April 2004; or
 - (iv) in relation to an award of housing benefit where a maximum rent (standard local rate) was determined in accordance with this regulation—
 - (aa) notification of a change of a kind which affects the category of dwelling applicable to the claim;

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- (bb) notification of the death of an occupier of the dwelling to whom any of sub-paragraphs (b) to (d) of regulation 12A(8) applies, where the notification does not fall within sub-head (aa);
 - (cc) notification that there has been a rent increase under a term of the tenancy to which the claim relates and the term under which that increase was made was either included in the tenancy at the date of the claim or is a term substantially the same as such a term; or
 - (dd) notification of a change of dwelling;
- (c) a pathfinder authority is required to apply to a rent officer for a determination in accordance with regulation 14(1)(f) or (g),
the pathfinder authority shall determine a maximum rent (standard local rate) in accordance with paragraphs (3) to (8).
- (2) Paragraph (1) shall not apply in a case where—
- (a) the landlord is a registered social landlord;
 - (b) paragraph 4(1)(b) of Schedule 3 to the Consequential Provisions Regulations applies;
 - (c) the tenancy is an excluded tenancy of a type falling within any of paragraphs 4 to 10 of Schedule 2;
 - (d) the claim or award relates to—
 - (i) periodical payments of a kind falling within regulation 12(1) which a person is liable to make in relation to a houseboat, caravan or mobile home which he occupies as his home; or
 - (ii) rent payable in relation to a hostel; or
 - (e) rent under the tenancy is attributable to board and attendance, and—
 - (i) the pathfinder authority has made an application to the rent officer in accordance with paragraph (6), regulation 15 or 17; and
 - (ii) the rent officer has determined that a substantial part of the rent under the tenancy is fairly attributable to board and attendance and has notified the pathfinder authority of this in accordance with article 4C, 4D or 4E of the Rent Officers Order ^{M4}.
- (3) The maximum rent (standard local rate) shall be the local housing allowance determined by the rent officer which is applicable to—
- (a) the broad rental market area in which the dwelling to which the claim or award of housing benefit relates is situated at the relevant date; and
 - (b) the category of dwelling—
 - (i) specified in paragraph 1(1)(a) of Part 1 of Schedule 3A to the Rent Officers Order where—
 - (aa) the claimant is a young individual who has no non-dependant residing with him and to whom paragraph 14 of Schedule 3 (severe disability premium) does not apply; or
 - (bb) the category of dwelling specified in paragraph 1(1)(b) of Part 1 of Schedule 3A to the Rent Officers Order would apply in the claimant's case but neither requirement in head (ii)(aa) or (bb) is satisfied in his case;

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- (ii) specified in paragraph 1(1)(b) of Part 1 of Schedule 3A to the Rent Officers Order where that applies in the claimant's case at the relevant date in accordance with the size criteria and he is not a person to whom head (i) (aa) applies and where—
 - (aa) the claimant (together with his partner where he has one) has the exclusive use of two or more rooms; or
 - (bb) the claimant (together with his partner where he has one) has the exclusive use of one room, a bathroom and toilet and a kitchen or facilities for cooking;
 - (iii) in any other case, which applies in the claimant's case at the relevant date in accordance with the size criteria.
- (4) Where no local housing allowance applicable to a claim or award of housing benefit falling within paragraph (3)(b)(iii) has been determined, the pathfinder authority shall—
- (a) apply to the rent officer for local housing allowance determinations for the category of dwelling applicable to the claim or award of housing benefit for each broad rental market area falling within its area, in whole or in part, at the relevant date, which shall be specified in the application; and
 - (b) apply the local housing allowance so determined for the broad rental market area in which the dwelling to which the claim or award of housing benefit relates is situated at the relevant date.
- (5) Where—
- (a) a pathfinder authority receives a request on a properly completed form approved for the purpose by the pathfinder authority from a person stating that he is contemplating occupying as his home a dwelling containing a specified number of rooms, exceeding six, within the area of the pathfinder authority and that, if he does so, he is likely to claim housing benefit; and
 - (b) no local housing allowance determination is in effect for a broad rental market area, falling within, in whole or in part, the area of the pathfinder authority for the category of dwelling containing the number of rooms specified in the form,
- the pathfinder authority shall apply to the rent officer for local housing allowance determinations for each broad rental market area for the category of dwelling containing the number of rooms specified in the form.
- (6) In a case where—
- (a) the pathfinder authority is required to determine a maximum rent (standard local rate) by virtue of paragraph (1); and
 - (b) part of the rent under the tenancy appears to the pathfinder authority to be likely to be attributable to board and attendance,
- the pathfinder authority shall apply to the rent officer for a board and attendance determination to be made in accordance with article 4C of the Rent Officers Order.
- (7) Where an application to a rent officer is required in accordance with paragraph (6)—
- (a) it shall contain—
 - (i) a statement that the application is made in accordance with paragraph (6); and
 - (ii) such other statements, information and notifications as would be required were the application to be made in accordance with regulation 14(1); and

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(b) it shall be made within the same period following the day on which the pathfinder authority becomes obliged to determine a maximum rent (standard local rate) by virtue of paragraph (1) as would be required if it were to be made under regulation 14(1).

(8) Where the maximum rent (standard local rate) exceeds the rent, the claimant shall be treated as liable to make payments in respect of the dwelling of an amount equal to the amount by which the maximum rent (standard local rate) exceeds the rent, except for the purposes of calculating any amount by which a rent allowance exceeds the amount which a claimant is liable to pay his landlord as rent, or rent and any arrears of rent, in accordance with regulation 95(2A).

(9) In this regulation—

“change of dwelling” has the same meaning as in regulation 14;

“change relating to a rent allowance” has the same meaning as in regulation 14;

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

“registered social landlord” has the same meaning as in Part 1 of the Housing Act 1996^{M5} and, in Scotland, sections 57 and 59 of the Housing (Scotland) Act 2001^{M6};

“room” has the meaning specified in paragraph 1(2) of Part 1 of Schedule 3A to the Rent Officers Order;

“size criteria” has the meaning specified in article 2 of the Rent Officers Order except that the word “occupier” is to be construed in accordance with the definition of “occupiers” in this paragraph.

Publication of local housing allowances

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

Marginal Citations

M4 S.I. 1997/1984 and 1995. Relevant amending instruments to S.I. 1997/1984 are S.I. 2000/1 and 2003/2398. Relevant amending instruments to S.I. 1997/1995 are S.I. 2000/3 and 2003/2398

M5 1996 c. 52.

M6 2001 asp 10.

Amendment of regulation 14 **E+W+S**

8. In regulation 14 (requirement to refer to rent officers) after paragraph (5), insert the following paragraph—

“(5A) An application shall not be required under paragraph (1)(a), (b), (c) (d) or (e) where the claim, relevant information, notification or request is received by a pathfinder authority, unless it is—

(a) a claim, relevant information or notification to which any of the circumstances specified in regulation 13A(2)(a) to (e) apply; or

(b) a request, and any of the circumstances in regulation 13A(2)(a) to (d) would apply were a claim to be made by the prospective occupier in relation to the dwelling which is the subject of the request,
and a referral would fall to be made were the claim, relevant information, notification or request made to a relevant authority which is not a pathfinder authority.

(5B) An application shall not be required in accordance with paragraph (1)(f) or (g) unless—

- (a) it is a case to which regulation 13A(2) applies; and
- (b) a referral would fall to be made were the relevant authority not a pathfinder authority.”.

Amendment of regulation 15 **E+W+S**

9. In regulation 15(1)(a) (applications to the rent officers for redeterminations) after the words “reference made under” insert “ regulation 13A(6) or ”.

Amendment of regulation 16 **E+W+S**

10. In regulation 16 (application for redetermination by rent officer)—

- (a) in paragraph (1)(b) after the words “the Housing Act functions” insert the words “ except for functions relating to broad rental market area determinations and local housing allowance determinations or amended determinations ”;
- (b) in paragraphs (3) and (4)(b) after the words “application under regulation” insert the words “ 13A(6) or ”;
- (c) in paragraph (5) after the words “the Housing Act functions” insert the words “ (except for those relating to broad rental market area determinations and local housing allowance determinations or amended determinations) ”.

Amendment of regulation 17 **E+W+S**

11. In regulation 17 (substitute determinations or substitute redeterminations)—

- (a) in paragraph (1)(b)—
 - (i) for the words “article 7A” substitute the words “ article 7A(1) or (2) ”; and
 - (ii) for the words “or substitute redetermination” substitute “ , substitute redetermination, substitute board and attendance determination or substitute board and attendance redetermination ”; and
- (b) in paragraph (2) for the words “or substitute redetermination” substitute “ , substitute redetermination, board and attendance redetermination, substitute board and attendance determination or substitute board and attendance redetermination ”.

Insertion of regulation 18A **E+W+S**

12. After regulation 18 (application of provisions to substitute determinations or substitute redeterminations) insert the following regulation—

“Amended determinations

18A. Where a decision has been revised in consequence of an amended broad rental market area determination or amended local housing allowance determination by a rent officer and that amended determination has led to—

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- (a) a reduction in the maximum rent (standard local rate) applicable to a claimant, the amended determination shall be a change of circumstances in relation to that claimant; and
- (b) an increase in the maximum rent (standard local rate) applicable to a claimant, the amended determination shall have effect in place of the original determination.”.

Amendment of regulations 95 and 96 **E+W+S**

13.—(1) In regulation 95 (circumstances in which payment is to be made to a landlord) after paragraph (2) insert the following paragraph—

“(2A) In a case where—

- (a) a pathfinder authority has determined a maximum rent (standard local rate) in accordance with regulation 13A(1); and
- (b) the rent allowance exceeds the amount which the claimant is liable to pay his landlord by way of rent,

any payment of rent allowance made to a landlord pursuant to this regulation or to regulation 96 may include all or part of any amount by which the rent allowance exceeds the amount which the claimant is liable to pay his landlord as rent but shall not include any amount by which the rent allowance exceeds the amount which the claimant is liable to pay his landlord as rent and arrears of rent.”

(2) In regulation 96 (circumstances in which payment may be made to a landlord)—

- (a) in paragraph (1) for the words “paragraph (3)” substitute the words “ paragraphs (3) and (3A) ”;
- (b) in sub-paragraph (a) of paragraph (3) after the words “paragraph (1)” insert the words “ or (3A) ”;
- (c) after paragraph (3) insert the following paragraph—

“(3A) In a case where a pathfinder authority has determined a maximum rent (standard local rate) in accordance with regulation 13A—

- (a) sub-paragraphs (a) and (b) of paragraph (1) shall not apply; and
- (b) payment of a rent allowance to a person's landlord may be made where—
 - (i) the eligible rent was determined by reference to a maximum rent (standard local rate) which was determined by virtue of regulation 13A(1)(a) and—
 - (aa) the maximum rent (standard local rate) was determined less than six months previously;
 - (bb) no subsequent maximum rent (standard local rate) has been determined in accordance with regulation 13A(1); and
 - (cc) the claimant has, since the date the maximum rent (standard local rate) was determined, been continuously entitled to, and in receipt of, housing benefit in relation to the dwelling he occupied as his home at that date;
 - (ii) the pathfinder authority considers that the claimant is likely to have difficulty in managing his affairs;
 - (iii) the pathfinder authority considers that it is improbable that the claimant will pay his rent; or
 - (iv) a direct payment has previously been made by the pathfinder authority to the landlord in accordance with regulation 95 in respect of the current award of housing benefit.”.

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