

### SCHEDULE 3

#### Transitional and Savings Provisions

##### **Eligible rent**

4.—(1) Subject to the following provisions of this paragraph, the eligible rent of a person—

- (a) who was entitled to housing benefit on both the first date and the second date; or
- (b) who is liable to make payments in respect of a dwelling occupied by him as his home, which is exempt accommodation,

shall be determined in accordance with—

- (i) regulations 12 (rent) and 13 (maximum rent) of the Housing Benefit Regulations, or, as the case may be,
- (ii) regulations 12 (rent) and 13 (maximum rent) of the Housing Benefit (State Pension Credit) Regulations,

as set out in paragraph 5.

(2) Sub-paragraph (1)(a) shall not apply to—

- (a) any determination of a person's eligible rent in a case where a pathfinder authority is required to determine a maximum rent (standard local rate) by virtue of regulation 13A of the Housing Benefit Regulations(1) or, as the case may be, regulation 13A of the Housing Benefit (State Pension Credit) Regulations(2); or
- (b) any subsequent determination of his eligible rent.

(3) Sub-paragraph (1)(a) shall only apply in a case where—

- (a) either—
  - (i) the dwelling occupied as his home by a person to whom sub-paragraph (1)(a) refers is the same on both the first date and the second date; or
  - (ii) the dwelling so occupied was not the same by reason only that the change was caused by a fire, flood, explosion or natural catastrophe rendering the dwelling occupied as the home on the first date uninhabitable; and

(b) the person—

- (i) was continuously entitled to and in receipt of housing benefit between the first date and the second date in respect of the dwelling to which head (a) above applies; or
- (ii) was not entitled to or receiving housing benefit for a period not exceeding 4 weeks, but was in continuous occupation of the dwelling to which head (a) above refers between the first date and the second date; or
- (iii) is a person to whom sub-paragraph (4) applies.

(4) This sub-paragraph applies in the case of a person (“the claimant”) who becomes, or whose partner becomes, a welfare to work beneficiary, and—

- (a) the claimant ceases to be entitled to housing benefit in respect of his residence in the dwelling he occupies as his home;
- (b) the claimant subsequently becomes re-entitled to housing benefit—
  - (i) in respect of the same dwelling, or

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(1) See Schedule 10, paragraph 7.

(2) See Schedule 9, paragraph 7.

*Status: This is the original version (as it was originally made).*

- (ii) in respect of a different dwelling in a case to which sub-paragraph (3)(a)(ii) applies;  
and
  - (c) the first day of that entitlement is within 52 weeks of the claimant or his partner becoming a welfare to work beneficiary.
- (5) A person shall be deemed to fulfil the requirements of sub-paragraphs (1)(a) and (3), where—
- (a) he occupies the dwelling which he occupied on the relevant date;
  - (b) this paragraph applied to the previous beneficiary on the relevant date, and
  - (c) the requirements of sub-paragraphs (6) and (7) are satisfied in his case.
- (6) The requirements of this sub-paragraph are that the person was, on the relevant date—
- (a) the partner of the previous beneficiary; or
  - (b) in a case where the previous beneficiary died on the relevant date, was a person to whom paragraph (10)(b), (c) or (d) of regulation 13 (restrictions on unreasonable rents), as specified in paragraph 5, applied and for the purposes of this sub-paragraph “claimant” in that paragraph of that regulation shall be taken to be a reference to the previous beneficiary.
- (7) The requirements of this sub-paragraph are that a claim for housing benefit is made within 4 weeks of the relevant date and where such a claim is made it shall be treated as having been made on the relevant date.
- (8) The eligible rent of a person to whom—
- (a) regulation 10A of and Schedule A1 to the Housing Benefit Regulations(3) (entitlement to housing benefit by refugees), or, as the case may be,
  - (b) regulation 10A of and Schedule A1 to the Housing Benefit (State Pension Credit) Regulations (entitlement to housing benefit by refugees)
- apply, shall be determined in accordance with—
- (i) regulations 12 (rent) and 13 (maximum rent) of the Housing Benefit Regulations, or, as the case may be,
  - (ii) regulations 12 (rent) and 13 (maximum rent) of the Housing Benefit (State Pension Credit) Regulations,
- as set out in paragraph 5.
- (9) Sub-paragraphs (1) to (8) above shall continue to have effect in the case of a claimant who has ceased to be a welfare to work beneficiary or whose partner has ceased to be such a beneficiary where the claimant is entitled to housing benefit at the end of the 52 week period to which sub-paragraph (4)(c) refers.
- (10) In this paragraph—
- “the first date” means 1st January 1996, except in a case to which sub-paragraph (5) applies, when it shall be the relevant date;
  - “the second date” means any day after the first date for which a claimant’s entitlement to housing benefit is to be determined;
  - “exempt accommodation” means accommodation which is—
- (a) a resettlement place provided by persons to whom the Secretary of State has given assistance by way of grant pursuant to section 30 of the Jobseekers Act 1995(4) (grants for resettlement places); and for this purpose “resettlement place” shall have the same meaning as it has in that section; or

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(3) See regulation 7 and Schedule 4, paragraph 2 for regulation 10A and Schedule A1 (claims by refugees).

(4) 1995 c. 18.

- (b) provided by a non-metropolitan county council in England within the meaning of section 1 of the Local Government Act 1972<sup>(5)</sup>, a housing association, a registered charity or voluntary organisation where that body or a person acting on its behalf also provides the claimant with care, support or supervision;

“imprisoned” means detained in custody pending sentence upon conviction or under a sentence imposed by a court;

“previous beneficiary” means a person—

- (a) who died, left the dwelling or was imprisoned, as the case may be;
- (b) who was on that date in receipt of housing benefit or was on that date within 52 weeks of having become a welfare to work beneficiary; and
- (c) to whom this regulation applied on that date;

and, in this paragraph, a reference to a person occupying a dwelling as his home shall be taken to include a person who is treated as occupying a dwelling as his home by virtue of regulation 7 of the Housing Benefit Regulations or, as the case may be, regulation 7 of the Housing Benefit (State Pension Credit) Regulations;

“the qualifying age for state pension credit” means (in accordance with section 1(2)(b) and (6) of the State Pension Credit Act 2002<sup>(6)</sup>—

- (a) in the case of a woman, pensionable age; or
- (b) in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man;

“the relevant date” means the date—

- (a) of the death of a previous beneficiary;
- (b) on which a previous beneficiary who was the claimant’s partner left the dwelling so that he and the claimant ceased to be living together as husband and wife; or
- (c) on which a previous beneficiary, other than a beneficiary to whom regulation 7(13) of the Housing Benefit Regulations or, as the case may be, regulation 7(13) of the Housing Benefit (State Pension Credit) Regulations applied, was imprisoned, but only where on that date he was the partner of the claimant,

as the case may be;

“state pension credit” means state pension credit under the State Pension Credit Act 2002<sup>(7)</sup>;

“welfare to work beneficiary” means a person to whom regulation 13A(1) of the Social Security (Incapacity for Work) (General) Regulations 1995<sup>(8)</sup> applies.

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(5) 1972 c. 70.  
(6) 2002 c. 16.  
(7) 2002 c. 16.  
(8) S.I. 1995/311.