
STATUTORY INSTRUMENTS

2007 No. 2868

The Housing Benefit (Local Housing Allowance and Information Sharing) Amendment Regulations 2007

Substitution of regulations 13, 13ZA and 13ZB for regulation 13 of the Housing Benefit Regulations 2006

6. For regulation 13(1) (maximum rent) substitute—

“Maximum rent

13.—(1) The maximum rent shall be determined in accordance with paragraphs (2) to (8) where—

- (a) a local authority has applied for a determination in accordance with regulation 14 (requirement to refer to rent officers), a redetermination in accordance with regulation 15 or 16, or a substitute determination or substitute redetermination in accordance with regulation 17 and a rent officer has made a determination, redetermination, substitute determination or substitute redetermination in exercise of the Housing Act functions; or
- (b) an authority is not required to apply to the rent officer for a determination because—
 - (i) regulation 14(2)(a) applies; or
 - (ii) regulation 14(2)(b) applies because paragraph 2(2) of Schedule 2 applies.

(2) In a case where the rent officer has determined a claim-related rent, but is not required to notify the relevant authority of a local reference rent or a single room rent, the maximum rent shall be that claim-related rent.

(3) Subject to the limit specified in paragraph (4), in a case where the rent officer has determined both a local reference rent of which he is required to notify the relevant authority and a claim-related rent, the maximum rent shall be the local reference rent.

(4) In a case to which paragraph 8 of Schedule 3 to the Consequential Provisions Regulations applies, where the rent officer has determined and is required to notify the relevant authority of a local reference rent the maximum rent shall not exceed twice that local reference rent.

(5) Subject to paragraph (6), in the case of a young individual—

- (a) except where sub-paragraph (b) applies, where the rent officer has determined a single room rent and is required to notify the relevant authority of it, the maximum rent shall not exceed that single room rent;
- (b) where—
 - (i) the rent officer has determined a single room rent and a claim-related rent and is required to notify the authority of them;

- (ii) the claim-related rent includes payment in respect of meals; and
- (iii) the single room rent is greater than the claim-related rent less an amount in respect of meals determined in accordance with paragraph 2 of Part 1 of Schedule 1 (ineligible service charges),

the maximum rent shall not exceed the claim-related rent less that amount in respect of meals.

- (6) Paragraph (5) shall not apply in the case of a claimant—
 - (a) to whom paragraph 4 of Schedule 3 to the Consequential Provisions Regulations (saving provision) applies;
 - (b) to whom paragraph 14 of Schedule 3 (severe disability premium) applies; or
 - (c) where a non-dependant resides with him.
- (7) Where the maximum rent is derived from—
 - (a) a claim-related rent and the notification under paragraph 9(1)(c) of Schedule 1 to the Rent Officers Order states that an ineligible amount in respect of meals has been included in that claim-related rent; or
 - (b) a local reference rent and the notification under paragraph 9(1)(da)(2) of Schedule 1 to the Rent Officers Order states that an ineligible amount in respect of meals has been included in that local reference rent,

in determining the maximum rent the relevant authority shall deduct an amount determined in accordance with paragraph 2 of Schedule 1 to these Regulations in respect of meals.

(8) This regulation is subject to regulations 13ZA (protection on death and 13 week protection) and 13ZB (change in reckonable rent).

- (9) In this regulation—
 - “claim-related rent” means the rent notified by the rent officer under paragraph 9(1) of Schedule 1 to the Rent Officers Order;
 - “local reference rent” means the rent determined by a rent officer under paragraph 4 of Schedule 1 to the Rent Officers Order.

Protection on death and 13 week protection

13ZA.—(1) In a case where the claimant occupies a dwelling which is the same as that occupied by him at the date of death of a linked person, the maximum rent shall be either—

- (a) the maximum rent which applied before the death occurred; or
- (b) in a case where there was no maximum rent, the reckonable rent due before the death occurred,

for a period of 12 months from the date of such a death.

(2) For the purposes of paragraph (1), 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 sub-paragraph (b) of that paragraph of that regulation shall be treated as if it were omitted.

(3) Subject to paragraph (4), where the relevant authority is satisfied that the claimant or a linked person was able to meet the financial commitments for his dwelling when they were entered into, there shall be no maximum rent during the first 13 weeks of the claimant's award of housing benefit.

(4) Paragraph (3) shall not apply where a claimant or the claimant's partner was previously entitled to benefit in respect of an award of housing benefit which fell wholly or partly less than 52 weeks before the commencement of the claimant's current award of housing benefit.

Change in reckonable rent

13ZB.—(1) In a case where—

- (a) the authority has determined a maximum rent under regulation 13 or 13ZA; and
- (b) during the period for which that maximum rent applies the reckonable rent in respect of the dwelling by reference to which that maximum rent was determined is reduced to a sum which is less than that maximum rent,

the maximum rent shall be reduced to an amount equal to the reduced reckonable rent.

(2) This paragraph applies in a case where—

- (a) a rent officer has made a determination in exercise of the Housing Act functions pursuant to an application by an authority under regulation 14(1)(e) (pre-tenancy determination);
- (b) subsequent to that determination the reckonable rent for that dwelling is changed; and
- (c) a maximum rent is to be determined in relation to a claim for housing benefit by a claimant.

(3) In a case to which paragraph (2) applies, where the reckonable rent is reduced to a figure below the figure that would have been the maximum rent if the reckonable rent had not changed, the maximum rent shall be the reckonable rent as so reduced.

(4) In any other case to which paragraph (2) applies, the authority shall treat the reckonable rent to be that applicable to the determination by the rent officer referred to in paragraph (2)(a).”.