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STATUTORY INSTRUMENTS

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**2007 No. 2871**

**The Rent Officers (Housing Benefit Functions) Amendment Order 2007**

**Amendments to the Rent Officers (Scotland) Order relating to the local housing allowance coming into force on 7th April 2008 save for certain purposes**

15.—(1) This article shall not apply where—

- (a) a board and attendance determination, board and attendance redetermination, substitute board and attendance determination or substitute board and attendance redetermination is to be made and the application for the board and attendance determination or original board and attendance determination was made by virtue of regulation 13A(6) of the Housing Benefit Regulations 2006(1) or, as the case may be, regulation 13A(6) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(2) as in force immediately before 7th April 2008;
- (b) a local housing allowance determination is to be made and the application was made by virtue of regulation 13A(4) or (5) of the Housing Benefit Regulations 2006 or, as the case may be, regulation 13A(4) or (5) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 as in force immediately before 7th April 2008; or
- (c) an error in relation to a broad rental market area determination, local housing allowance determination, board and attendance determination or a board and attendance redetermination is to be corrected and the original determination was made in accordance with the Rent Officers (Scotland) Order as in force immediately before 7th April 2008.

(2) For the purpose of sub-paragraph (1)(c) “original determination” means the broad rental market area determination, local housing allowance determination, board and attendance determination or board and attendance redetermination to which the correction of an error relates.

(3) In article 2(3)—

- (a) for the definition of “broad rental market area” substitute—  
““broad rental market area” has the meaning specified in paragraph 4 of Schedule 3B;”;
- (b) for the definition of “broad rental market area determination” substitute—  
““broad rental market area determination” means a determination made in accordance with article 4B(1A);”;
- (c) for the definition of “local housing allowance determination” substitute—

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(1) [S.I. 2006/213](#). Regulation 13A was inserted into the Regulations, as they applied to pathfinder authorities, by regulation 122 of and Schedule 10 to those Regulations.

(2) [S.I. 2006/214](#). Regulation 13A was inserted into the Regulations, as they applied to pathfinder authorities, by regulation 103 of and Schedule 9 to those Regulations.

(3) The definitions of “broad rental market area”, “broad rental market area determination” and “local housing allowance determination” are amended by article 13(1) of this Order. The definition of “pathfinder authority” was inserted by [S.I. 2003/2398](#). The definition of “relevant date” was inserted by [S.I. 2003/2398](#) and substituted by [S.I. 2006/217](#).

““local housing allowance determination” means a determination made in accordance with article 4B(2A);”;

(d) omit the definition of “pathfinder authority”.

(e) for the definition of “relevant date” substitute—

““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)(4) of the Housing Benefit Regulations or, as the case may be, regulation 13D(7)(a)(5) of the Housing Benefit (State Pension Credit) Regulations;”.

(4) In article 4B (broad rental market area determinations and local housing allowance determinations)—

(a) omit paragraphs (1), (2) and (3);

(b) for paragraph (4) substitute—

“(4) Where a local authority makes an application 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, a rent officer shall determine, in accordance with the provisions of Schedule 3B and as soon as is reasonably practicable, the local housing allowance for that category of dwelling at the relevant date, for each broad rental market area falling within, in whole or in part, the area of the local authority that made the application, at the relevant date.

(4A) Where a local authority makes an application in accordance with regulation 13D(8) of the Housing Benefit Regulations or, as the case may be, regulation 13D(8) of the Housing Benefit (State Pension Credit) Regulations, a rent officer shall determine in accordance with the provisions of Schedule 3B and as soon as is reasonably practicable, the local housing allowance for that category of dwelling for each broad rental market area falling within, in whole or in part, the areas of the local authority.”.

(c) in paragraph (5)—

(i) in sub-paragraph (a) for “pathfinder authority” substitute “local authority”;

(ii) in sub-paragraph (b) after “relevant date falls” insert “, except that no such determination can have effect before 7th April 2008”;

(iii) in sub-paragraph (c) after “sub-paragraph (a)” insert “, except that no such determination can have effect before 7th April 2008”.

(5) For article 4C(1) and (2)(6) (board and attendance determinations and notifications) substitute—

“**4C.**—(1) 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.

(2) 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

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(4) Regulation 13D is inserted by [S.I. 2007/2868](#).

(5) Regulation 13D is inserted by [S.I. 2007/2869](#).

(6) Article 4C was inserted by [S.I. 2003/2398](#) and amended by [S.I. 2006/217](#).

- (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.”.
- (6) In articles 4D (board and attendance redeterminations) and 4E(7) (substitute board and attendance determinations and substitute board and attendance redeterminations) for “pathfinder authority” in both places in which it occurs substitute “local authority”.
- (7) In article 7A (errors)—
  - (a) in paragraph (2) for “pathfinder authority” substitute “local authority”;
  - (b) omit paragraph (3).
- (8) Omit Schedule 3A.