
STATUTORY INSTRUMENTS

2013 No. 382

The Rent Officers (Universal Credit Functions) Order 2013

Citation and commencement

1. This Order may be cited as the Rent Officers (Universal Credit Functions) Order 2013 and comes into force on 29th April 2013.

Interpretation

2. In this Order—

“Welfare Reform Act” means the Welfare Reform Act 2012⁽¹⁾;

“the Universal Credit Regulations” means the Universal Credit Regulations 2013⁽²⁾;

“accommodation” means any residential accommodation whether or not consisting of the whole or part of a building and whether or not comprising separate and self-contained premises;

“applicable consumer prices index” in relation to any year means the consumer prices index of annual inflation as at September of that year published by the Office for National Statistics⁽³⁾;

“assured tenancy”—

(a) in England and Wales, has the same meaning as in Part 1 of the Housing Act 1988⁽⁴⁾, except that it includes—

(i) a tenancy which would be an assured tenancy but for paragraph 2, 8 or 10 of Schedule 1 (tenancies which cannot be assured tenancies) to that Act; and

(ii) a licence which would be an assured tenancy (within the extended meaning given in this definition) were it a tenancy; and

(b) in Scotland, has the same meaning as in Part 2 of the Housing (Scotland) Act 1988⁽⁵⁾, except that it includes—

(i) a tenancy which would be an assured tenancy but for paragraph 7 or 9 of Schedule 4 (tenancies which cannot be assured tenancies) to that Act; and

(ii) any other form of occupancy which would be an assured tenancy (within the extended meaning given in this definition) were it a tenancy;

“broad rental market area” has the meaning given in article 3;

“housing payment” means a relevant payment within the meaning of paragraph 3 of Schedule 4 (housing costs element for renters) to the Universal Credit Regulations;

“local authority” means—

(a) in relation to England, the council of a district or London borough, the Common Council of the City of London or the Council of the Isles of Scilly;

(b) in relation to Wales, the council of a county or county borough; and

(1) 2012 c.5.

(2) S.I. 2013/376.

(3) The Consumer Prices Index figure is published on the website of the Office for National Statistics (www.ons.gov.uk).

(4) 1988 c.50.

(5) 1998 c.43.

(c) in relation to Scotland, a council constituted under section 2 (constitution of councils) of the Local Government etc. (Scotland) Act 1994⁽⁶⁾;

“provider of social housing” has the meaning given in paragraph 2 of Schedule 4 to the Universal Credit Regulations;

“relevant time” means the time the request for the determination is made or, if earlier, the date the tenancy ends;

“service charge payments” has the meaning given in paragraph 7 of Schedule 1 (meaning of payments in respect of accommodation) to the Universal Credit Regulations;

“tenancy” includes—

- (a) in England and Wales, a licence to occupy premises; and
- (b) in Scotland, any other right of occupancy,

and references to rent, a tenant, a landlord or any other expression appropriate to a tenancy are to be construed accordingly;

“tenant” includes, where the tenant is a member of a couple within the meaning of section 39 of the Welfare Reform Act, the other member of the couple;

“working day” means any day other than—

- (a) a Saturday or a Sunday;
- (b) Christmas Day or Good Friday; or
- (c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971⁽⁷⁾ in any part of Great Britain.

Broad rental market area determinations

3.—(1) Broad rental market area determinations taking effect on 29th April 2013 are determined in accordance with paragraph (7) and all other broad rental market area determinations are determined in accordance with paragraphs (2) to (6).

(2) A rent officer must, at such times as the rent officer considers appropriate and if the Secretary of State agrees—

- (a) determine one or more broad rental market areas; and
- (b) in respect of that broad rental market area, or those broad rental market areas, give to the Secretary of State a notice which identifies the local authority areas and the postcodes contained within the broad rental market area (or each of them).

(3) A broad rental market area is 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.

(4) 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 accommodation 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.

⁽⁶⁾ 1994 c.39.

⁽⁷⁾ 1971 c.80.

(5) Every part of Great Britain must fall within a broad rental market area and a broad rental market area must not overlap with another broad rental market area.

(6) Any broad rental market area determination made in accordance with paragraph (2) is to take effect—

- (a) on the day the determination is made for the purpose of enabling a rent officer to determine a local housing allowance for that area; and
- (b) for all other purposes on the next 1st April following the day on which the determination is made.

(7) For broad rental market area determinations that take effect on 29th April 2013, a rent officer must use the broad rental market area determinations determined in accordance with article 4B of, and Schedule 3B to, the Rent Officers (Housing Benefit Functions) Order 1997⁽⁸⁾ or the Rent Officers (Housing Benefit Functions) (Scotland) Order 1997⁽⁹⁾ that apply on 29th April 2013.

Local housing allowance determinations

4.—(1) Local housing allowance determinations taking effect on 29th April 2013 are determined in accordance with paragraph (4) and all other local housing allowance determinations are determined in accordance with paragraphs (2) and (3).

(2) No more than 20 working days after the applicable consumer prices index is published, a rent officer must—

- (a) for each broad rental market area determine, in accordance with Schedule 1, a local housing allowance for each of the categories of accommodation set out in paragraph 1 of Schedule 1; and
- (b) notify the Secretary of State of the local housing allowance determination made in accordance with sub-paragraph (a) for each broad rental market area.

(3) Any local housing allowance determination made in accordance with paragraph (1) is to take effect on the next 1st April following the day on which the determination is made.

(4) For local housing allowance determinations that take effect on 29th April 2013, a rent officer must use—

- (a) the broad rental market area determinations referred to in article 3(7); and
- (b) the approximate monthly local housing allowance determinations notified to local authorities in accordance with article 4B(6) of the Rent Officers (Housing Benefit Functions) Order 1997 or the Rent Officers (Housing Benefit Functions) (Scotland) Order 1997 that apply on 29th April 2013.

Housing payment determination

5. Where a rent officer receives a request from the Secretary of State for a determination in respect of housing payments for accommodation let by a provider of social housing, the rent officer must—

- (a) determine in accordance with Schedule 2 whether each of the housing payments specified by the Secretary of State in that request is reasonable for that accommodation; and

(8) S.I. 1997/1984. Article 4B was inserted by S.I. 2003/2398 and amended by S.I. 2006/217, 2007/2871, 2008/587, 2010/2836 and 2012/646. Schedule 3B was inserted by S.I. 2007/2871 and amended by S.I. 2008/3156, 2009/2459, 2010/2836 and 2012/646.

(9) S.I. 1997/1995. Article 4B was inserted by S.I. 2003/2398 and amended by S.I. 2006/217, 2007/2871, 2008/587, 2010/2836 and 2012/646. Schedule 3B was inserted by S.I. 2007/2871 and amended by S.I. 2008/3156, 2009/2459, 2010/2836 and 2012/646.

- (b) where the rent officer determines that a housing payment is not reasonable, determine in accordance with Schedule 2 the amount that is reasonable for the accommodation and notify the Secretary of State of that amount.

Redeterminations

6.—(1) Where a rent officer has made a determination under article 3, 4 or 5 (“the determination”) and paragraph (2) applies, a rent officer must make a further determination (“a redetermination”) and notify the Secretary of State of the redetermination.

(2) This paragraph applies where—

- (a) the determination was made under article 3 or 4 and the rent officer considers that there is an error in relation to that determination; or
- (b) the determination was made under article 5 and—
 - (i) the Secretary of State requests that the rent officer makes a redetermination;
 - (ii) the Secretary of State informs the rent officer that the information supplied when requesting the determination was incorrect or incomplete; or
 - (iii) the rent officer considers that there is an error in relation to the determination.

(3) Where a rent officer makes a redetermination the rent officer must do so in accordance with the provisions of this Order that applied to the determination and use the same information that was used for the determination except that, where the information used was incorrect or incomplete, the rent officer must use the correct or complete information.

(4) Where a rent officer makes a redetermination by virtue of paragraph (2)(b)(i), the rent officer must have regard to the advice of at least one other rent officer in relation to that redetermination.

Information

7. Where a rent officer considers that the information supplied by the Secretary of State or a landlord under regulation 40 (information to be provided to rent officers) of the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013⁽¹⁰⁾ is incomplete or incorrect, the rent officer must—

- (a) notify the Secretary of State or the landlord of that fact; and
- (b) request that the Secretary of State or the landlord supplies the further information or to confirm whether, in their opinion, the information already supplied is correct and, if they agree that it is not, to supply the correct information.

Means of giving notice

8. Any notice given by a rent officer under this Order may be given in writing or by electronic means unless the Secretary of State requests that notice is given in writing only.

⁽¹⁰⁾ S.I. 2013/380.

Signed by authority of the Secretary of State for Work and Pensions.

25th February 2013

Freud
Parliamentary Under-Secretary of State,
Department for Work and Pensions