
STATUTORY RULES OF NORTHERN IRELAND

2016 No. 258

**The Housing Benefit (Amendment)
Regulations (Northern Ireland) 2016**

Amendment of the Housing Benefit Regulations relating to the determination of the maximum rent (social sector)

4.—(1) The Housing Benefit Regulations are amended in accordance with paragraphs (2) to (8).

(2) In regulation 2(1)(1) (interpretation) in the definition of “eligible rent”, in paragraph (a) after “regulation 13A” insert “, 13AA”.

(3) In regulation 11(eligible housing costs) after paragraph (1)(b)(i)(2) after head (i) insert—
“(ia) regulations 13AA, A14 and B14;”.

(4) In regulation 13A(3) (eligible rent) for paragraph (1) substitute—

“(1) The amount of a person’s eligible rent shall be determined in accordance with the provisions of this regulation except where any of the following provisions apply—

- (a) regulation 13AA;
- (b) regulation 13B;
- (c) regulation 13C; or
- (d) paragraph 4 of Schedule 3 to the Consequential Provisions Regulations.”.

(5) After regulation 13A insert—

“Eligible rent and maximum rent (social sector)

13AA.—(1) This regulation applies where a maximum rent (social sector) has been, or is to be, determined in accordance with regulation A14.

(2) Except where paragraph (3) or (6) applies, the amount of a person’s eligible rent is the maximum rent (social sector).

(3) Where the claimant occupies a dwelling which is the same as that occupied by the claimant at the date of death of a linked person, the eligible rent is—

- (a) the eligible rent which applied on the day before the death occurred; or
- (b) in a case where no eligible rent applied on that day, an eligible rent determined in accordance with regulation 13A(2),

where that eligible rent is more than the eligible rent determined in accordance with paragraph (2).

(4) For the purpose of paragraph (3), a claimant is treated as occupying the dwelling if paragraph (13) of regulation 7 is satisfied and for that purpose paragraph (13) shall have effect as if sub-paragraph (b) of that paragraph were omitted.

(1) The definition of “eligible rent” was substituted by regulation 2(2)(c) of [S.R. 2008 No. 101](#)
(2) Sub-paragraph (b) was substituted by regulation 2(4)(a) of [S.R. 2008 No. 101](#)
(3) Regulations 13A to 13C were inserted by regulation 2(6) of [S.R. 2008 No. 101](#)

(5) Where a person's eligible rent has been determined in accordance with paragraph (3), it shall apply until the first of the following events occurs—

- (a) the period of 12 months from the date of death has expired;
- (b) the determination of an eligible rent in accordance with paragraph (3) in relation to a subsequent death;
- (c) there is a change of circumstances and the relevant authority determines a new eligible rent in accordance with paragraph (2) which is equal to or more than the eligible rent determined in accordance with paragraph (3);
- (d) there is a change of dwelling; or
- (e) the determination of an eligible rent under regulation 13A.

(6) Where the relevant authority is satisfied that the claimant or a linked person was able to meet the financial commitments for the dwelling when they were entered into, the eligible rent is an eligible rent determined in accordance with regulation 13A(2) where that eligible rent is more than the eligible rent determined in accordance with paragraph (2).

(7) Paragraph (6) shall not apply where the 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.

(8) Where a person's eligible rent has been determined in accordance with paragraph (6), it shall apply until the first of the following events occurs—

- (a) the first 13 weeks of the claimant's award of housing benefit have expired;
- (b) the determination of an eligible rent in accordance with paragraph (3);
- (c) there is a change of circumstances and the relevant authority determines a new eligible rent in accordance with paragraph (2) which is equal to or more than the eligible rent determined in accordance with paragraph (6);
- (d) there is a change of dwelling; or
- (e) the determination of an eligible rent under regulation 13A.”.

(6) In regulation 13C, in paragraph (7)(a)(iv) and (b)(iv) after “regulation 14” insert “, a maximum rent (social sector) by virtue of regulation A14”.

(7) After regulation 13D (transitional protection – reduction in LHA) insert—

“When a maximum rent (social sector) is to be determined

A14.—(1) Subject to paragraph (2), the relevant authority must determine a maximum rent (social sector) in accordance with regulation B14 where the relevant authority has not determined, and is not required to determine—

- (a) a maximum rent in accordance with regulation 14;
- (b) a maximum rent (LHA) by virtue of regulation 14C; or
- (c) an eligible rent in a case where paragraph 4 of Schedule 3 to the Consequential Provisions Regulations applies.

(2) This regulation does not apply—

- (a) in a rent allowance case where the tenancy is an excluded tenancy of a type mentioned in paragraphs 4 or 5 of Schedule 3 and the landlord is not a registered housing association;
- (b) in respect of shared ownership tenancies;
- (c) in respect of mooring charges for houseboats and payments in respect of the site on which a caravan or mobile home stands;

(d) where the claimant or the claimant's partner has attained the qualifying age for state pension credit, or where both have attained that age; or

(e) where the dwelling is temporary accommodation.

(3) In this regulation "temporary accommodation" means accommodation of a kind listed in paragraph (4) which the relevant authority makes available to the claimant, or which a registered housing association makes available to the claimant in pursuance of arrangements made with it by the authority—

(a) to discharge any of the authority's functions under Part II of the Housing (Northern Ireland) Order 1988(4); or

(b) to prevent the claimant being or becoming homeless within the meaning of Part II of the Housing (Northern Ireland) Order 1988.

(4) The accommodation referred to in paragraph (3) is—

(a) accommodation—

(i) provided for a charge, where that charge includes the provision of that accommodation and some cooked or prepared meals which are also cooked or prepared, and consumed, in that accommodation or associated premises; or

(ii) provided in a hotel, guest house, lodging house or similar establishment, but does not include accommodation which is provided in a care home, an independent hospital or a hostel;

(b) accommodation which the authority or registered housing association holds on a lease granted for a term not exceeding 10 years;

(c) accommodation which the authority or registered housing association has a right to use under an agreement other than a lease with a third party.

Determination of a maximum rent (social sector)

B14.—(1) The maximum rent (social sector) is determined in accordance with paragraphs (2) to (9).

(2) The relevant authority must determine a limited rent by—

(a) determining the amount that the claimant's eligible rent would be in accordance with regulation 13A(2) without applying regulations 13A(4) and (7);

(b) where the number of bedrooms in the dwelling exceeds the number of bedrooms to which the claimant is entitled in accordance with paragraphs (5) to (7) reducing that amount by the appropriate percentage set out in paragraph (3); and

(c) where more than one person is liable to make payments in respect of the dwelling, apportioning the amount determined in accordance with sub-paragraphs (a) and (b) between each such person having regard to all the circumstances, in particular, the number of such persons and the proportion of rent paid by each person.

(3) The appropriate percentage is—

(a) 14% where the number of bedrooms in the dwelling exceeds by one the number of bedrooms to which the claimant is entitled; and

(b) 25% where the number of bedrooms in the dwelling exceeds by two or more the number of bedrooms to which the claimant is entitled.

(4) Where it appears to the relevant authority that in the particular circumstances of any case the limited rent is greater than it is reasonable to meet by way of housing benefit, the

maximum rent (social sector) shall be such lesser sum as appears to that authority to be an appropriate rent in that particular case.

(5) The claimant is entitled to one bedroom for each of the following categories of person whom the relevant authority is satisfied occupies the claimant's dwelling as their home (and each person shall come within the first category only which is applicable)—

- (a) a couple (within the meaning of Part VII of the Act);
- (b) a person who is not a child;
- (c) a child who cannot share a bedroom;
- (d) two children of the same sex;
- (e) two children who are less than 10 years old;
- (f) a child.

(6) The claimant is entitled to one additional bedroom in any case where—

- (a) a relevant person is a person who requires overnight care; or
- (b) a relevant person is a qualifying parent or carer.

(7) Where—

- (a) more than one sub-paragraph of paragraph (6) applies the claimant is entitled to an additional bedroom for each sub-paragraph that applies;
- (b) more than one person falls within a sub-paragraph of paragraph (6) the claimant is entitled to an additional bedroom for each person falling within that sub-paragraph, except that where a person and that person's partner both fall within the same sub-paragraph the claimant is entitled to only one additional bedroom in respect of that person and that person's partner.

(8) For the purposes of determining the number of occupiers of the dwelling under paragraph (5), the relevant authority must include any member of the armed forces away on operations who—

- (a) is the son, daughter, step-son or step-daughter of the claimant or the claimant's partner;
- (b) was the claimant's non-dependant before they became a member of the armed forces away on operations; and
- (c) intends to resume occupying the dwelling as their home when they cease to be a member of the armed forces away on operations.

(9) In this regulation "relevant person" means—

- (a) the claimant;
- (b) the claimant's partner;
- (c) a person ("P") other than the claimant or the claimant's partner who is jointly liable with the claimant or the claimant's partner (or both) to make payments in respect of the dwelling occupied as the claimant's home;
- (d) P's partner."

(8) In Schedule 3 (excluded tenancies) in paragraph 3 omit sub-paragraph (a).