

SCHEDULE 6

Articles 2(2) and 8

RENT OFFICERS' DETERMINATIONS

Calculation of the appropriate amount

1. Subject to paragraph 7, the appropriate amount, in a case to which paragraph (2), (3), (4) or (10) of article 8 applies, in respect of that part of the housing benefit qualifying expenditure which is attributable to allowances granted for the period beginning on the relevant date and ending on the termination date, shall be calculated in accordance with paragraph 2, 3,4 or 6 as appropriate.

Rent officers' determination

2. Where the rent officer determines a property-specific rent, does not make a determination under paragraph 2 of Schedule 1 to the Rent Officers Order and the amount of eligible rent does not exceed the property-specific rent less ineligible amounts, the appropriate amount in respect of the period beginning with the relevant date and ending with the termination date shall be 95 per cent. of that part of the housing benefit qualifying expenditure attributable to the eligible rent.

3. Where the rent officer determines a property-specific rent, does not make a determination under paragraph 2 of Schedule 1 to the Rent Officers Order and the amount of eligible rent exceeds the property-specific rent less ineligible amounts, in respect of the period beginning with the relevant date and ending with the termination date—

- (a) where the allowance granted is the same as or is less than the excess—
 - (i) except in a case to which paragraph 5 applies, paragraph 7 shall apply to any such allowance;
 - (ii) where paragraph 5 applies, the appropriate amount shall be 60 per cent. of the housing benefit qualifying expenditure attributable to such allowance;
- (b) where the allowance granted is greater than the excess the appropriate amount shall be—
 - (i) except where paragraph 5 applies, nil per cent. of the housing benefit qualifying expenditure which is equal to the excess;
 - (ii) where paragraph 5 applies, 60 per cent. of the housing benefit qualifying expenditure which is equal to the excess,

and in either case 95 per cent. of the housing benefit qualifying expenditure which remains after deducting the excess.

Rent officers' property-specific and size-related rents

4.—(1) Where the rent officer makes a determination that the dwelling exceeds the size criteria for its occupiers and he determines both a property-specific rent for that dwelling and a size-related rent, the appropriate amount in respect of the period beginning on the relevant date and ending on the termination date shall be the appropriate amounts determined in accordance with the relevant sub-paragraphs of this paragraph.

(2) Where the eligible rent does not exceed the relevant rent, less ineligible amounts, the appropriate amount shall be 95 per cent. of that part of the housing benefit qualifying expenditure attributable to the eligible rent.

(3) For the period of 13 weeks beginning on the relevant date or, if shorter, for the period beginning on that date and ending on the termination date, if the amount of the eligible rent does not exceed the property-specific rent less ineligible amounts, the appropriate amount shall be 95 per cent. of that part of the housing benefit qualifying expenditure attributable to the eligible rent.

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(4) For the period of 13 weeks beginning on the relevant date or, if shorter, for the period beginning on that date and ending on the termination date, if the amount of the eligible rent exceeds the property-specific rent less ineligible amounts—

- (a) where the allowance is the same as or is less than the excess—
 - (i) except in a case to which paragraph 5 applies, paragraph 7 shall apply to any such allowance;
 - (ii) where paragraph 5 applies, the appropriate amount shall be 60 per cent. of the housing benefit qualifying expenditure attributable to such allowance;
- (b) where the allowance granted is greater than the excess the appropriate amount shall be—
 - (i) except where paragraph 5 applies, nil per cent. of the housing benefit qualifying expenditure which is equal to the excess;
 - (ii) where paragraph 5 applies, 60 per cent. of the housing benefit qualifying expenditure which is equal to the excess,and in either case 95 per cent. of the housing benefit qualifying expenditure which remains after deducting the excess.

Restriction on unreasonable rents or on rent increases

5. This paragraph applies where an authority has been unable to treat a person's eligible rent as reduced by reason of regulation 11(3), (3A)(1), (4) or 12(2)(2) of the Housing Benefit Regulations (restrictions on unreasonable rents or on rent increases) as in force on 1st January 1996(3).

Payments on account of rent allowance

- 6.—(1) This paragraph applies in a case, falling on or after 2nd January 1996, where:
- (a) an authority makes a payment on account pursuant to regulation 91 of the Housing Benefit Regulations(4); and
 - (b) on the subsequent determination by that authority the amount of rent allowance payable is less than the amount of the payment on account,

to the amount by which the payment on account exceeded the amount payable on the determination.

(2) In a case where this paragraph applies, the appropriate amount shall be 95 per cent. of so much of any amount which:

- (a) is not in excess of the appropriate indicative rent level in relation to the dwelling, in respect of which the claim for rent allowance, pursuant to which the payment on account was paid, was made, and;
- (b) has not been recovered pursuant to either regulation 91(3) or 99 (recoverable overpayments) of the Housing Benefit Regulations.

(3) In any case to which this paragraph applies and any such payments on account were in excess of the appropriate indicative rent level, paragraph 7 shall apply to such excess.

(1) Paragraph (3A) was added by regulation 2(c) of S.I. 1989/566.

(2) Paragraph (2) was added by S.I. 1989/566.

(3) Regulation 11 was revoked and replaced by regulation 5 of S.I. 1995/1644 and amended by S.I. 1995/2868 from 2nd January 1996, but the earlier regulation continues in force for certain claimants by regulation 10 of 1995/1644.

(4) Regulation 91 was amended by S.I. 1995/2868.

Deductions in respect of allowances

7. Subject to article 11(4) any allowance, payment on account or part thereof, as the case may be, to which this paragraph applies shall be deducted from housing benefit qualifying expenditure, pursuant to article 2(2)(b).

Relevant date

8. — For the purposes of this Schedule—

(a) in a case where a claim for rent allowance is made on or after 1st April 1995, the relevant date is the date on which entitlement to benefit commences;

(b) in a case where—

(i) on 1st April 1995 there is current on that date a claim for an allowance in relation to the dwelling; and

(ii) there is also current on that date a rent officer's determination in relation to the dwelling,

the relevant date is 1st April 1995; and for the purposes of head (ii) above, a rent officer's determination includes a determination, interim determination, further determination or re-determination made under the Rent Officers Order, save that where a determination made under paragraph 2 of Schedule 1 to the Rent Officers Order 1990 had not taken effect by 31st March 1995, the relevant date will be 13 weeks after the relevant date determined under the 1995 Order;

(c) in a case where—

(i) during the relevant year there has been a change relating to a rent allowance within the meaning of regulation 12A(8) of the Housing Benefit Regulations; and

(ii) by virtue of regulation 12A of the Housing Benefit Regulations (requirement to refer to rent officer)(5) an application for a determination in respect of that dwelling is required,

the relevant date is the date on which the relevant change of circumstances takes effect for the purposes of regulation 68 of the Housing Benefit Regulations (date on which change of circumstances is to take effect)(6) or, if the relevant change of circumstances does not affect entitlement to an allowance, the Monday following the date on which the relevant change occurred;

(d) in a case where a rent officer makes both an interim determination and a further determination, the relevant date is—

(i) if the relevant rent determined under the further determination is higher than or equal to the amount determined under the interim determination, the date determined under the foregoing sub-paragraphs of this paragraph as appropriate;

(ii) if the relevant rent determined under the further determination is lower than the amount determined under the interim determination, the Monday following the date on which the further determination is made by the rent officer; in a case, falling on or after 2nd January 1996, where, prior to any rent officer

(e) determination being notified to the authority, the authority determines a rent allowance on a claim in respect of a dwelling, the relevant date is—

(i) if the relevant rent less ineligible amounts determined under the determination eventually notified by the rent officer is higher than or equal to the eligible rent

(5) Regulation 12A was added by regulation 5 of S.I. 1990/546 and paragraph 8 was amended by S.I. 1993/317.

(6) Regulation 68 was amended by S.I. 1990/546, 1992/432 and 1994/578.

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- determined by the authority in relation to that dwelling, the date determined under the foregoing sub-paragraphs of this paragraph as appropriate;
- (ii) if the relevant rent less ineligible amounts is lower than the eligible rent determined by the authority but that eligible rent is equal to or more than the appropriate indicative rent level for that dwelling, the Monday following the date on which the determination is made by the rent officer;
 - (iii) if the relevant rent less ineligible amounts is lower than the eligible rent determined by the authority in relation to that dwelling, the Monday following the date on which the determination is made by the rent officer and in so far as the eligible rent determined by the authority in relation to that dwelling was in excess of the appropriate indicative rent level for that dwelling paragraph 7 shall apply to that excess;
- (f) in a case where the rent officer has made a re-determination under paragraph 1 of Schedule 3 to the Rent Officers Order, the relevant date is—
- (i) if the relevant rent determination under the re-determination is higher than or equal to the amount determined under the original determination, the date determined under the foregoing sub-paragraphs of this paragraph as appropriate;
 - (ii) if the relevant rent determination under the re-determination is lower than the amount determined under the original determination, the Monday following the date on which the re-determination is made by the rent officer.

Termination date

9. For the purposes of this Schedule “termination date” means—

- (a) 31st March 1996; or
- (b) where the rent officer’s determination replaces a determination made in relation to the same dwelling, the relevant date of the new determination by the rent officer in relation to the same dwelling as defined by paragraph 8; or
- (e) the date on which the allowance ceases to be paid in respect of the tenancy,

whichever is earlier.

Apportionment

10. For the purposes of this Schedule where more than one person is liable to make payments in respect of a dwelling the relevant rent shall be apportioned on the same basis as such payments are apportioned under regulation 10(5) of the Housing Benefit Regulations (rent).

Reckonable rent cases

11. In a case where article 8(9) applies—

- (a) where the authority, in determining the reckonable rent has lessened that rent in accordance with regulation 10(3) of and Schedule 1 to the Housing Benefit Regulations (ineligible charges) by a sum less than the ineligible amounts, the appropriate amount shall be 95 per cent. of the maximum rent as calculated by reference to the value of those ineligible amounts; and
- (b) in a case where sub-paragraph (a) above does not apply, shall be 95 per cent. of the eligible rent as determined by the authority.

12. In a case where article 8(11) applies, the appropriate amount shall be, for the period of 13 weeks prescribed in regulation 11(9) of the Housing Benefit Regulations, 95 per cent. of the eligible rent less ineligible amounts.

Interpretation

13. In this Schedule, unless the context otherwise requires—

“appropriate indicative rent level” means the indicative rent level for the category of dwelling into which the dwelling in question falls, as described in Schedule 1 to the Rent Officers Order less, in the case of a dwelling falling within heads (a) or (b) of paragraph 9(3) of that Schedule, any amount ineligible to be met under paragraph 1A or Part II of Schedule 1 to the Housing Benefit Regulations (meal and fuel charges);

“ineligible amounts” means, except as provided in the definition of “property-specific rent less ineligible amounts” below,—

- (a) any amount which the rent officer determines is attributable to the provision of services ineligible to be met by housing benefit, plus the amount in respect of fuel charges ineligible to be met under Part II of Schedule 1 to the Housing Benefit Regulations (payments in respect of fuel charges);
- (b) any amount in respect of amounts ineligible to be met by housing benefit under paragraph 1A of Schedule 1 to the Housing Benefit Regulations (amount ineligible for meals);
- (c) where the dwelling is a hostel within the meaning of regulation 12A of the Housing Benefit Regulations (requirement to refer to rent officers), any amount ineligible to be met by housing benefit under paragraph 1 of Schedule 1 to those Regulations (ineligible service charges), other than under sub-paragraphs (d) to (f) of that paragraph;

“property-specific rent”, “relevant rent” and “size-related rent” have, except as provided in definition of “property-specific rent less ineligible amounts” below, the same meanings as are ascribed to them in paragraph 10 (interpretation) of Schedule 6 to the 1995 Order;

“property-specific rent less ineligible amounts” has the meaning otherwise ascribed to those terms in this paragraph except in a case where the property-specific rent is an exceptionally high rent and is notified to the authority—

- (a) on or after 2nd October 1995, and the rent officer has notified the authority that that exceptionally high rent determined by him does not include a payment ineligible for housing benefit under paragraph 1(a)(i) or 4 of Schedule 1 to the Housing Benefit Regulations, as the case may be (“ineligible payments”); or
- (b) before that date, and the authority is of the opinion that that exceptionally high rent does not include ineligible payments,

when it means that exceptionally high rent less ineligible amounts other than ineligible payments falling within either paragraph (a) or (b) above;

and other expressions used in this Schedule and in the Rent Officers Order have the same meaning in this Schedule as they have in that Order.