
STATUTORY INSTRUMENTS

2003 No. 2398

**The Rent Officers (Housing Benefit Functions)
(Local Housing Allowance) Amendment Order 2003**

Amendment of the Rent Officers (Housing Benefit Functions) Order 1997

2.—(1) The Rent Officers (Housing Benefit Functions) Order 1997⁽¹⁾ shall be amended in accordance with the following provisions of this article.

(2) In paragraph (1) of article 2, at the appropriate places, insert—

““board and attendance determination” means a determination made in accordance with article 4C;

“broad rental market area” has the meaning specified in paragraph 4 of Part I of Schedule 3A to this Order;

“broad rental market area determination” means a determination made in accordance with article 4B(1);

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

“pathfinder authority” means a local authority specified in column (1) of the table in Part II of Schedule 3A, on and after the date specified in column (2) of that table in relation to that authority;

“relevant date” means the date specified by a pathfinder authority in an application for a local housing allowance determination made in accordance with regulation 11A(4)(a) of the 1987 Regulations⁽²⁾.”

(3) In paragraph (1) of article 2 in the definition of “relevant time” after the words “for the determination” insert the words “or board and attendance determination”.

(4) In sub-paragraph (a) of paragraph (2) of article 3 after the words “each local authority” insert the words “, except for a local authority which is a pathfinder authority,”.

(5) After article 4A insert the following articles—

“Broad rental market area determinations and local housing allowance determinations

4B.—(1) On the day on which this article comes into force in relation to a local authority and so often thereafter as a rent officer, having regard to the definition of “broad rental market area” in paragraph (1) of article 2, considers appropriate, a rent officer shall—

- (a) determine one or more broad rental market areas which will (during the month which next begins after the determination is made) fall, in whole or in part, within the area of that local authority so that every part of the area of that authority falls within a broad rental market area and no part of the area of that authority falls within more than one broad rental market area; and

(1) [S.I.1997/1984](#). Relevant amending instruments are [S.I.2000/1](#), [2001/1325](#) and [2003/478](#).

(2) [S.I. 1987/1971](#). Relevant amending instruments are [S.I. 1989/416](#), [1990/546](#) and [1775](#), [1993/317](#), [1994/306](#), [1995/560](#), [1644](#) and [2868](#), [1998/3257](#), [1999/2401](#), [2000/4](#), [2001/1605](#) and [2003/48](#), [1338](#) and [2399](#).

- (b) give to that authority a notice which—
 - (i) specifies the area contained within each broad rental market area as falls, in whole or in part, within the area of that authority, by reference to the postcodes for each such broad rental market area; and
 - (ii) identifies such of those postcodes as fall within the area of that authority.
- (2) No more than 5 and not less than 3 working days before the end of each month a rent officer shall—
 - (a) determine, in accordance with the provisions of Part I of Schedule 3A—
 - (i) a local housing allowance for each of the categories of dwelling set out in paragraph 1 of that Part; and
 - (ii) local housing allowances for such other categories of dwelling of more than six rooms as a rent officer believes are likely to be required for the purpose of calculating housing benefit,for each broad rental market area falling within, in whole or in part, the area of any local authority which is (or will be) a pathfinder authority during the month which follows; and
 - (b) give to each such authority notice of the local housing allowance determinations made in accordance with paragraph (a) for each broad rental market area falling within, in whole or in part, the area of that authority.
- (3) Any broad rental market area determination made in accordance with paragraph (1), or local housing allowance determination made in accordance with paragraph (2), shall take effect on the first working day of the month which begins after the day on which the determination is made.
- (4) Where a pathfinder authority—
 - (a) makes an application in accordance with regulation 11A(4)(a) of the 1987 Regulations, a rent officer shall determine, in accordance with the provisions of Part I of Schedule 3A 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 pathfinder authority that made the application, at the relevant date; or
 - (b) makes an application in accordance with regulation 11A(5) of the 1987 Regulations, a rent officer shall determine, in accordance with the provisions of Part I of Schedule 3A 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 area of the pathfinder authority.
- (5) Where a rent officer has made a local housing allowance determination in accordance with paragraph (4)—
 - (a) he shall give notice of the determination to the pathfinder authority that made the application;
 - (b) any local housing allowance determination made in accordance with sub-paragraph (4)(a) shall take effect for the month in which the relevant date falls; and
 - (c) any local housing allowance determination made in accordance with sub-paragraph (4)(b) shall take effect for the month in which notice is given in accordance with sub-paragraph (a).

Board and attendance determinations and notifications

4C.—(1) Where a pathfinder authority makes an application to a rent officer in accordance with regulation 11A(6) of the 1987 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 pathfinder authority accordingly; and
- (b) treat the application as if it has been made in accordance with regulation 12A(1) of the 1987 Regulations.

(3) Where a rent officer determines that a substantial part of the rent under the tenancy at the relevant time is not fairly attributable to board and attendance, he shall notify the pathfinder authority accordingly.

(4) Where an application for a board and attendance determination is treated as if it has been made in accordance with regulation 12A(1) of the 1987 Regulations, then, for the purposes of paragraph (a)(ii) of the definition of “relevant period” in article 2(1), it shall be treated as having been received on the day on which the determination referred to in paragraph (2) is made.

Board and attendance redeterminations

4D.—(1) Subject to article 6, where a pathfinder authority applies to a rent officer for a redetermination of a board and attendance determination or board and attendance redetermination, the rent officer shall, in accordance with paragraph (2)—

- (a) make a redetermination of—
 - (i) the board and attendance determination, provided it was made in accordance with article 4C and had effect at the date of the application for it to be redetermined; or
 - (ii) the board and attendance redetermination provided it was made in accordance with head (i), and had effect at the date of the application for it to be redetermined; and
- (b) notify the pathfinder authority of the redetermination.

(2) When making a board and attendance redetermination under this article, the rent officer shall seek, and have regard to, the advice of one or two other rent officers in relation to the redetermination.

(3) A rent officer whose advice is sought in accordance with paragraph (2) shall give that advice.

(4) Article 4C shall apply in relation to a board and attendance redetermination but as if the references to the relevant time were references to the date on which the original application for a board and attendance determination was made, or if earlier, to the date on which the tenancy ended.

Substitute board and attendance determinations and substitute board and attendance redeterminations

4E.—(1) Where a pathfinder authority applies to a rent officer for a substitute board and attendance determination in accordance with regulation 12C of the 1987 Regulations, the provisions of this Order shall apply to that substitute board and attendance determination as they apply to a board and attendance determination but as if references to the relevant

time were references to the date on which the original application for a board and attendance determination was made or, if earlier, the date on which the tenancy ended.

(2) Where a pathfinder authority applies to a rent officer for a substitute board and attendance redetermination in accordance with regulation 12C of the 1987 Regulations, the provisions of this Order shall apply to that substitute board and attendance redetermination as they apply to a board and attendance redetermination.”.

(6) In article 5 (insufficient information) for the words “or a redetermination under article 4” substitute “, a redetermination under article 4, a board and attendance determination under article 4C or a board and attendance redetermination under article 4D”.

(7) In article 6 (exceptions)—

(a) in paragraph (1), for the words “or redetermination” substitute “, redetermination, board and attendance determination or board and attendance redetermination”; and

(b) in paragraph (4), for the words “or a redetermination” substitute “, redetermination, board and attendance determination or a board and attendance redetermination”.

(8) Number the provision in article 7A (errors) as paragraph (1) of that article and after that paragraph insert the following paragraphs—

“(2) If a rent officer is of the opinion that he has made an error (other than in the application of his professional judgement) in relation to a board and attendance determination or board and attendance redetermination, he shall notify the pathfinder authority which made the application for that board and attendance determination or board and attendance redetermination of the error as soon as practicable after he becomes aware of it.

(3) If a rent officer is of the opinion that he has made an error (other than in the application of his professional judgement) in relation to a broad rental market area determination or a local housing allowance determination, he shall notify any pathfinder authority to which notification of that determination was sent of the error, and the amended determination, as soon as practicable after he becomes aware of it.”.

(9) In sub-paragraph (3) of paragraph 5 of Schedule 1 to the Order (determinations—single room rents)—

(a) for the words “(3) to (5)” substitute “(3) and (5)”; and

(b) for the words “this sub-paragraph” substitute “this paragraph”.

(10) After Schedule 3 to the Order insert the new Schedule 3A set out in Schedule 2 to this Order.