

2003 No. 2399

SOCIAL SECURITY

**The Housing Benefit (General) (Local Housing Allowance)
Amendment Regulations 2003**

Made - - - - - *18th September 2003*

Laid before Parliament *24th September 2003*

Coming into force in accordance with regulation 1(1)

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by sections 123(1)(d), 130(2) and (4), 137(1) and (2)(j) and 175(1) and (3) to (6) of the Social Security Contributions and Benefits Act 1992(a), sections 5(1)(k) and (p) and (6), 189(7) and 191 of the Social Security Administration Act 1992(b), section 122 (3) and (5) of the Housing Act 1996(c), and paragraphs 3(1), 4(4) and (6), 20(1)(b), (2) and (3) and 23(1) of Schedule 7 to the Child Support, Pensions and Social Security Act 2000(d), and of all other powers enabling him in that behalf, after reference to the Social Security Advisory Committee(e) and after consultation with organisations appearing to him to be representative of the authorities concerned(f), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Housing Benefit (General) (Local Housing Allowance) Amendment Regulations 2003 and shall come into force in relation to the area of a relevant authority specified in Schedule 1 to these Regulations, and in relation to that relevant authority, on the date specified in that Schedule in relation to that relevant authority.

(2) In these Regulations—

- (a) “the principal Regulations” means the Housing Benefit (General) Regulations 1987(g); and
- (b) “relevant authority” has the meaning specified in regulation 2(1) of the principal Regulations.

(a) 1992 c. 4; section 137(1) is cited because of the meaning ascribed to the word “prescribed”.
(b) 1992 c. 5; section 5(6) was inserted by section 120(1) of the Housing Act 1996 (c. 52); section 130(2) has been amended by paragraph 3 of Schedule 9 to the Local Government Finance Act 1992 (c. 14) and paragraph 174(4) of Schedule 13 to the Local Government etc. (Scotland) Act 1994 (c. 39); section 189(7) was amended by paragraph 24 of Schedule 9 to the Local Government Finance Act 1992 and paragraph 10 of Schedule 1 to the Social Security Administration (Fraud) Act 1997 (c. 47); section 191 is cited for the meaning of “prescribe”.
(c) 1996 c. 52.
(d) 2000 c. 19; paragraph 23(1) of Schedule 7 is cited for the meaning of “prescribed”.
(e) See section 172(1) of the Social Security Administration Act 1992.
(f) See section 176(1) of the Social Security Administration Act 1992.
(g) S.I. 1987/1971. Relevant amending instruments are S.I. 1988/1971, 1990/546, 1991/2742, 1993/317, 518 and 1150, 1994/2137, 1995/625, 1644, 2303 and 2868, 1996/965, 1510 and 2432, 1997/65, 852, 1995 and 2434, 1998/563, 1999/2401 and 2734, 2000/4 and 681, 2001/487, 1324 and 1605, 2002/490 and 2497 and 2003/48, 363 and 1338.

Amendment of regulation 2 of the principal Regulations

2.—(1) In regulation 2(1) of the principal Regulations (interpretation), at the appropriate places, insert—

““amended determination” means a determination made in accordance with article 7A of the Rent Officers Order(a);

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

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

“commencement date” means in relation to a pathfinder authority specified in Part I or II of Schedule 8, the date specified in that Part in relation to that authority;

“local housing allowance” means an allowance determined in accordance with paragraph 2 or 3 of Part I of Schedule 3A to the Rent Officers Order;

“local housing allowance determination” means a determination made in accordance with article 4B(2) of the Rent Officers Order;

“maximum rent (standard local rate)” means the amount determined in accordance with regulation 11A;

“pathfinder authority” means a relevant authority specified in Schedule 8;

“relevant date” means, as the case may require—

(a) the commencement date in relation to a pathfinder authority specified in Part I of Schedule 8;

(b) the date of the claim to which the claim or relevant information relates; or

(c) the date of the change relating to a rent allowance, or the change which affects the category of dwelling, date of death or rent increase, to which a notification referred to in regulation 11A(1)(b)(iii) or (iv) relates;”.

Amendment of regulation 8 of the principal Regulations

3. In regulation 8(1) of the principal Regulations (eligible housing costs) for the words from “regulations 10(3),” to the end of the paragraph substitute “regulations 10 and 11 or regulations 10 and 11A, whichever is applicable in his case”.

Insertion of regulation 8A into the principal Regulations

4. After regulation 8 (eligible housing costs) insert the following regulation—

“Cases where maximum housing benefit expires

8A. A maximum housing benefit shall not have effect for any benefit week which begins on or after the day which is the first anniversary of the day by reference to which the local housing allowance most recently applicable for the purpose of determining that maximum housing benefit in accordance with regulation 10(3A) to (3I) was identified.”.

Amendment of regulation 10 of the principal Regulations

5.—(1) Regulation 10 of the principal Regulations (rent) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (3)(b) after the words “except where sub-paragraph (a)” insert “or paragraph (3A), (3C) or (3D)”.

(3) After paragraph (3) insert the following paragraphs—

“(3A) Where, by virtue of paragraph (1) of regulation 11A, a maximum rent (standard local rate) has been, or falls to be, determined in accordance with that regulation, then, except where paragraph (3C)(a)(ii), (b)(ii) or (c)(ii), (3D)(a) or (3F)(a) applies—

(a) the amount of a person’s eligible rent shall be the maximum rent (standard local rate); and

(a) See S.I. 1997/1984 and 1995. Relevant amending instruments to S.I. 1997/1984 are S.I. 2000/1 and 2003/2398. Relevant amending instruments to S.I. 1997/1995 are S.I. 2000/3 and 2003/2398.

- (b) it shall apply until the earlier of—
 - (i) the determination of a maximum rent (standard local rate) by virtue of regulation 11A(1)(b)(iv); or
 - (ii) the determination of a maximum rent (standard local rate) which relates to the local housing allowance applicable to the case on the first anniversary of the day by reference to which the local housing allowance which was applicable for the purpose of determining the eligible rent in sub-paragraph (a), was identified.

(3B) This paragraph applies where a pathfinder authority is required to determine a maximum rent (standard local rate) by virtue of regulation 11A(1)(a) or (b)(i), (ii) or (iii) and the claimant has been continuously entitled to and in receipt of housing benefit in respect of the dwelling he occupies as his home for a period which includes the commencement date.

(3C) Where paragraph (3B) applies, subject to paragraph (3I)—

- (a) except where sub-paragraph (b) or (c) applies, the amount of a person's eligible rent shall be—
 - (i) the eligible rent determined in accordance with paragraph (3A) where that is not less than the eligible rent which applied on the day before the relevant date; or
 - (ii) the eligible rent which applied on the day before the relevant date;
- (b) where the eligible rent to which the person was entitled on the day before the relevant date was determined by reference to a maximum rent determined in accordance with regulation 11(7)(b), the person's eligible rent shall be—
 - (i) the eligible rent determined in accordance with paragraph (3A), where that is not less than the eligible rent which applied on the day before the relevant date; or
 - (ii) the eligible rent which applied on the day before the relevant date; or
- (c) where the eligible rent to which the person was entitled on the day before the relevant date was, by virtue of regulation 11(9), determined in accordance with paragraph (3)(b), the person's eligible rent shall be—
 - (i) the eligible rent determined in accordance with paragraph (3A), where that is not less than the eligible rent which applied on the day before the relevant date; or
 - (ii) the eligible rent which applied on the day before the relevant date.

(3D) Subject to paragraph (3I), where the pathfinder authority is required to determine a maximum rent (standard local rate) by virtue of regulation 11A(1)(b)(i), (ii) or (iv) and the claimant occupies a dwelling which is the same as that occupied by him at the date of death of any person to whom any of sub-paragraphs (b) to (d) of paragraph (3H) applied or, had a claim been made, would have applied, the eligible rent shall be—

- (a) either—
 - (i) the eligible rent which applied on the day before the death occurred; or
 - (ii) in a case where there was no eligible rent, subject to paragraphs (4) and (6B), the reckonable rent due on that day; or
- (b) the eligible rent determined in accordance with paragraph (3A), where it is not less than the eligible rent determined in accordance with sub-paragraph (a).

(3E) For the purpose of paragraph (3D), a claimant shall be treated as occupying the dwelling if paragraph (8) of regulation 5 (circumstances in which a person is or is not to be treated as occupying a dwelling as his home) is satisfied and for that purpose that paragraph (8) shall have effect as if sub-paragraph (b) of that paragraph were omitted.

(3F) Subject to paragraphs (3G) and (3I), where a pathfinder authority is required to determine a maximum rent (standard local rate) by virtue of regulation 11A(1)(b)(i) or (ii) and the pathfinder authority is satisfied that a person to whom paragraph (3H) applies was able to meet the financial commitments for his dwelling when they were entered into, the eligible rent shall be—

- (a) an eligible rent determined in accordance with paragraph (3)(b); or
- (b) the eligible rent determined in accordance with paragraph (3A), where it is not less than the eligible rent referred to in sub-paragraph (a).

(3G) Paragraph (3F) shall not apply in the case of any claim for housing benefit where the claimant was previously entitled to housing benefit in respect of any period which ended less than 52 weeks before the commencement of the period to which the claim relates.

(3H) This paragraph applies to the following persons—

- (a) the claimant;
- (b) any member of his family;
- (c) if the claimant is a member of a polygamous marriage, any partners of his and any child or young person for whom he or a partner is responsible and who is a member of the same household;
- (d) any relative of the claimant or his partner who occupies the same dwelling as the claimant, whether or not they reside with him, except for a relative who has a separate right of occupation of the dwelling which would enable them to continue to occupy it even if the claimant ceased his occupation of it.

(3I) Where a person's eligible rent has been determined in accordance with—

- (a) paragraph (3C)(a)(ii), it shall continue to apply until such time as the pathfinder authority determines an eligible rent—
 - (i) in accordance with paragraph (3A) which is equal to or exceeds it; or
 - (ii) where the maximum rent (standard local rate) on which it is based relates to the local housing allowance applicable to the case on the anniversary of the day by reference to which the local housing allowance which was applicable for the purpose of determining the eligible rent in paragraph (3C)(a)(i) was identified, which is equal to or exceeds it,

whichever first occurs;

(b) paragraph (3C)(b)(ii), and—

- (i) the pathfinder authority determined a maximum rent (standard local rate) following receipt of a notification of change relating to a rent allowance that falls within paragraph 2(3)(a) of Schedule 1A as a result of the death of one of the occupiers to whom any of sub-paragraphs (b) to (d) of regulation 11(7) applied, it shall continue to apply until—

(aa) the period of 12 months from the date of death has expired; or

(bb) the pathfinder authority determines an eligible rent in accordance with paragraph (3A) which is equal to or exceeds it,

whichever first occurs; or

(ii) in any other case, it shall continue to apply until—

(aa) the date on which the eligible rent which applied on the day before the relevant date would have ceased to apply; or

(bb) the pathfinder authority determines an eligible rent in accordance with paragraph (3A) which is equal to or exceeds it,

whichever first occurs;

(c) paragraph (3C)(c)(ii), it shall continue to apply until—

(i) the date on which the eligible rent which applied on the day before the relevant date would have ceased to apply; or

(ii) the pathfinder authority determines an eligible rent in accordance with paragraph (3A) which is equal to or exceeds it,

whichever first occurs;

(d) paragraph (3D)(a), it shall continue to apply until—

(i) the period of 12 months from the date of death has expired; or

(ii) the pathfinder authority determines an eligible rent in accordance with paragraph (3A) which is equal to or exceeds it,

whichever first occurs;

(e) paragraph (3F)(a), it shall continue to apply until—

(i) the first 13 weeks of the claimant's award of housing benefit have expired; or

(ii) the pathfinder authority determines an eligible rent in accordance with paragraph (3A) which is equal to or exceeds it,

whichever first occurs; and

- (f) paragraph (3A)(b)(ii), or sub-paragraph (a)(ii) or this sub-paragraph, that eligible rent (“the earlier eligible rent”) shall continue to apply until—
 - (i) the determination of a maximum rent (standard local rate) by virtue of regulation 11A(1)(b)(iv); or
 - (ii) the determination of an eligible rent where the maximum rent (standard local rate) on which it is based relates to the local housing allowance applicable to the case on the first anniversary of the day by reference to which the local housing allowance which was applicable for the purpose of determining the earlier eligible rent was identified,
 whichever first occurs.

(3J) Where an eligible rent ceases to apply by virtue of sub-paragraph (b)(i)(aa), (b)(ii)(aa), (c)(i), (d)(i) or (e)(i) of paragraph (3I), the eligible rent that shall apply instead shall be the one which would have applied but for paragraphs (3C)(b)(ii), (3C)(c)(ii), (3D)(a) and (3F)(a).

(3K) In paragraph (3D) “reckonable rent” has the same meaning as in regulation 11.”.

Insertion of regulations 11A and 11B into the principal Regulations

6. After regulation 11 (maximum rent) insert the following regulations—

“Maximum rent (standard local rate)

11A.—(1) Subject to paragraph (2), where—

- (a) the relevant authority is a pathfinder authority specified in Part I of Schedule 8 and it is the commencement date for that pathfinder authority; or
- (b) a pathfinder authority has received—
 - (i) a claim on which a rent allowance may be awarded, where the date of claim falls on or after the commencement date;
 - (ii) relevant information regarding a claim on which a rent allowance may be awarded, where the date of claim falls on or after the commencement date;
 - (iii) in relation to an award of housing benefit where the maximum rent was determined in accordance with regulation 11, a notification of a change relating to a rent allowance where the change occurs on or after the commencement date; or
 - (iv) in relation to an award of housing benefit where a maximum rent (standard local rate) was determined in accordance with this regulation—
 - (aa) notification of a change of a kind which affects the category of dwelling applicable to the claim;
 - (bb) notification of the death of an occupier of the dwelling to whom any of sub-paragraphs (b) to (d) of regulation 10(3H) applies, where the notification does not fall within sub-head (aa); or
 - (cc) notification that there has been a rent increase under a term of the tenancy to which the claim relates and the term under which that increase was made was either included in the tenancy at the date of the claim or is a term substantially the same as such a term,

the pathfinder authority shall determine a maximum rent (standard local rate) in accordance with paragraphs (3) to (8).

(2) Paragraph (1) shall not apply in a case where—

- (a) the landlord is a registered social landlord;
- (b) regulation 10(1)(b) of the Housing Benefit (General) Amendment Regulations 1995(a) applies;
- (c) the tenancy is an excluded tenancy of a type falling within any of paragraphs 5 to 11 of Schedule 1A(b);

(a) S.I. 1995/1644. Relevant amending instruments to regulation 10 are S.I. 1996/462 and 2432, 1998/563 and 2231 and 2003/363 and 1338.

(b) S.I. 1987/1971. Relevant amending instruments are S.I. 1988/1971, 1990/546, 1991/2742, 1993/317, 518 and 1150, 1994/2137, 1995/625, 1644, 2303 and 2868, 1996/965, 1510 and 2432, 1997/65, 852, 1995 and 2434, 1998/563, 1999/2401 and 2734, 2000/4 and 681, 2001/487, 1324 and 1605, 2002/490 and 2497 and 2003/48, 363 and 1338.

- (d) the claim or award relates to—
 - (i) periodical payments of a kind falling within regulation 10(1) which a person is liable to make in relation to a houseboat, caravan or mobile home which he occupies as his home; or
 - (ii) rent payable in relation to a hostel; or
 - (e) rent under the tenancy is attributable to board and attendance, and—
 - (i) the pathfinder authority has made an application to the rent officer in accordance with paragraph (6), regulation 12B or 12C; and
 - (ii) the rent officer has determined that a substantial part of the rent under the tenancy is fairly attributable to board and attendance and has notified the pathfinder authority of this in accordance with article 4C, 4D or 4E of the Rent Officers Order^(a).
- (3) The maximum rent (standard local rate) shall be the local housing allowance determined by the rent officer which is applicable to—
- (a) the broad rental market area in which the dwelling to which the claim or award of housing benefit relates is situated at the relevant date; and
 - (b) the category of dwelling—
 - (i) specified in paragraph 1(1)(a) of Part I of Schedule 3A to the Rent Officers Order where—
 - (aa) the claimant is a young individual who has no non-dependant residing with him and to whom paragraph 13 of Schedule 2 (severe disability premium) does not apply; or
 - (bb) the category of dwelling specified in paragraph 1(1)(b) of Part I of Schedule 3A to the Rent Officers Order would apply in the claimant's case but neither requirement in head (ii)(aa) or (bb) is satisfied in his case;
 - (ii) specified in paragraph 1(1)(b) of Part I of Schedule 3A to the Rent Officers Order where that applies in the claimant's case at the relevant date in accordance with the size criteria and he is not a person to whom head (i)(aa) applies and where—
 - (aa) the claimant (together with his partner where he has one) has the exclusive use of two or more rooms; or
 - (bb) the claimant (together with his partner where he has one) has the exclusive use of one room, a bathroom and toilet and a kitchen or facilities for cooking;
 - (iii) in any other case, which applies in the claimant's case at the relevant date in accordance with the size criteria.
- (4) Where no local housing allowance applicable to a claim or award of housing benefit falling within paragraph (3)(b)(iii) has been determined, the pathfinder authority shall—
- (a) apply to the rent officer for local housing allowance determinations for the category of dwelling applicable to the claim or award of housing benefit for each broad rental market area falling within its area, in whole or in part, at the relevant date, which shall be specified in the application; and
 - (b) apply the local housing allowance so determined for the broad rental market area in which the dwelling to which the claim or award of housing benefit relates is situated at the relevant date.
- (5) Where—
- (a) a pathfinder authority receives a request on a properly completed form approved for the purpose by the pathfinder authority from a person stating that he is contemplating occupying as his home a dwelling containing a specified number of rooms, exceeding six, within the area of the pathfinder authority and that, if he does so, he is likely to claim housing benefit; and

(a) S.I. 1997/1984 and 1995. Relevant amending instruments to S.I. 1997/1984 are S.I. 2000/1 and 2003/2398. Relevant amending instruments to S.I. 1997/1995 are S.I. 2000/3 and 2003/2398.

(b) no local housing allowance determination is in effect for a broad rental market area, falling within, in whole or in part, the area of the pathfinder authority for the category of dwelling containing the number of rooms specified in the form, the pathfinder authority shall apply to the rent officer for local housing allowance determinations for each broad rental market area for the category of dwelling containing the number of rooms specified in the form.

(6) In a case where—

- (a) the pathfinder authority is required to determine a maximum rent (standard local rate) by virtue of paragraph (1); and
- (b) part of the rent under the tenancy appears to the pathfinder authority to be likely to be attributable to board and attendance,

the pathfinder authority shall apply to the rent officer for a board and attendance determination to be made in accordance with article 4C of the Rent Officers Order.

(7) Where an application to a rent officer is required in accordance with paragraph (6)—

(a) it shall contain—

- (i) a statement that the application is made in accordance with regulation 11A(6); and
- (ii) such other statements, information and notifications as would be required were the application to be made in accordance with regulation 12A(1); and

(b) it shall be made within the same period following the day on which the pathfinder authority becomes obliged to determine a maximum rent (standard local rate) by virtue of paragraph (1) as would be required if it were to be made under regulation 12A(1).

(8) Where the maximum rent (standard local rate) exceeds the rent, the claimant shall be treated as liable to make payments in respect of the dwelling of an amount equal to the amount by which the maximum rent (standard local rate) exceeds the rent, except for the purposes of calculating any amount by which a rent allowance exceeds the amount which a claimant is liable to pay his landlord as rent, or rent and any arrears of rent, in accordance with regulation 93(2A).

(9) In this regulation—

“change relating to a rent allowance” has the same meaning as in regulation 12A;

“occupiers” means the persons whom the pathfinder authority is satisfied occupy as their home the dwelling to which the claim or award relates except for any joint tenant who is not a member of the claimant’s household;

“registered social landlord” has the same meaning as in Part I of the Housing Act 1996(a) and, in Scotland, sections 57 and 59 of the Housing (Scotland) Act 2001(b);

“room” has the meaning specified in paragraph 1(2) of Part I of Schedule 3A to the Rent Officers Order;

“size criteria” has the meaning specified in article 2 of the Rent Officers Order except that the word “occupier” is to be construed in accordance with the definition of “occupiers” in this paragraph.

Publication of local housing allowances

11B. A pathfinder authority shall take such steps as appear to it to be appropriate for the purpose of securing that information in relation to broad rental market areas falling in whole or in part within its area, and local housing allowances applicable to such broad rental market areas, is brought to the attention of persons who may be entitled to housing benefit from the authority.”.

(a) 1996 c. 52.
(b) 2001 asp.10.

Amendment of regulation 12A of the principal Regulations

7. In regulation 12A of the principal Regulations (requirement to refer to rent officers) after paragraph (2A) insert the following new paragraph—

“(2B) An application shall not be required under paragraph (1)(a), (aa), (b) or (c) where the claim, relevant information, notification or request is received by a pathfinder authority, unless it is—

(a) a claim, relevant information or notification to which any of the circumstances specified in regulation 11A(2) (a) to (e) apply; or

(b) a request, and any of the circumstances in regulation 11A(2) (a) to (d) would apply were a claim to be made by the prospective occupier in relation to the dwelling which is the subject of the request,

and a referral would fall to be made were the claim, relevant information, notification or request made to a relevant authority which is not a pathfinder authority.”.

Amendment of regulation 12B of the principal Regulations

8. In regulation 12B(1)(a) of the principal Regulations (applications to the rent officer for redeterminations) after the words “reference made under” insert “regulation 11A(6) or”.

Amendment of regulation 12C of the principal Regulations

9. In regulation 12C of the principal Regulations (substitute determinations or substitute redeterminations)—

(a) in paragraph (1)(b)—

(i) for the words “article 7A” substitute the words “article 7A(1) or (2)”; and

(ii) for the words “or substitute redetermination” substitute “, substitute redetermination, substitute board and attendance determination or substitute board and attendance redetermination”; and

(b) in paragraph (2) for the words “or substitute redetermination” substitute “, substitute redetermination, board and attendance redetermination, substitute board and attendance determination or substitute board and attendance redetermination”.

Amendment of regulation 12CA of the principal Regulations

10. In regulation 12CA of the principal Regulations (application for redetermination by rent officer)—

(a) in paragraph (1)(b) after the words “the Housing Act functions” insert the words “except for functions relating to broad rental market area determinations and local housing allowance determinations or amended determinations”;

(b) in paragraphs (3) and (4)(b) after the words “application under regulation” insert the words “11A(6) or”;

(c) in paragraph (5) after the words “the Housing Act functions” insert the words “(except for those relating to broad rental market area determinations and local housing allowance determinations or amended determinations)”.

Insertion of regulation 12E into the principal Regulations

11. After regulation 12D of the principal Regulations (application of provisions to substitute determinations or substitute redeterminations) insert the following regulation—

“Amended determinations

12E. Where a decision has been revised in consequence of an amended broad rental market area determination or amended local housing allowance determination by a rent officer and that amended determination has led to—

(a) a reduction in the maximum rent (standard local rate) applicable to a claimant, the amended determination shall be a change of circumstances in relation to that claimant; and

(b) an increase in the maximum rent (standard local rate) applicable to a claimant, the amended determination shall have effect in place of the original determination.”.

Amendment of regulations 93 and 94 of the principal Regulations

12.—(1) In regulation 93 of the principal Regulations (circumstances in which payment is to be made to a landlord) after paragraph (2) insert the following paragraph—

“(2A) In a case where—

- (a) a pathfinder authority has determined a maximum rent (standard local rate) in accordance with regulation 11A(1); and
- (b) the rent allowance exceeds the amount which the claimant is liable to pay his landlord by way of rent,

any payment of rent allowance made to a landlord pursuant to this regulation or to regulation 94 may include all or part of any amount by which the rent allowance exceeds the amount which the claimant is liable to pay his landlord as rent but shall not include any amount by which the rent allowance exceeds the amount which the claimant is liable to pay his landlord as rent and arrears of rent.”.

(2) In regulation 94 of the principal Regulations (circumstances in which payment may be made to a landlord)—

- (a) in paragraph (1) for the words “paragraph (1B)” substitute the words “paragraphs (1B) and (1C)”;
- (b) in sub-paragraph (a) of paragraph (1B) after the words “paragraph (1)” insert the words “or (1C)”;
- (c) after paragraph (1B) insert the following paragraph—

“(1C) In a case where a pathfinder authority has determined a maximum rent (standard local rate) in accordance with regulation 11A—

- (a) sub-paragraphs (a) and (b) of paragraph (1) shall not apply; and
- (b) payment of a rent allowance to a person’s landlord may be made where—
 - (i) the eligible rent was determined by reference to a maximum rent (standard local rate) which was determined by virtue of regulation 11A(1)(a) and—
 - (aa) the maximum rent (standard local rate) was determined less than six months previously;
 - (bb) no subsequent maximum rent (standard local rate) has been determined in accordance with regulation 11A(1); and
 - (cc) the claimant has, since the date the maximum rent (standard local rate) was determined, been continuously entitled to, and in receipt of, housing benefit in relation to the dwelling he occupied as his home at that date;
 - (ii) the pathfinder authority considers that the claimant is likely to have difficulty in managing his affairs;
 - (iii) the pathfinder authority considers that it is improbable that the claimant will pay his rent; or
 - (iv) a direct payment has previously been made by the pathfinder authority to the landlord in accordance with regulation 93 in respect of the current award of housing benefit.”.

Insertion of Schedule 8 into the principal Regulations

13. After Schedule 6 to the principal Regulations(a) insert the new Schedule 8 (which specifies the authorities which are pathfinder authorities and the commencement date in relation to each) set out in Schedule 2 to these Regulations.

State Pension Credit

14.—(1) Regulations 2, 10, 11A and 12A of the principal Regulations shall have effect, except where paragraph (2) applies, in relation to any person who has attained the qualifying age for state pension credit, subject to the modifications and amendments set out in paragraphs (3) and (4).

(a) Schedule 7 was revoked by S.I. 2001/1605.

(2) This paragraph applies where the claimant or, if the claimant has a partner, his partner is a person on income support or on an income-based jobseeker's allowance within the meaning of the principal Regulations.

- (3) In regulation 2(1) of the principal Regulations in the definition of "relevant date"—
- (a) in paragraph (b) after the words "or relevant information relates" substitute ";" for "or";
 - (b) in paragraph (c) after "regulation 11A(1)(b)(iii) or (iv) relates;" add "or"; and
 - (c) after paragraph (c) insert the following paragraph—

"(d) the date on which the period mentioned in regulation 12A(1)(d) or (e) has elapsed;".
- (4) In regulation 10(3B) after "11A(1)(a) or (b)(i), (ii) or (iii)" insert "or (c)".
- (5) In regulation 11A(1) after sub-paragraph (b) insert the following sub-paragraph—

"(c) a pathfinder authority is required to apply to a rent officer for a determination in accordance with regulation 12A(1)(d) or (e)."
- (6) In regulation 12A after paragraph (2B) insert the following paragraph—

"(2C) An application shall not be required in accordance with paragraph (1)(d) or (e) unless—

 - (a) it is a case to which regulation 11A(2) applies; and
 - (b) a referral would fall to be made were the relevant authority not a pathfinder authority."

Amendment of the Housing Benefit (General) Amendment Regulations 1995

15. In regulation 10 of the Housing Benefit (General) Amendment Regulations 1995 (saving provision) after paragraph (1) insert—

- "(1A) Paragraph (1)(a) shall not apply to—
- (a) any determination of a person's eligible rent in a case where a pathfinder authority is required to determine a maximum rent (standard local rate) by virtue of regulation 11A(1) of the Principal Regulations; or
 - (b) any subsequent determination of his eligible rent."

Amendment of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001

16.—(1) The Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001(a) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (3) of regulation 4 and paragraph (2)(c) of regulation 7 after the words "adopts a rent officer's determination" insert ", board and attendance determination, broad rental market area determination or local housing allowance determination".

(3) In paragraph (3) of regulation 4, paragraph (2)(c) of regulation 7 and paragraph (6) of regulation 8 for the words "or substitute redetermination" substitute "substitute redetermination, board and attendance redetermination, substitute board and attendance determination, substitute board and attendance redetermination, amended broad rental market area determination or amended local housing allowance determination".

(4) After paragraph (2A) of regulation 7 insert the following paragraphs—

"(2B) The appropriate relevant authority may make a decision under paragraph 4 of Schedule 7 to the Act upon its own initiative on the basis that the decision to be superseded is a decision in respect of which the maximum housing benefit would cease to have effect by virtue of regulation 8A of the Housing Benefit Regulations, but for the decision made in accordance with this regulation.

(2C) For the purposes of paragraph (2B) and paragraph (15) of regulation 8 "maximum housing benefit" means the maximum housing benefit determined in accordance with regulations made under section 130(4) of the Social Security Contributions and Benefits Act 1992."

(a) S.I. 2001/1002. Relevant amending instruments are S.I. 2002/490 and 1379 and 2003/1050, 1338 and 2275.

(5) After paragraph (14) of regulation 8 insert the following paragraph—

“(15) A decision to which regulation 7(2B) applies shall take effect from the day immediately following the day on which the maximum housing benefit would have ceased to have effect by virtue of regulation 8A of the Housing Benefit Regulations, but for the decision made in accordance with regulation 7(2B).”.

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

18th September 2003

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

SCHEDULE 1

Regulation 1

DATE ON WHICH REGULATIONS COME INTO FORCE IN RELATION TO
RELEVANT AUTHORITIES

<i>Relevant authority</i>	<i>Date</i>
Blackpool	17th November 2003
Brighton and Hove	2nd February 2004
Conwy	9th February 2004
Coventry	12th January 2004
Edinburgh	9th February 2004
Leeds	9th February 2004
Lewisham	1st December 2003
North East Lincolnshire	9th February 2004
Teignbridge	12th January 2004

SCHEDULE 2

Regulation 13

NEW SCHEDULE TO BE INSERTED AFTER SCHEDULE 6

SCHEDULE 8

Regulations 2(1) and 11A(1)

COMMENCEMENT DATE IN RELATION TO EACH PATHFINDER
AUTHORITY

<i>Pathfinder authority</i>	<i>Commencement date</i>
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Part I

Brighton and Hove	2nd February 2004
Edinburgh	9th February 2004
North East Lincolnshire	9th February 2004

Part II

Blackpool	17th November 2003
Conwy	9th February 2004
Coventry	12th January 2004
Leeds	9th February 2004
Lewisham	1st December 2003
Teignbridge	12th January 2004

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Housing Benefit (General) Regulations 1987 (“the Regulations”), the Housing Benefit (General) Amendment Regulations 1995 and the Housing Benefit (Decisions and Appeals) Regulations 2001 and provide for new arrangements for determining eligible housing costs for the purposes of claims for housing benefit made by persons living in the areas of certain local authorities (“pathfinder authorities”).

Regulation 2 inserts new definitions in regulation 2 of the Regulations.

Regulation 3 amends regulation 8 of the Regulations to provide for the calculation of maximum housing benefit in cases where the eligible rent has been determined in accordance with regulations 10 and 11A.

Regulation 4 inserts regulation 8A which provides for the maximum housing benefit to expire where it has not been updated.

Regulation 5 amends regulation 10 of the Regulations to provide for the determination and application of an eligible rent where a pathfinder authority has been required to determine a maximum rent (standard local rate) by virtue of regulation 11A.

Regulation 6 inserts regulations 11A and 11B. Regulation 11A provides for the circumstances in which a pathfinder authority must determine a maximum rent (standard local rate), the way it is to be determined, and for the treatment of any amount by which the maximum rent (standard local rate) exceeds the rent which the claimant is liable to pay. Regulation 11B makes provision for pathfinder authorities to publicise the new arrangements.

Regulation 7 inserts paragraph (2B) in regulation 12A of the Regulations which provides that cases to which the new arrangements apply do not need to be referred to the rent officer. The same applies to requests for pre-tenancy determinations where the case would be subject to the new arrangements were a claim to be made. Where rent under the tenancy is attributable to board and attendance, there is no provision for a pre-tenancy determination to be made.

Regulation 8 amends regulation 12B of the Regulations to provide for pathfinder authorities to apply to the rent officer for board and attendance redeterminations where part of the rent is attributable to board and attendance.

Regulation 9 amends regulation 12C of the Regulations to provide for pathfinder authorities to apply for substitute board and attendance determinations or redeterminations where the rent officer has notified them that he has made an error, and regulation 10 amends regulation 12CA of the Regulations to exclude broad market rental area and local housing allowance determinations from the provisions of regulation 12C of the Regulations.

Regulation 11 inserts regulation 12E which makes provision for cases where decisions are revised as a result of amended broad market rental area or local housing allowance determinations being made by the rent officer.

Regulation 12 amends regulations 93 and 94 of the Regulations to make provision for the circumstances in which local authorities may pay a person's housing benefit direct to his landlord in cases to which the new arrangements apply.

Regulation 13 inserts Schedule 8 which specifies the local authorities which are pathfinder authorities.

Regulation 14 makes modifications and amendments to the Regulations in the case of persons who have reached the qualifying age for state pension credit.

Regulation 15 amends the Housing Benefit (General) Amendment Regulations 1995 to provide for the circumstances in which transitional provision under those Regulations will cease to have effect in cases to which the new arrangements for determining eligible rent apply.

Regulation 16 makes consequential amendments to the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001.

The Report of the Social Security Advisory Committee dated 8th July 2003 on the proposals referred to them in these Regulations, together with a statement showing the extent to which these Regulations give effect to the Recommendations of the Committee, and in so far as they do not give effect to them, the reasons why not, are contained in the Command paper Cm. 5955, published by the Stationery Office Limited.

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Amendment Regulations 2003**

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