

SCHEDULE 2

Articles 2(10) and 3(10)

NEW SCHEDULE TO BE INSERTED AFTER SCHEDULE 3 TO EACH OF THE  
RENT OFFICERS (HOUSING BENEFIT FUNCTIONS) ORDER 1997 AND THE  
RENT OFFICERS (HOUSING BENEFIT FUNCTIONS) (SCOTLAND) ORDER 1997

“SCHEDULE 3A

Articles 2(2) and 4B

PART I

**Categories of dwelling**

1.—(1) The categories of dwelling for which a rent officer is required to determine a local housing allowance in accordance with article 4B(2)(a)(i) are—

- (a) a dwelling where the tenant has the exclusive use of only one bedroom and where the tenancy provides for him to—
  - (i) share the use of a kitchen, a bathroom and toilet and a room suitable for living in;
  - (ii) have the exclusive use of a kitchen or facilities for cooking and share the use of a bathroom and toilet and a room suitable for living in; or
  - (iii) have the exclusive use of a bathroom and toilet and share the use of a kitchen and a room suitable for living in;
- (b) a dwelling where the tenant has the use of only two rooms;
- (c) a dwelling where the tenant has the use of only three rooms;
- (d) a dwelling where the tenant has the use of only four rooms;
- (e) a dwelling where the tenant has the use of only five rooms;
- (f) a dwelling where the tenant has the use of only six rooms.

(2) In sub-paragraph (1)(b) to (f) of this paragraph and in paragraph 3 “room” means a bedroom or room suitable for living in, except for a room which the tenant shares with any person other than—

- (a) a member of his household;
- (b) a non-dependant of the tenant (within the meaning of regulation 3 of the 1987 Regulations<sup>(1)</sup>); or
- (c) a person who pays rent to the tenant.

**Formula for local housing allowance for category of dwelling in paragraph 1(1)(a)**

2.—(1) The rent officer shall determine a local housing allowance for the category of dwelling in paragraph 1(1)(a) in accordance with the following formula—

$$A = \frac{H - H}{2}$$

where—

A is the local housing allowance;

H is the highest rent which, in the rent officer’s opinion—

(1) 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.

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- (a) a landlord might reasonably have been expected to obtain, at the date of the determination, for an assured tenancy of a dwelling which meets the criteria specified in sub-paragraph (2); and
- (b) is not an exceptionally high rent;

L is the lowest rent which, in the rent officer’s opinion—

- (a) a landlord might reasonably have been expected to obtain, at the date of the determination, for an assured tenancy of a dwelling which meets the criteria specified in sub-paragraph (2); and
- (b) is not an exceptionally low rent.

(2) The criteria are—

- (a) that the dwelling under the assured tenancy—
  - (i) is in the broad rental market area for which the local housing allowance is being determined; and
  - (ii) is in a reasonable state of repair;
- (b) that under the assured tenancy, the tenant has the exclusive use of only one bedroom and the tenancy provides for him to—
  - (i) share the use of a kitchen, a bathroom and toilet and a room suitable for living in;
  - (ii) have the exclusive use of a kitchen or facilities for cooking and share the use of a bathroom and toilet and a room suitable for living in; or
  - (iii) have the exclusive use of a bathroom and toilet and share the use of a kitchen and a room suitable for living in; and
- (c) that the rent does not include any payment for board and attendance.

(3) When ascertaining H and L under sub-paragraph (1) the rent officer shall—

- (a) assume that no one who would have been entitled to housing benefit had sought or is seeking the tenancy; and
- (b) exclude the amount of any rent which, in the rent officer’s opinion, is fairly attributable to the provision of services performed for, or facilities (including the use of furniture) provided for, or rights made available to, the tenant which are ineligible to be met by housing benefit.

(4) When ascertaining H and L under sub-paragraph (1) the rent officer may, where he is not satisfied that—

- (a) the broad rental market area contains a sufficient number of dwellings that accord with the category of dwelling set out in paragraph 1(1)(a) to enable him to make a local housing allowance determination; or
- (b) he has sufficient other information about the market in the broad rental market area to enable him to make a local housing allowance determination,

take account of rents in other similar areas in which he believes a comparable market exists.

**Formula for local housing allowance for other categories of dwelling**

3.—(1) For categories of dwelling other than the category of dwelling in paragraph 1(1)(a), the rent officer shall determine a local housing allowance in accordance with the formula—

$$B - \frac{H+L}{2}$$

where—

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B is the local housing allowance;

H is the highest rent which, in the rent officer's opinion—

- (a) a landlord might reasonably have been expected to obtain, at the date of the determination, for an assured tenancy of a dwelling which meets the criteria specified in sub-paragraph (2); and
- (b) is not an exceptionally high rent; and

L is the lowest rent which, in the rent officer's opinion—

- (a) a landlord might reasonably have been expected to obtain, at the date of the determination, for an assured tenancy of a dwelling which meets the criteria specified in sub-paragraph (2); and
- (b) is not an exceptionally low rent.

(2) The criteria are that the dwelling under the assured tenancy—

- (a) is in the broad rental market area for which the local housing allowance is being determined;
- (b) is in a reasonable state of repair; and
- (c) has the same number of rooms as the category of dwelling in respect of which the local housing allowance is being determined.

(3) Sub-paragraphs (3) and (4) of paragraph 2 apply when ascertaining H and L under this paragraph as if the reference in those sub-paragraphs to H and L were to H and L under this paragraph, except that “in respect of which the local housing allowance is being determined” shall be substituted for “set out in paragraph 1(1)(a)”.

#### **Broad rental market area**

4. In this Schedule “broad rental market area” means an area—

- (a) comprising two or more distinct areas of residential accommodation, each distinct area of residential accommodation adjoining at least one other in the area;
- (b) 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 facilities and services of the same type and similar standard; and
- (c) containing residential premises of a variety of types, and including such premises held on a variety of tenancies.

#### **PART II**

<i>Column (1) Local authority</i>	<i>Column (2) 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

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<i>Column (1) Local authority</i>	<i>olumn (2) Date</i>
North East Lincolnshire	9th February 2004
Teignbridge	12th January 2004”