
STATUTORY INSTRUMENTS

2007 No. 2868

The Housing Benefit (Local Housing Allowance and Information Sharing) Amendment Regulations 2007

Insertion of regulations 13C, 13D and 13E into the Housing Benefit Regulations 2006

7. After regulation 13ZB (change in reckonable rent) (1), as substituted by regulation 6, insert—

“When a maximum rent (LHA) is to be determined

13C.—(1) A relevant authority shall determine a maximum rent (LHA) in accordance with regulation 13D (determination of a maximum rent (LHA)) in any case where paragraphs (2) or (3) apply.

(2) This paragraph applies where a relevant authority has received—

- (a) a claim on which a rent allowance may be awarded, where the date of claim falls on or after 7th April 2008;
- (b) relevant information regarding a claim on which a rent allowance may be awarded, where the date of claim falls on or after 7th April 2008;
- (c) in relation to an award of housing benefit where the eligible rent was determined without reference to regulation 13A or 13D, a notification of a change of dwelling (as defined in regulation 2) where the change occurs on or after 7th April 2008; or
- (d) in relation to an award of housing benefit where a maximum rent (LHA) was determined in accordance with regulation 13D—
 - (i) notification of a change of a kind which affects the category of dwelling applicable to the claim;
 - (ii) notification of the death of a linked person, where the notification does not fall within head (i); or
 - (iii) notification of a change of dwelling.

(3) This paragraph applies on the anniversary of the LHA date.

(4) Where the LHA date is 29th February, the anniversary of the LHA date shall be 28th February.

(5) This regulation does not apply in a case where—

- (a) the landlord is a registered social landlord;
- (b) paragraph 4(1)(b) of Schedule 3 to the Consequential Provisions Regulations (savings provision) applies;
- (c) the tenancy is an excluded tenancy of a type falling within any of paragraphs 4 to 10 of Schedule 2;
- (d) the claim or award relates to—

(1) Regulations 13A and 13B were inserted into the Housing Benefit Regulations 2006, as they applied to pathfinder authorities, by regulation 122 of and Schedule 10 to those Regulations. A new Schedule 10 is substituted by regulation 20 of these Regulations. The new Schedule 10 does not include regulations 13A and 13B.

- (i) periodical payments of kind falling within regulation 12(1) (rent) 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 relevant authority has made an application to the rent officer in accordance with regulation 13D(10) (board and attendance determination), regulation 15 (applications to the rent officer for determinations) or regulation 17 (substitute determinations or substitute redeterminations); 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 relevant authority of this in accordance with article 4C, 4D or 4E of the Rent Officers Order.
- (6) In this regulation—
 - “the LHA date” means the date by reference to which the local housing allowance used to determine the maximum rent (LHA) was identified;
 - “registered social landlord” has the same meaning as in Part 1 of the Housing Act 1996⁽²⁾ or, in Scotland, sections 57 and 59 of the Housing (Scotland) Act 2001⁽³⁾.

Determination of a maximum rent (LHA)

13D.—(1) Subject to paragraph (3) to (11), the maximum rent (LHA) shall be the local housing allowance determined by the rent officer by virtue of article 4B(2A)⁽⁴⁾ or (4) of the Rent Officers Order 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 which applies at the relevant date in accordance with paragraph (2).
- (2) The category of dwelling which applies is—
 - (a) the category specified in paragraph 1(1)(a) of Schedule 3B to the Rent Officers Order (one bedroom shared accommodation) where—
 - (i) the claimant is a young individual who has no non-dependant residing with him and to whom paragraph 14 of Schedule 3 (severe disability premium) does not apply; or
 - (ii) paragraph (b) does not apply because neither sub-paragraph (b)(i) nor (ii) are satisfied in the claimant’s case and neither the claimant nor his partner (where he has one) is a person to whom paragraph 14 of Schedule 3 (severe disability premium) applies, or to whom the circumstances in any of paragraphs (b) to (f) of the definition of young individual applies (certain care leavers);
 - (b) except where paragraph (a)(i) applies, the category specified in paragraph 1(1)(b) of Schedule 3B to the Rent Officers Order (one bedroom self-contained accommodation) where that applies in the claimant’s case at the relevant date in accordance with the size criteria and—

(2) 1996 c. 52.

(3) 2001 asp 10.

(4) Article 4B was inserted by S.I. 2003/2398 and paragraphs (2A) and (4) inserted by S.I. 2007/2871.

- (i) the claimant (together with his partner where he has one) has the exclusive use of two or more rooms; or
 - (ii) 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, and in this sub-paragraph “room” means a bedroom or room suitable for living in except for a room which the claimant shares with any person other than a member of his household, a non-dependant of his, or a person who pays rent to him or his partner;
 - (c) in any other case, the category which corresponds with the number of bedrooms to which the claimant is entitled in accordance with paragraph (3).
- (3) The claimant shall be entitled to one bedroom for each of the following categories of occupier (and each occupier shall come within the first category only which applies to him)—
- (a) a couple (within the meaning of Part 7 of the Act);
 - (b) a person who is not a child;
 - (c) two children of the same sex;
 - (d) two children who are less than 10 years old;
 - (e) a child.
- (4) The relevant authority shall determine —
- (a) the cap rent (in accordance with the definition in paragraph (12)); and
 - (b) whether the cap rent exceeds the applicable local housing allowance.
- (5) Where the applicable local housing allowance exceeds the cap rent, for the purpose of determining the appropriate maximum housing benefit, the amount of the claimant’s liability shall be the amount of the applicable local housing allowance.
- (6) Where paragraph (5) applies, the maximum rent (LHA) shall be the lower of—
- (a) the applicable local housing allowance; or
 - (b) the amount equal to the cap rent determined in accordance with paragraph (4)(a) plus £15.
- (7) Where no local housing allowance applicable to a claim or award of housing benefit falling within paragraph (2)(c) has been determined, the relevant 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.
- (8) Subject to paragraph (9), where—
- (a) the relevant authority receives a request from a person stating that—
 - (i) he is contemplating occupying as his home a dwelling within the area of the relevant authority which contains a specified number of bedrooms, exceeding five, and
 - (ii) that if he does so, he is likely to claim housing benefit; and

(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 relevant authority for the category of dwelling containing the number of bedrooms specified in the request, the relevant authority shall apply to the rent officer for local housing allowance determinations for each broad rental market area falling within its area, in whole or in part, for the category of dwelling containing the number of bedrooms specified in the request, and in this sub-paragraph “bedroom” means has the meaning specified in paragraph 1(2) of Schedule 3B to the Rent Officers Order.

(9) The request must—

- (a) be made on a form approved by the relevant authority for the purpose of making a request under paragraph (8);
- (b) be properly completed; and
- (c) contain the following matters—
 - (i) the signature of the prospective occupier;
 - (ii) the signature of the person to whom the prospective occupier would incur liability to make such payments;
 - (iii) a statement that the person in paragraph (ii) agrees to the application being made for that determination; and
 - (iv) an indication that the prospective occupier is contemplating occupying the dwelling as his home and that if he does so, he is likely to claim housing benefit.

(10) The relevant 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 where—

- (a) the relevant authority is required to determine a maximum rent (LHA) by virtue of regulation 13C; and
- (b) part of the rent under the tenancy appears to the relevant authority to be likely to be attributable to board and attendance.

(11) Where an application to a rent officer is required in accordance with paragraph (10) it shall be made within the same period following the day on which the relevant authority becomes obliged to determine a maximum rent (LHA) by virtue of regulation 13C as would be required if the application were to be made under regulation 14(1).

(12) In this regulation—

“cap rent” means the aggregate of such payments specified in regulation 12(1) (rent) which the claimant is liable to pay, or is treated as liable to pay by virtue of regulation 8 (circumstances in which a person is treated as liable to make payments in respect of a dwelling), subject to regulation 12B(3) (mixed use accommodation), (4) (more than one person liable to make payments) and (6) (discretion in relation to eligible rent);

“occupiers” means the persons whom the relevant 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;

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

- (a) the date of the claim to which the claim or relevant information referred to in regulation 13C(2)(a) or (b) relates;
- (b) the date of the change of dwelling, change which affects the category of dwelling, or date of death, to which a notification referred to in regulation 13C(2) (c) or (d) relates; or

(c) the date on which the anniversary of the LHA date referred to in regulation 13C(3) falls.

“tenancy” includes

(a) in Scotland, any other right of occupancy; and

(b) in any other case, a licence to occupy premises,

and reference to a tenant, landlord or any other expression appropriate to a tenancy shall be construed accordingly.

Publication of local housing allowances

13E.—(1) A relevant 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.”.