

# Universal Credit: housing costs element

September 2011

## **SUMMARY OF ILLUSTRATIVE REGULATIONS**

1. This paper contains an initial, illustrative set of regulations setting out the way in which housing costs will be provided for working age claimants in Universal Credit. These relate to clause 11 of the Welfare Reform Bill. These illustrative regulations do not represent a final version of the regulations, but are intended to inform debate on these aspects of the Bill in the House of Lords. There will be a separate set of illustrative regulations in respect of housing costs within State Pension Credit for pension age claimants.
2. These illustrative regulations do not describe the process whereby claimants in receipt of Housing Benefit migrate onto a housing cost amount in the Universal Credit award. Instead, these illustrative regulations set out the way in which an amount in respect of housing costs may be provided assuming a fresh claim to Universal Credit.

### **What the regulations do**

3. The regulations set out when an amount is to be included in an award of universal credit in respect of the costs of accommodation for a claimant or joint claimants. They also set out how the amount is to be calculated. The regulations also set out exceptions to these conditions.

### **When an award is to include a housing costs element**

4. A housing cost element will be included in an award of Universal Credit when three fundamental conditions are met. These conditions relate to: the payments being made for certain housing costs; being liable, or treated as liable, to make payments in respect of accommodation; and the circumstances in which persons are to be treated as occupying the accommodation as their home.

### **The payment condition (Category A, B, C or D payments)**

5. The housing element can include an amount in respect of the rent, mortgage payments, service charges and other permissible housing costs. These permissible payments are divided into four categories; category A, B, C and D. An amount of housing element may be made up of any combination of these categories of payment.
6. **Category A payments** are periodical payments of rent, licences or similar payments. The amount that a claimant will receive in respect of category A payments is to be calculated in accordance with Schedule 3.

7. Support for category A payments will, broadly speaking, be based on the approach adopted in the Housing Benefit system.
8. There will be a private-rented sector approach that will provide for an amount related to the household size and location using generic tables of rates provided by Rent Officers. The amount of the housing cost element for private-sector claimants will be the lower of the actual rent or a standard amount provided by rent officers based on the current Local Housing Allowance approach.
9. There will be a social-sector approach which will be based on the actual rent that the claimant is liable to pay although this will be reduced by certain fixed amounts if the claimant under-occupies the accommodation.
10. There will be a shared accommodation rate for single claimants aged under 35 living in the private rented sector or for people over 35 living in shared accommodation. Exceptions to this rule which are equivalent to those that apply now will be carried forward.
11. Size criteria for both private and social-sector payments will be based on the current Local Housing Allowance approach. A claimant who has a need for a non-resident overnight carer will be entitled to one extra bedroom. No-one in private-sector accommodation is entitled to claim for more than 4 bedrooms. We are considering the extent to which the size criteria, used to determine amounts in both the private and social-sector approaches, should include members of the household only or the wider category of those occupying the accommodation more generally.
12. The broad effect of many existing provisions will be carried forward so that where a person was able to pay their rent before claiming Universal Credit and has not made a claim in the preceding 52 weeks, their contractual rent can be met for 13 weeks. Additionally, where a person in the accommodation dies, the housing element should be the amount in place before the death for a period of 12 months.
13. **Category B payments** are payments in respect of a mortgage or loan taken out to either purchase a property or make essential repairs or improvements to a property. The amount that a claimant will receive in respect of category B payments is to be determined in accordance with Schedule 4.

14. The current rules for Support for Mortgage Interest are generally to be carried forward into this illustrative draft of the Universal Credit regulations. Our assumption is that there should be a waiting period and capital limit applied to mortgage support. Payments of interest will also be met based on a standard interest rate. As now, payments will be limited to a 2 year period for certain groups of claimant. The housing cost element for this group will not be payable for people in work. The Government intends to hold a detailed consultation on Support for Mortgage Interest, including how it will fit in Universal Credit during Autumn/Winter 2011.
15. **Category C payments** set out the service charges that may be provided for in Universal Credit. The amount that a claimant will receive in respect of category C payments will be provided for in Schedule 5 of later versions of regulations.
16. Service charges are payments that a claimant may make to a landlord for certain services or facilities provided. Our general approach will be to make provision to support those charges that are necessary for the occupation of the accommodation only. Also, we do not intend to support service charges where doing so might make duplicate provision with other areas of the welfare system. Further work is being conducted to establish the detail of how service charges will be calculated and simplified in Universal Credit.
17. **Category D payments** are those in respect of certain non-mainstream types of accommodation such as houseboat mooring charges, site-rents, hostels, temporary accommodation and supported accommodation. The amount that a claimant will receive in respect of category D payments will be provided for in Schedule 6.
18. Further work is being conducted on how to meet the housing costs of people living in tents, caravans and houseboats and whether this will differ from what we have now in Housing Benefit. The Government is currently consulting on options to reform the way that supported accommodation is treated in Housing Benefit with a view to reforming the rules from 2013.
19. For claimants living in temporary accommodation, the current rules are in place until April 2013 and the Government is currently seeking the views of stakeholders on what should replace them and what a revised system would look like in Universal Credit.

### **The liability condition**

20. In order to be eligible for the housing element, a claimant or joint claimant must be liable, or treated as liable, to make one or more of the categories of payment described in paragraph 5 *etc.*
21. A claimant may be treated as liable to make payments under certain circumstances, such as where the person who is liable is not doing so and the claimant must make those payments in order to continue occupying the accommodation.
22. A claimant may also be treated as not liable to make payments in certain circumstances. In broad terms, these are where housing costs are paid under circumstances that are not considered to be on a commercial basis. For example, a claimant who pays rent to a close relative with whom he resides is treated as not liable to make payments.

### **The occupation condition**

23. The occupation condition will be satisfied when the claimant, or joint claimants, occupy the accommodation that they normally occupy as their home.
24. A person may also be treated as occupying accommodation in certain other circumstances. These are set out in Schedule 2 and make provisions to allow, for example, for: temporary absences from the home such as for hospital treatment; overlapping liabilities when moving home; or fleeing the home due to domestic violence.

### **The calculation of the amount**

25. Taken together, schedules 3, 4, 5 and 6 will provide for the calculation of the amount of the housing costs element to be included in an award of Universal Credit in respect of the different categories of payments. The claimant can also potentially be eligible for an amount to be included in respect of any or all of category A, B, C or D payments.
26. The Secretary of State may restrict the amount included for housing costs where he considers that it is excessive. This is intended as a back-stop measure to ensure that support for housing costs in respect of any of the four categories will not exceed an amount that is considered reasonable. It is envisaged that this will be used in exceptional circumstances only, such as where claimants are being charged unreasonably high amounts for sub-standard accommodation or

services. We are considering how this measure could operate in practice.

27. We are also considering the way in which assumed contributions to household costs from non-dependants are treated within our broad intention to simplify arrangements as much as possible.

**2013 No.**

**SOCIAL SECURITY**

**The Universal Credit Regulations 2013 (Housing)**

*Made* - - - - - \*\*\*

*Laid before Parliament* \*\*\*

*Coming into force* - - - \*\*\*

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The Secretary of State makes [Chapter 4 of Part of these Regulations] in exercise of the powers conferred by section 11(3), (4) and (5) and 42(2) and (3) of the Welfare Reform Act 2011<sup>(1)</sup>.

## PART ELEMENTS OF AWARD

### CHAPTER 4

#### Housing costs element

#### **Introduction**

1.—(1) This Chapter makes provision for the inclusion in awards of universal credit of an amount in respect of costs for accommodation which the claimant or joint claimants occupy as their home (“the housing costs element”).

(2) In this Chapter—

- (a) regulations 2 to 13 specify when an award is to include the housing costs element,
- (b) regulation 14 makes provision for determining the amount of the housing costs element,
- (c) regulation 15 specifies cases in which an award is not to include the housing costs element,
- (d) regulation 16 makes provision for re-determining of the amount,
- (e) regulations 17 and 18 make provision about the reduction of excessive amounts,
- (f) regulation 19 specifies cases in which an award is to cease to include the housing costs element, and
- (g) regulations 20 to 22 define terms used in this Chapter.

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(1) 2011 c.00.

### **When award is to include housing costs element**

2.—(1) An award of universal credit is to include the housing costs element in respect of a claimant or (in the case of a joint claim) the joint claimants for an assessment period if—

- (a) the payment condition (see regulations 3 to 7), and
- (b) the liability condition (see regulation 8 to 12), and
- (c) the accommodation condition (see regulation 13),

are met.

(2) Where those conditions are met in respect of two or more categories of payments, the housing costs element is to include an amount in respect of each category (subject to paragraph (3)).

(3) Where those conditions are met in respect of category B payments, the housing costs element is not to include an amount in respect of those payments for any period falling before the end of the relevant period.

(4) For the purposes of paragraph (3) “the relevant period” is the period of [X] starting with the date of the claim.

### **The payment condition**

3.—(1) The payment condition is met if the payments in respect of accommodation for which the claimant or (in the case of a joint claim) either of claimants is liable are category A, B, C or D payments.

(2) Category A, B, C and D payments are defined in regulations 4 to 7.

### **Category A payments**

4.—(1) The following descriptions of periodical payments are Category A payments—

- (a) payments of rent or by way of rent;
- (b) payments for a licence or permission to occupy the accommodation;
- (c) payments by way of mesne profits or, in Scotland, violent profits;
- (d) payments in respect of use and occupation of the accommodation or in consequence of its use and occupation;
- (e) payments by way of rent relating to a long tenancy;
- (f) payments under or relating to a tenancy or licence of a Crown tenant;
- (g) qualifying contributions payable by a person resident in an almshouse;
- (h) payments under a rental purchase agreement;
- (i) payments in respect of croft land where the accommodation is situated on or pertains to a croft within the meaning of section 3(1) of the Crofters (Scotland) Act 1993.

(2) But the following descriptions of payments are not Category A payments—

- (a) category B, C or D payments,
- (b) payments by an owner;
- (c) payments under a credit sale agreement;
- (d) payments under a conditional sale agreement, to the extent that these are not in respect of land.

(3) For the purposes of paragraph (1)(g), payments are qualifying contributions if—

- (a) the almshouse is provided by a housing association,

- (b) that housing association is either a charity registered in the register of charities maintained under the Charities Act 1993<sup>(2)</sup> or an exempt charity within Schedule 2 to that Act, and
- (c) the contributions payable are towards the cost of maintaining the association's almshouses and essential services in them.

(4) In this regulation—

“owner”, in relation to accommodation in England and Wales—

- (a) means the person who is for the time being entitled to dispose of the fee simple whether or not with the consent of another joint owner, but
- (b) does not include a mortgagee in possession;

“owner”, in relation to accommodation in Scotland, means—

- (a) the proprietor under udal tenure,
- (b) the proprietor of the dominion utile,
- (c) the tenant's or the lessee's interest in a long tenancy, a kindly tenancy, a lease registered or registerable under the Registration of Leases (Scotland) Act 1857 or the Land Registration (Scotland) Act 1979, or
- (d) a tenant-at-will as defined in section 20(8) of the Land Registration (Scotland) Act 1979;

“rental purchase agreement” means an agreement to purchase a building, or part of one, where, under the terms of the agreement—

- (a) the whole or part of the purchase price is to be paid in more than one instalment, and
- (b) the completion of the purchase is deferred until the whole or a specified part of the purchase price has been paid.

### **Category B payments**

5.—(1) Category B payments are—

- (a) payments in respect of a loan which meet the requirements of paragraph (2);
- (b) payments in respect of a hire purchase agreement which meet the requirements of paragraph (3).

(2) The requirements of this paragraph are that the funds obtained from the loan are used—

- (a) to acquire an interest in accommodation,
- (b) to carry out repairs and improvements to the accommodation,
- (c) to pay off another loan that was used for either of those purposes, or
- (d) to pay off a hire purchase agreement that was used to acquire an interest in accommodation.

(3) The requirements of this paragraph are that the funds obtained from the hire purchase agreement are used—

- (a) to acquire an interest in accommodation,
- (b) to pay off another hire purchase agreement which was used to acquire an interest in accommodation, or
- (c) to pay off a loan that was used to acquire such an interest.

(4) Payments are not category B payments if—

- (a) the funds obtained are not used within 6 months of the date on which they were transferred to the claimant or (in the case of a joint claim) either of the joint claimants;
- (b) the payments are in respect of any part of the loan or hire purchase agreement and that part is used otherwise than in accordance with paragraph (2);

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(2) 1993 c.10.

- (c) the payments are category C or D payments.
- (5) “Repairs and improvements” means any measure specified in paragraph (5) which is undertaken with a view to—
- (a) maintaining the fitness of the accommodation for human habitation, or
  - (b) where the accommodation forms part of a building, maintaining the fitness of any part of the building which contains the accommodation.
- (6) The specified measures are—
- (a) provision of a fixed bath, shower, wash basin, sink or lavatory, and necessary associated plumbing, including the provision of hot water not connected to a central heating system;
  - (b) repairs to existing heating systems;
  - (c) damp proof measures;
  - (d) provision of ventilation and natural lighting;
  - (e) provision of drainage facilities;
  - (f) provision of facilities for preparing and cooking food;
  - (g) provision of insulation of the accommodation occupied as the home;
  - (h) provision of electric lighting and sockets;
  - (i) provision of storage facilities for fuel or refuse;
  - (j) repairs of unsafe structural defects;
  - (k) adapting accommodation for the special needs of a disabled person;
  - (l) provision of separate sleeping accommodation for family members of different sexes who live with the claimant or (in the case of a joint claim) the joint claimants.

### **Category C payments**

- 6.—(1) Category C payments are—
- (a) service charges described in Part 1 of Schedule 1 which are not excluded by Part 2 of that Schedule;
  - (b) payments by way of ground rent relating to a long tenancy;
  - (c) payments by way of rentcharge within the meaning of section 1 of the Rentcharges Act 1977(3);
  - (d) payments under a co-ownership scheme.
- (2) But payments are excluded from paragraph (1) if they are also category D payments.
- (3) “Co-ownership scheme” means arrangements under a lease which—
- (a) is granted by a housing association to tenants who are members, and
  - (b) provides that the tenant (or the tenant’s personal representative) will or may be entitled to a sum calculated by reference to the value of the accommodation.

### **Category D payments**

7. Category D payments are—
- (a) where the accommodation is a tent, payments in respect of the tent and the site on which it stands;
  - (b) mooring charges payable for a houseboat;
  - (c) payments in respect of the site of a caravan or mobile home;
  - (d) payments of rent which are attributable to board and attendance;
  - (e) payments in respect of supported accommodation;

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(3)

- (f) payments in respect of exempt accommodation;
- (g) payments in respect of temporary accommodation;
- (h) payments in respect of a hostel.

### **The liability condition**

**8.**—(1) The liability condition is met if—

- (a) the claimant or (in the case of a joint claim) either of the joint claimants is liable to make payments in respect of accommodation, or
- (b) the claimant or (in the case of a joint claim) either of the joint claimants is treated under regulation 9 or 10 as liable to make such payments.

(2) But the liability condition is not met if the claimant or (in the case of a joint claim) either of joint claimants is treated under regulation 11 or 12 as not liable to make such payments.

### **Claimants treated as liable to make payments**

**9.**—(1) A claimant is to be treated as liable to make payments in any of the following circumstances.

(2) The claimant has to make the payments in order to continue occupying the accommodation where—

- (a) the person (“L”) who is liable to make the payments is not doing so, and
- (b) it is reasonable in all the circumstances to treat the claimant as liable to make the payments.

(3) The claimant in practice shares responsibility for making the payments with the person (“P”) who is liable to make them and—

- (a) P is not a close relative of the claimant or (in the case of a joint claim) of either joint claimant, and
- (b) it is reasonable in the circumstances to treat the claimant as sharing responsibility.

(4) Where a payment for which a claimant is liable is made before or during the assessment period to which it relates, the claimant is to be treated as liable for the whole of the period.

### **Treated as liable to make category A payments: additional circumstances**

**10.**—(1) A claimant is to be treated as liable to make category A payments in the following additional circumstances.

(2) The landlord waives liability to make the payments as reasonable compensation for reasonable repair or re-decoration works to the accommodation which are carried out by the claimant or (in the case of a joint claim) either of the joint claimants but which the landlord would otherwise have carried out or been required to carry out.

(3) Paragraph (2) ceases to apply once the period of waiver exceeds two assessment periods.

### **Claimants treated as not liable to make payments**

**11.** A claimant is to be treated as not liable to make payments where the liability to make them is owed to a close relative of the claimant or of either joint claimant who resides with the claimant or the joint claimants.

### **Treated as not liable to make category A payments: additional circumstances**

**12.**—(1) A claimant is to be treated as not liable to make any category A payments in respect of accommodation in any of the following additional circumstances.

(2) The tenancy or other agreement under which the accommodation is occupied is not on a commercial basis.

In determining whether there is a commercial basis for a tenancy or agreement, one of the matters to be taken into account is any term there may be that is not enforceable at law.

(3) The liability to make the payments is owed to a former partner (“F”) of the claimant, and, before the claimant ceased to be partners with F, the accommodation was occupied by the two of them.

(4) The liability to make the payments is owed to a person who has a child and the claimant is responsible for that child.

(5) The liability to make the payments is owed to a company or a trustee of a trust and—

- (a) the claimant is a director or employee of the company or a trustee or beneficiary of the trust,
- (b) a close relative of the claimant who resides with the claimant holds any such position, or
- (c) the former partner of the claimant holds any such position.

(6) The liability to make the payments is owed to a trustee of a trust and the beneficiaries of that trust include a child of the claimant.

(7) The claimant previously owned the accommodation in respect of which the liability arises and that ownership ceased within the last five years.

(8) The claimant was a tenant under a long tenancy in respect of the accommodation and that long tenancy ceased within the last five years.

(9) The claimant occupies the accommodation as a condition of his or her employment by the landlord.

(10) The claimant—

- (a) is a member of a religious order, and
- (b) is wholly maintained by it (apart from any liability the claimant may have to make payments in respect of accommodation).

(11) The claimant is occupying accommodation that is provided by a care home.

(12) The Secretary of State is satisfied that the claimant’s liability was contrived in order to secure the inclusion of a housing costs element in an award of universal credit.

### **The occupation condition**

**13.**—(1) The accommodation condition is met if the claimant or (in the case of a joint claim) the joint claimants are treated as occupying the accommodation as their home under this regulation.

(2) A claimant or (in the case of a joint claim) the joint claimants are to be treated as occupying as their home—

- (a) the accommodation which the claimant or joint claimants normally occupy as their home;
- (b) in the circumstances there specified, the accommodation or accommodations specified in Part 1 of Schedule 2.

(3) No claimant is to be treated as occupying accommodation as their home in any other circumstances.

(4) For the purposes of paragraph (2)(a), the matters to be taken into account in determining whether a claimant normally occupies accommodation as their home include—

- (a) whether a single claimant normally occupies the accommodation with any family members;
- (b) in the case of joint claim, whether a joint claimant normally occupies the accommodation with the other joint claimant and any family members;
- (c) whether a claimant or (in the case of a joint claim) either of the joint claimants [normally] occupies as their home any other accommodation in Great Britain or elsewhere.

(5) Schedule 2 also contains—

- (a) provision in Part 2 specifying circumstances in which a claimant is to be treated as not occupying accommodation as their home, and
- (b) provision in Part 3 limiting the period for which a person is to be treated as occupying accommodation or accommodations under certain provisions of Part 1 of that Schedule.

### **Amount of housing costs element**

**14.**—(1) The amount of the housing costs element for an assessment period is to be determined as follows—

- (a) where the claimant is liable to make category A payments to a provider of social housing, the amount is to be determined in accordance with Parts 1 to 3 of Schedule 3,
- (b) where the claimant is liable to make category A payments in any other circumstances, the amount is to be determined in accordance with Parts 1, 2 and 4 of that Schedule,
- (c) where the claimant is liable to make category B payments, the amount is to be determined in accordance with Schedule 4,
- (d) where the claimant is liable to make category C payments, the amount is to be determined in accordance with Schedule 5, and
- (e) where the claimant is liable to make category D payments, the amount is to be determined in accordance with Schedule 6.

(2) Where the housing costs element is included in an award of universal credit by virtue of Schedule 7, the amount determined in accordance with Schedule 4 must not exceed—

- (a) the amount specified at Step 2(b) in paragraph 1 of Schedule 4, or
- (b) if lower, the amount of any limit imposed by paragraph 2(2), 3(2) or 4(2) of Schedule 7.

(3) Where an amount is determined for two or more categories of payments, the amount of the housing costs element is the sum of those amounts.

(4) Any amount determined in accordance with paragraphs (1) to (3) may be reduced by such amount as the Secretary of State may determine under regulation 17.

(5) In this Chapter, “provider of social housing” means—

- (a) a non-profit registered provider of social housing,
- (b) in relation to accommodation which is social housing (within the meaning of sections 68 to 77 of the Housing and Regeneration Act 2008<sup>(4)</sup>), a profit-making registered provider of social housing, and
- (c) a registered social landlord.

### **Excepted cases**

**15.**—(1) An award is not to include the housing costs element in respect of a claimant’s liability to make payments in respect of accommodation if—

- (a) in the case of payments in respect of a loan, any of paragraphs (2) to (6) applies, and
- (b) in the case of any other payments, paragraph (2) or (3) applies.

(2) This paragraph applies where the claimant is a joint claimant and the award includes the housing costs element in respect of payments made by the other joint claimant in respect of the same accommodation.

(3) This paragraph applies where the claimant is living in a care home in circumstances other than those specified in paragraphs 7 to 9, 13, 16 or 17 of Schedule 2.

(4) This paragraph applies where the loan was entered into by the claimant or (in the case of a joint claim) either of the joint claimants at a time when he or she was entitled to universal credit.

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(4) 2008 c.17.

(5) This paragraph applies where the loan was entered into by the claimant or (in the case of a joint claim) either of the joint claimants at a time when he or she was entitled to—

- (a) income-based jobseeker's allowance under the Jobseeker's Act 1995,
- (b) income-related employment and support allowance under Part 1 of the Welfare Reform Act 2007, or
- (c) income support under section 124 of the Social Security Contributions and Benefits Act 1992.

(6) This paragraph applies where the claimant or (in the case of a joint claim) either of joint claimants is engaged in remunerative work.

(7) Paragraphs (4) and (5) do not prevent the housing costs element from being included in an award in the circumstances set out in Schedule 7.

(8) In paragraph (5)—

- (a) "income-based jobseeker's allowance" has the same meaning as in the Jobseeker's Act 1995;
- (b) "income-related employment and support allowance" means an employment and support allowance entitlement which is based on section 1(2)(b) of 1 of the Welfare Reform Act 2007.

### **Fresh determinations**

**16.**—(1) This regulation applies where it has been determined that the housing costs element is to be included in an award of universal credit.

(2) The Secretary of State must determine afresh the amount of the housing costs element under regulation 14—

- (a) on the first Monday in April immediately following the date of the first determination;
- (b) on the first Monday in April in each subsequent year;
- (c) on the claimant or (in the case of a joint claim) either of the joint claimants has changed their address;
- (d) on a change of or to the accommodation which will result in the application of a different maximum amount under Part 3 or 4 Schedule 3;
- (e) on the death of a linked person.

(3) Paragraphs 16 and 26 of Schedule 3 contain further provision about the determination, in the circumstances specified in paragraph (2)(e), of the amount of the housing costs element for claimants who are liable to make category A payments.

### **Restriction of amount of housing costs element**

**17.**—(1) The amount of the housing costs element resulting from any determination under regulation 14 may be restricted under paragraph (2) or (3).

(2) Where the Secretary of State considers that the amount determined in respect of a claimant's liability to make category A, C or D payments is greater than it is reasonable to meet by way of the housing costs element, the Secretary of State may determine that the amount is to be restricted to such amount as the Secretary of State considers is appropriate in the claimant's case.

(3) If any of the conditions specified in paragraphs (4) to (6) are met, the amount determined in respect of a claimant's liability to make category B payments is to be restricted to the amount which the claimant or (in the case of a joint claim) the joint claimants would need to obtain suitable alternative accommodation (but this is subject to regulation 18).

(4) The first condition is that the accommodation, excluding any part which is let, is larger than is required by—

- (a) the claimant or (in the case of a joint claim) the joint claimants,
- (b) family members, and

- (c) any foster children,

having regard, in particular, to suitable alternative accommodation occupied by a household of the same size.

(5) The second condition is that the immediate area in which the accommodation is located is more expensive than other areas in which suitable alternative accommodation exists.

(6) The third condition is that the amount of category B payments for which the claimant is liable exceeds the amount that would be payable in respect of suitable alternative accommodation in the area.

(7) In determining whether the conditions specified in paragraph (4) to (6) are met, no regard is to be had to the capital value of the accommodation.

### **Cases in which restriction does not apply**

**18.**—(1) Regulation 17(3) does not apply where it is not reasonable to expect a claimant to seek alternative cheaper accommodation, having regard to—

- (a) the availability of suitable accommodation and the level of housing costs in the area, and
- (b) the circumstances of—
  - (i) the claimant or (in the case of a joint claim) the joint claimants,
  - (ii) family members, and
  - (iii) any foster children.

(2) The circumstances referred to in paragraph (1)(b) include, in particular—

- (a) the age and state of health of any of the persons mentioned in that provision,
- (b) the employment prospects of the claimant or the joint claimants, and
- (c) where a change in accommodation is likely to result in a change of school, the effect on the education of any family members or foster children.

(3) Regulation 17(3) does not apply for the initial period—

- (a) if the claimant or (in the case of a joint claim) the joint claimants were able to meet the financial commitments for the accommodation when the commitments were entered into, and
- (b) if, and so long as, they use their best endeavours to obtain cheaper accommodation during that period.

(4) The initial period is—

- (a) the first 26 weeks of any period for which the claimant's award of universal credit includes the housing costs element, and
- (b) the next 26 weeks.

(5) Where in the course of any such 26 week period—

- (a) an award of universal credit ceases to include the housing costs element in respect of a claimant for a period of 12 weeks or less ("the relevant period"), and
- (b) the relevant period falls immediately between other periods in respect of which the housing costs element is included in an award,

the claimant is to be treated as if the housing costs element had been included in an award throughout the relevant period.

### **When award is to cease to include housing costs element**

**19.**—(1) Where an award of universal credit includes the housing costs element in respect of a claimant, the award is to cease to include an amount in respect of category B payments where—

- (a) either of the conditions specified in paragraph (2) or (3) are met, and

- (b) the claimant is not exempt from the application of one or both of those conditions by virtue of paragraph (4).
- (2) The first condition is that—
  - (a) the housing costs element has been included in the award for a total of 24 assessment periods, and
  - (b) the claimant or (in the case of a joint award) either of the joint claimants is subject to [X, Y, Z work-related requirements imposed under Chapter 2 of Part 1 of the Welfare Reform Act 2011].
- (3) Condition 2 is that the claimant or (in the case of a joint claim) either of the joint claimants becomes engaged in remunerative work.
- (4) [*Provision about linking – to be inserted.*]
- (5) [*Definition of exempt claimant - to be inserted.*]
- (6) [*Definition of remunerative work - to be inserted.*]

### **Meaning of “family member”, “relative”, “close relative” and “linked person”**

**20.**—(1) In this Chapter “family member”, in relation to a claimant, means a child or qualifying young person for whom the claimant is responsible.

- (2) In this Chapter “close relative” means—
  - (a) a parent, sister, brother or child,
  - (b) a step-parent, step-sister or step-brother, or
  - (c) if any person within sub-paragraph (a) or (b) is a member of a couple, the other member of that couple.
- (3) In this Chapter “relative” means—
  - (a) a parent, sister, brother or child,
  - (b) a step-parent, step-sister or step-brother,
  - (c) if any person within sub-paragraph (a) or (b) is a member of a couple, the other member of that couple, or
  - (d) grandparent, aunt, uncle, niece or nephew or grandchild.
- (4) In this Chapter “linked person”, in relation to a claimant, means—
  - (a) any family member of the claimant;
  - (b) any relative of the claimant who occupies the same accommodation as the claimant, whether or not the relative resides with the claimant.

(5) The definition in paragraph (4) does not include a relative who has a separate right to occupy the accommodation which would enable the relative to continue to occupy the accommodation even if the claimant ceased to occupy it.

### **When a person is “responsible” for another person**

**21.**—(1) For the purposes of this Chapter a person (P) is responsible for another person (R) if R is normally living with P (but subject as follows).

(2) Where R spends equal amounts of time in different households, or where there is a question as to which household R is living in, R is to be treated for the purposes of paragraph (1) as normally living with—

- (a) the person who is receiving child benefit in respect of R, or
- (b) if there is no such person—
  - (i) where only one claim for child benefit has been made in respect of R, the person who made that claim, and
  - (ii) otherwise, the person who has primary responsibility for R.

(3) Paragraph (1) applies even if R is temporarily living away from P.

(4) For the purposes of this Chapter only one person is responsible for another person in any assessment period and any person other than the one treated as responsible for the person under this regulation is to be treated as not so responsible.

#### Other definitions used in Chapter 4

**22.**—(1) In this Chapter—

“accommodation” includes—

- (a) any garage, garden or outbuildings normally occupied with the accommodation, and
- (b) any land on which the accommodation is situated;

“attendance allowance” means an attendance allowance under section 64 of the Social Security Contributions and Benefits Act 1992<sup>(5)</sup>;

“care home”—

- (a) in England and Wales, has the meaning assigned to it by section 3 of the Care Standards Act 2000,
- (b) in Scotland means a care home service within the meaning assigned to it by section 2(3) of the Regulation of Care (Scotland) Act 2001, and
- (c) includes—
  - (i) an independent hospital, or
  - (ii) an establishment managed or provided by a body incorporated by Royal Charter or constituted by Act of Parliament other than a local social services authority;

“child” means a person under the age of 16;

“disability living allowance” means a disability living allowance under section 71 of the Social Security Contributions and Benefits Act 1992<sup>(6)</sup>;

“foster child” means a child or young person who is—

- (a) placed with a claimant by a local authority under section 23(2)(a) of the Children Act 1989 or by a voluntary organisation under section 59(1)(a) of that Act, or
- (b) placed with a claimant prior to adoption, or
- (c) in accordance with a Scottish enactment listed in paragraph (2), boarded out with a claimant, whether or not with a view to adoption, or
- (d) placed for adoption with a claimant pursuant to a decision under the Adoption Agencies Regulations 1983 or the Adoption Agencies (Scotland) Regulations 1984;

“qualifying young person” means a person who falls within the definition of “qualifying young person” in section 142(2) of the Social Security Contributions and Benefits Act 1992<sup>(7)</sup> (person aged 16 or over but less than 20 who satisfies various conditions);

“payment” includes part of a payment;

“provider of social housing” has the meaning given in regulation 14(5);

“training course” means a course of training or instruction provided wholly or partly—

- (a) by or on behalf of—
  - (i) Skills Development Scotland,
  - (ii) Scottish Enterprise,
  - (iii) Highlands and Islands Enterprise,
  - (iv) a government department, or

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(5) 1992 c. 4. Section 64 has been amended by the Welfare Reform and Pensions Act 1999 and the Pensions Act 2007.

(6) Section 71 has been amended by the Welfare Reform and Pensions Act 1999.

(7) Section 142 was substituted by section 1(2) of the Child Benefit Act 2005.

- (v) the Secretary of State, or
  - (b) under the terms of arrangements made with any such person or body, or
  - (c) under the terms of arrangements approved by or on behalf of any such person or body.
- (2) The Scottish enactments listed in this paragraph are—
- (a) the Army Act 1955,
  - (b) the Air Force Act 1955,
  - (c) the Naval Discipline Act 1957,
  - (d) the Adoption Act 1958,
  - (e) the Matrimonial Proceedings Children Act 1958,
  - (f) the Children Act 1958,
  - (g) the Social Work (Scotland) Act 1968,
  - (h) the Family Law Reform Act 1969,
  - (i) the Children and Young Persons Act 1969,
  - (j) the Matrimonial Causes Act 1973,
  - (k) the Guardianship Act 1973,
  - (l) the Children Act 1975,
  - (m) the Domestic Proceedings and Magistrates' Courts Act 1978,
  - (n) the Adoption (Scotland) Act 1978,
  - (o) the Child Care Act 1980, and
  - (p) the Foster Children Act 1980.

# SCHEDULES

## SCHEDULE 1

Regulation 6(1)(a)

### CATEGORY C SERVICE CHARGES

#### PART 1

##### Meaning of “service charges”

- 1.—(1) The service charges referred to in regulation 6(1)(a) are as follows.
- (2) Periodical payments for services performed for claimants.
  - (3) Periodical payments for facilities provided for claimants (including the use of furniture).
  - (4) Periodical payments for rights made available to claimants.
  - (5) Payments in respect of a loan taken out for the purpose of paying any service charge imposed on claimants to meet the cost of repairs and improvements to accommodation occupied as their home.
2. For the purposes of paragraph 1 it does not matter whether—
- (a) the payments are specified in the same agreement as that under which the accommodation is occupied;
  - (b) the payments are specified as separate from or separately identified within other payments to be made by the claimant;
  - (c) the payments are a condition of the claimant’s right to occupy the accommodation.

#### PART 2

##### Excluded service charges

3. Charges of the following description are excluded from Part 1.
- 4.—(1) Charges in respect of day-to-day living expenses including, in particular, all provision of—
- (a) meals, including the preparation of meals or provision of unprepared food;
  - (b) laundry;
  - (c) leisure items (but see sub-paragraph (3));
  - (d) cleaning of rooms and windows charges;
  - (e) transport.
- (2) Sub-paragraph (1)(b) does not apply to charges for the provision of premises or equipment to enable a person to do his or her own laundry.
- (3) Column 1 of the table contains examples of charges to which paragraph (1)(c) applies and column 2 contains examples of charges to which that provision does not apply.

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<i>Excluded service charges</i>	<i>Service charges not excluded</i>
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Charges for sports facilities

Charges for a children’s play area

Television rental, licence and subscription fees      Radio relay charges

Charges in respect of the conveyance and installation and maintenance of equipment for the conveyance of a television broadcasting service

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(4) Sub-paragraph (1)(d) does not apply to charges for cleaning communal areas or the exterior of windows if—

- (a) a claimant and members of the same household are unable to carry out the cleaning themselves, and
- (b) payments described in sub-paragraph (5) are not made in respect of it.

(5) The payments described in this sub-paragraph are payments for the relevant cleaning which are made—

- (a) by a local authority (including, in relation to England, a county council) or the Welsh Ministers, and
- (b) to the claimant or to another person on the claimant's behalf.

**5.** Charges in respect of the acquisition of furniture or household equipment.

**6.** Charges in respect of the use of furniture or household equipment which, by virtue of an agreement with the landlord, will become the property of the claimant or (in the case of a joint claim) the joint claimants.

**7.** Charges in respect of the provision of an emergency alarm system.

**8.** Charges in respect of medical expenses, including the cost of treatment or counselling related to mental disorder, mental handicap, physical disablement or past or present alcohol or drug dependence.

**9.** Charges in respect of the provision of nursing care or personal care, including assistance at meal-times or with personal appearance or hygiene.

**10.** Charges in respect of general counselling or of any other support services, whoever provides those services.

**11.** Charges in respect of any services which—

- (a) are not specified in paragraphs 4 to 10, and
- (b) are not connected with the provision of adequate accommodation.

## SCHEDULE 2

Regulation 13(2)(b) and (5)

### THE OCCUPATION CONDITION

#### PART 1

##### Claimants treated as occupying accommodation

###### **Large families occupying two homes**

**1.** A claimant or (in the case of a joint claim) the joint claimants are to be treated as occupying two accommodations as their home if—

- (a) the number of family members is such that they have been housed in separate accommodations by a provider of social housing, and
- (b) the claimant is liable to make payments in respect of both accommodations.

### **Essential repairs to a claimant's home**

2.—(1) A claimant or (in the case of a joint claim) joint claimants who are required to move into temporary accommodation are to be treated as occupying as their home the accommodation in respect of which they are liable to make payments if the following conditions are met.

(2) The first condition is that the move into the temporary accommodation is because of essential repairs being carried out to the accommodation they normally occupy as home.

(3) The second condition is that the claimant or (in the case of a joint claim) either of the joint claimants is liable to make payments in respect of one (but not both) of—

- (a) the accommodation they normally occupy, or
- (b) the temporary accommodation.

### **Moving home: overlapping liabilities for former and new homes**

3.—(1) This paragraph applies to a claimant or (in the case of a joint claim) joint claimants who move into new accommodation which they occupy as their home and for which they are liable to make payments.

(2) The claimant or (in the case of a joint claim) the joint claimants are to be treated as occupying as their home both the accommodation they used to occupy and the new accommodation if the following conditions are met.

(3) The first condition is that, immediately before the move, the claimant or (in the case of a joint claim) either of the joint claimants was liable to make payments in respect of the former accommodation.

(4) The second condition is that the liability to make payments in respect of the former accommodation continues after the move.

(5) The third condition is that the co-existence of the liabilities to make payments in respect of both former and new accommodations could not reasonably have been avoided.

(6) The fourth condition is that paragraph 2 does not apply to the claimant or (in the case of a joint claim) the joint claimants.

### **Moving home: continuing liability for former home**

4.—(1) This paragraph applies to a claimant or (in the case of a joint claim) joint claimants who move into new accommodation which they occupy as their home but for which they are not liable to make payments.

(2) The claimant is to be treated as occupying as their home the accommodation which they used to occupy as home if the following conditions are met.

(3) The first condition is that, immediately before the move, the claimant or (in the case of a joint claim) either of the joint claimants was liable to make payments in respect of the former accommodation.

(4) The second condition is that the liability to make payments in respect of that accommodation continues after the move.

(5) The third condition is that the liability to make payments in respect of that accommodation could not reasonably have been avoided.

### **Moving home: adaptations to new home for disabled person**

5.—(1) This paragraph applies to a claimant who has made arrangements to move into new accommodation once it is adapted to meet the disablement needs of—

- (a) the claimant or (in the case of a joint claim) either of the joint claimants, or
- (b) a family member.

(2) The claimant or (in the case of a joint claim) the joint claimants are to be treated as occupying other accommodation as their home if—

- (a) that other accommodation is occupied as their home on any day within the last assessment period that ended before the date of the move to the new accommodation,
- (b) the condition specified in paragraph 6(2) is met, and
- (c) the delay in moving into the new accommodation was reasonable.

### **Liability to make payments before moving into new home**

**6.**—(1) A claimant or (in the case of a joint claim) either of the joint claimants who were liable to make payments in respect of accommodation before they moved into it are to be treated as occupying the accommodation as their home if—

- (a) the first, second, third or fourth condition is met, and
- (b) the delay in moving into the new accommodation was reasonable.

(2) The first condition is that the delay in moving to the new accommodation was necessary in order to adapt the accommodation to meet the disablement needs of —

- (a) the claimant or (in the case of a joint claim) either of the joint claimants, or
- (b) a family member the claimant or a member of the claimant's [family][household].

(3) The second condition is that the move was delayed pending the outcome of an application for a social fund payment.

(4) The third condition is that the claimant or (in the case of a joint claim) either of the joint claimants became liable to make payments in respect of the accommodation while he or she was undergoing medical or other treatment as an in-patient in any hospital or similar accommodation.

(5) The fourth condition is that the claimant or (in the case of a joint claim) either of the joint claimants became liable to make payments while he or she was in a care home.

### **Trying out care homes**

**7.**—(1) A single claimant who enters a care home is to be treated as occupying the accommodation normally occupied as his or her home if the following conditions are met.

(2) The first condition is that the claimant enters the care home—

- (a) for the purpose of ascertaining whether the care home suits his or her needs, and
- (b) with the intention of returning to the accommodation the claimant normally occupied as his or her home in the event that the care home proves not to suit those needs.

(3) The second condition is that the accommodation the claimant normally occupies is not let or sublet.

### **Temporary absence not exceeding 13 weeks**

**8.**—(1) A claimant or (in the case of a joint claim) joint claimants is to be treated as occupying accommodation as their home while temporarily absent from it if the following conditions are met.

(2) The first condition is that the claimant or (in the case of a joint claim) the joint claimants intend to return to occupy the accommodation as their home.

(3) The second condition is that the period of absence is unlikely to exceed 13 weeks.

(4) The third condition is that the accommodation the claimant or (in the case of a joint claim) the joint claimants normally occupy is not let or sublet.

(5) Once the length of the period of absence appears likely to exceed 13 weeks, the claimant or (in the case of a joint claim) the joint claimants are no longer to be treated as occupying the accommodation as their home under this paragraph.

(6) [This paragraph does not apply if paragraph 9, 13, 16 or 17 applies.]

### **Temporary absence up to 52 weeks connected with medical treatment etc or care**

**9.**—(1) This paragraph applies to a single claimant who, in any of cases 1 to 6 specified in paragraph 10, are temporarily absent from the accommodation normally occupied as his or her home.

(2) The claimant is to be treated as occupying the accommodation as his or her home if the following conditions are met.

(3) The first condition is that the claimant intends to return to occupy the accommodation as his or her home.

(4) The second condition is that the period of absence is unlikely—

(a) to exceed 52 weeks, or

(b) in exceptional circumstances, substantially to exceed 52 weeks.

(5) The third condition is that the accommodation is not let or sublet during the period of absence.

### **Definition of the cases in which paragraph 9 applies**

**10.**—(1) Case 1 is that the claimant is resident in a hospital or similar institution while undergoing medical or other treatment as an in-patient there.

(2) Case 2 is that—

(a) the claimant or (in the case of a joint claim) the other joint claimant, or

(b) a family member,

is undergoing in the United Kingdom or elsewhere medical treatment in accommodation which is not a care home or medically approved convalescence in such accommodation.

(3) Case 3 is that the claimant is receiving medically approved care in the United Kingdom or elsewhere which is provided in accommodation which is not a care home.

(4) Case 4 is that—

(a) the claimant is receiving care provided in a care home, and

(b) paragraph 7 does not apply to the claimant.

(5) Case 5 is that the claimant is undertaking medically approved care of someone who resides in the United Kingdom or elsewhere.

(6) Case 6 is that—

(a) the claimant is undertaking the care of a child, and

(b) the child's parent or guardian ("PG") is temporarily absent from the accommodation PG normally occupies so that PG can receive medically approved care or medical treatment.

(7) "Medically approved" means certified by a medical practitioner;

### **Domestic violence: liability to make payments for former and new homes**

**11.**—(1) This paragraph applies to a claimant who, through fear of violence, has left and remains absent from the accommodation which the claimant used to occupy as their home.

(2) If the following conditions are met, the claimant is to be treated as occupying as his or her home both the accommodation the claimant used to occupy and the accommodation the claimant now occupies as his or her home.

(3) The first condition is that the claimant [reasonably] fears violence either by a former member of the claimant's family or in the former accommodation.

(4) The second condition is that the claimant is liable to make payments in respect of both the former accommodation and the accommodation now occupied as his or her home.

(5) The third condition is that the claimant intends to return to occupy the former accommodation as his or her home.

(6) The fourth condition is that it is reasonable to include in the award of universal credit an amount in respect of both the former accommodation and the accommodation which the claimant now occupies as his or her home.

#### **Domestic violence: liability to make payments for former home**

**12.**—(1) This paragraph applies to a claimant who, through fear of violence, has left and remains absent from the accommodation which the claimant used to occupy as his or her home.

(2) If the following conditions are met, the claimant is to be treated as occupying the former accommodation as his or her home.

(3) The first condition is that the claimant reasonably fears violence either by a former member of the claimant's family or in the former accommodation.

(4) The second condition is that the claimant has an unavoidable liability to make payments in respect of the former accommodation.

(5) The third condition is that neither paragraph 11 nor paragraph 13 applies to the claimant.

#### **Domestic violence: temporary absence up to 52 weeks**

**13.**—(1) This paragraph applies to a claimant who, through fear of violence, is temporarily absent from the accommodation normally occupied as his or her home.

(2) The claimant is to be treated as occupying the accommodation as his or her home if the following conditions are met.

(3) The first condition is that the claimant fears violence either by a former member of the claimant's family or in the former accommodation.

(4) The second condition is that the claimant intends to return to occupy the accommodation as their home

(5) The third condition is that the period of absence—

(a) is unlikely to exceed 52 weeks, or

(b) in exceptional circumstances, is unlikely substantially to exceed 52 weeks.

(6) The fourth condition is that the accommodation is not let or sublet during the period of absence.

(7) The fifth condition is that paragraph 11 does not apply the claimant.

#### **Study and training: liability to make payments for one accommodation**

**14.**—(1) If the following conditions are met, a single claimant who is a full-time student or is on a training course is to be treated as occupying as his or her home the accommodation in respect of which the claimant is liable to make payments.

(2) The first condition is that the claimant is a lone parent.

(3) The second condition is that the claimant is liable to make payments in respect of one (but not both) of—

(a) the accommodation he or she occupies for the purpose of attending the course of study or training course, or

(b) the accommodation he or she occupies when not attending the course.

(4) But a claimant is to be treated as not occupying accommodation for any period of absence outside the period of study where—

- (a) the claimant is a full-time student who makes payments on the accommodation referred to in sub-paragraph (3)(a),
- (b) the main purpose of occupying of the accommodation during the period of study is to facilitate attendance on the course, and
- (c) the claimant's absence is not because of the need to enter hospital for treatment.

(5) ["Period of study" means.....].

### **Study and training: liability to make payment for two homes**

**15.**—(1) Joint claimants are to be treated as occupying two accommodations as their respective homes if the following conditions are satisfied.

(2) The first condition is that either of joint claimants is a [full-time] student or is on a training course.

(3) The second condition is that it is unavoidable that the joint claimant should occupy two separate accommodations as their respective homes.

(4) The third condition is that either of the joint claimants is liable to make payments in respect of each accommodation.

(5) The fourth condition is that it is reasonable to include in the award of universal credit an amount in respect of both accommodations.

### **Study and training: temporary absence up to 52 weeks**

**16.**—(1) This paragraph applies to a single claimant whose temporary absence from the accommodation normally occupied as his or her home is because the claimant—

- (a) is following a training course, whether in the United Kingdom or elsewhere, or
- (b) is a [full-time] student to whom paragraphs 14 and 15 do not apply.

(2) The claimant is to be treated as occupying the accommodation normally occupied as his or her home if the following conditions are met.

(3) The first condition is that the claimant intends to return to occupy the accommodation as his or her home.

(4) The second condition is that the period of absence is unlikely to—

- (a) exceed 52 weeks, or
- (b) in exceptional circumstances, substantially exceed 52 weeks.

(5) The third condition is that the accommodation is not let or sublet during the period of absence.

### **Persons detained before conviction or sentence**

**17.**—(1) This paragraph applies to a single claimant whose temporary absence from the accommodation they normally occupy as their home is because he or she—

- (a) is detained in custody on remand pending trial,
- (b) as a condition of bail, is required to reside in accommodation other than the accommodation occupied as his or her home,
- (c) as a condition of bail, is required to reside in premises approved under section 13 of the Offender Management Act 2007<sup>(8)</sup>, or
- (d) is detained pending sentence on conviction.

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<sup>(8)</sup> 2007 c.21.

(2) The claimant is to be treated as occupying the accommodation normally occupy as his or her home if the following conditions are met.

(3) The first condition is that the claimant intends to return to occupy the accommodation as his or her home.

(4) The second condition is that the period of absence is unlikely—

(a) to exceed 52 weeks, or

(b) in exceptional circumstances, substantially to exceed 52 weeks.

(5) The third condition is that the accommodation is not let or sublet during the period of absence.

## PART 2

### Claimants treated as not occupying accommodation

#### **Accommodation in bail or probation hostel**

**18.**—(1) A single claimant who is required to reside in accommodation which is a bail hostel or probation hostel is to be treated as not occupying that accommodation as his or her home.

(2) The reference to bail hostel or probation hostel is to one that is approved by the Secretary of State under section 13 of the Offender Management Act 2007(**9**).

#### **Accommodation when single claimant on temporary release**

**19.**—(1) This paragraph applies to a single claimant who—

(a) is detained in custody pending sentence upon conviction or under a sentence imposed by a court, and

(b) is on temporary release from such detention in accordance with Rules made under the provisions of the Prison Act 1952(**10**) or the Prisons (Scotland) Act 1989(**11**).

(2) This paragraph does not apply to a claimant who is detained in hospital under the provisions of—

(a) the Mental Health Act 1983(**12**), or

(b) in Scotland, the Mental Health (Care and Treatment) (Scotland) Act 2003(**13**) or the Criminal Procedure (Scotland) Act 1995(**14**).

(3) If the claimant's temporary release is immediately preceded by a period of temporary absence under paragraph 8 or 9, the claimant is to be treated as if he or she continues to be absent from the accommodation normally occupied as his or her home despite any occupation of it.

(4) A claimant to whom sub-paragraph (3) does not apply is to be treated as if the claimant does not occupy the accommodation occupied as his or her home on temporary release despite any occupation of it.

(5) For the purposes of paragraph 17, the claimant is to be treated as if the claimant remains in detention for any day of temporary release.

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(9) 2007 c.21.

(10) 1952 c.52.

(11) 1989 c.45.

(12) 1983 c.20.

(13) 2003 asp 13.

(14) 1995 c.46.

## PART 3

### Periods for which claimants are to be treated as occupying accommodation

**20.**—(1) A claimant or (in the case of a joint claim) either of the joint claimants who is treated as occupying one or more accommodations under any provision of Part 1 of this Schedule which is specified in column 1 of the table is to be treated as doing so only for the number of assessment periods specified in column 4.

(2) The period of assessment periods specified in column 4 is to be calculated by reference to the instructions in column 5.

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>	<i>Column 5</i>
<i>Paragraph in this Schedule</i>	<i>Description</i>	<i>Relates to which accommodation</i>	<i>Number of assessment periods for which treated as occupying</i>	<i>How period is to be calculated</i>
3	Overlapping liabilities on moving home	Former accommodation  New accommodation	1 assessment period	Period starts from date of the move into new accommodation
4	Continuing liability after moving out of former accommodation	Former accommodation	1 assessment period	Period starts from date of the move [from former accommodation]
5	Payments for accommodation pending adaptations to new home for disabled person	Temporary accommodation whilst adaptations to new home carried out	1 assessment period	Period starts [at the beginning of the assessment period] immediately before date of the move into new accommodation
6(2)(a)	Payments before moving into the new home being adapted for disabled person	New accommodation	1 assessment period	Period starts [at the beginning of the assessment period] immediately before date of the move into new accommodation on which claimant is liable to make payments
6(2)(b)	Payments before moving into new home pending determination of application	New accommodation	1 assessment period	Period starts [at the beginning of the assessment period] immediately before date of the move into new accommodation on which claimant is liable to make

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>	<i>Column 5</i>
<i>Paragraph in this Schedule</i>	<i>Description</i>	<i>Relates to which accommodation</i>	<i>Number of assessment periods for which treated as occupying</i>	<i>How period is to be calculated</i>
	for social fund payment			payments
6(2)(c)	Payments before moving into new home: claimant receiving medical etc treatment as in-patient	New accommodation	1 assessment period	Period starts 4 [at the beginning of the assessment period] immediately before date of the move into new accommodation on which claimant is liable to make payments
6(2)(d)	Payments before moving into new home: claimant in care home	New accommodation	1 assessment period	Period starts [at the beginning of the assessment period] immediately before date of the move into new accommodation on which claimant is liable to make payments
7	Temporary absence whilst trying out a care home	Accommodation normally occupied	3 assessment periods for single period of absence	Period starts on first day on which claimant enters a care home
7	As above	As above	12 assessment periods	Aggregate of all periods of temporary absence from home normally occupied
8	Temporary absence up to 13 weeks	Accommodation normally occupied	3 assessment period	Period starts on first day of absence from accommodation normally occupied
9	Temporary absence connected with medical treatment etc or care	Accommodation normally occupied	12 assessment periods	Period starts on first day of absence from accommodation normally occupied
11	Temporary absence from former home through fear of	Accommodation from which the claimant remains absent	12 assessment periods	Period starts from date of the move from accommodation from which claimant remains absent

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>	<i>Column 5</i>
<i>Paragraph in this Schedule</i>	<i>Description</i>	<i>Relates to which accommodation</i>	<i>Number of assessment periods for which treated as occupying</i>	<i>How period is to be calculated</i>
	domestic violence	Temporary accommodation		
12	Temporary absence through fear of domestic violence not within paragraph 11 or 13	Accommodation from which the claimant remains absent	1 assessment period	Period starts on first day of absence from accommodation from which claimant remains absent
13	Temporary absence through fear of domestic violence not within paragraph 11	Accommodation from which the claimant remains absent	12 assessment periods	Period starts on first day of absence from accommodation from which claimant remains absent
16	Temporary absence of student or person in training not within paragraphs 14 and 15	Accommodation normally occupied	12 assessment periods	Period starts on first day of absence from accommodation normally occupied
17	Persons detained pending conviction or sentence	Accommodation normally occupied	12 assessment periods	Period starts on first day of absence from accommodation normally occupied

## AMOUNT OF HOUSING COSTS ELEMENT: CATEGORY A

## PART 1

## General

**Definitions used in this Schedule**

1.—(1) In this Schedule—

“broad rental market area” has the same meaning as in the [Rent Officers Order];

“relevant claimant” means a claimant or (in the case of a joint claim) joint claimants who—

- (a) do not qualify for shared accommodation under paragraph 4, and
- (b) are not claimants to whom paragraph 5(4) or (5) applies;

“the Rent Officers Order means [the Rent Officers (Universal Credit Functions) Order 2013].

(2) References to one bedroom shared accommodation is to the accommodation specified in [provision Y of the Rent Officers Order.]

(3) References to one bedroom self-contained accommodation is to the accommodation specified in [provision Z of the Rent Officers Order.]

**Meaning of “person requiring overnight care”**

2.—(1) A person (“P”) requires overnight care if the conditions in sub-paragraphs (2) to (4) are met.

(2) The first condition is—

- (a) that there is payable in respect of P—
  - (i) an attendance allowance, or
  - (ii) a disability living allowance by virtue of entitlement to the care component at the highest or middle rate, or
- (b) that, on receipt of certificates, documents, information or evidence provided by or on behalf P, the Secretary of State is satisfied that the person requires overnight care.

(3) The second condition is that the Secretary of State is satisfied that P reasonably requires a person or persons who do not occupy P’s accommodation as their home should—

- (a) be engaged in providing overnight care for P,
- (b) regularly stay overnight at the accommodation for that purpose, and
- (c) be provided with the use of an additional bedroom in P’s accommodation.

(4) The third condition is that P has made the appropriate arrangements for the provision of such care.

(5) Where P is treated as occupying accommodation which P does not actually occupy, the second and third conditions are to be treated as met where the Secretary of State is satisfied that—

- (a) P’s accommodation does contain an additional bedroom for the use of a person providing care, and
- (b) the second and third conditions were satisfied when P last occupied the accommodation or will be satisfied when P next does so.

## PART 2

### Size criteria to be used for purposes of Parts 3 and 4

#### Size criteria to be used for purposes of Parts 3 and 4

3. Paragraphs 4 to 12 specify the accommodation for which a claimant qualifies in connection with the making of certain determinations under Parts 3 and 4 of this Schedule.

#### One bedroom shared accommodation for single claimants under 35 with no children

4.—(1) A single claimant qualifies for one bedroom shared accommodation if—

- (a) the claimant has not reached the age of 35 years,
- (b) there are no children residing with the claimant, and
- (c) the claimant or (in the case of a joint claim) either of the joint claimants are not [*a person to whom paragraph 14 of Schedule 3 (severe disability premium) of the Housing Benefit Regulations applies*].

(2) Paragraph 10 specifies when other claimants qualify for one bedroom shared accommodation.

#### Claimants to who do not qualify for accommodation under paragraph 4

5.—(1) Claimants of the following descriptions do not qualify for one bedroom shared accommodation under paragraph 4.

- (2) A claimant whose landlord is a registered housing association.
- (3) A claimant who is a person who requires overnight care.
- (4) A claimant who—
  - (a) has reached the age of 25 years,
  - (b) has not reached the age of 35 years, and
  - (c) meets any of the conditions specified in paragraph 6.
- (5) A claimant who—
  - (a) has not reached the age of 22 years, and
  - (b) meets any of the conditions specified in paragraph 7.

#### Conditions applying to persons aged between 25 and 34 years

6.—(1) The first condition is that the claimant—

- (a) has, for a total of at least 3 months (whether or not continuously), occupied one or more hostels for homeless people as his or her home, and
- (b) whilst occupying such a hostel, has been offered and has accepted support services with a view to assisting him or her to be rehabilitated or resettled within the community.

(2) The second condition, as it applies in relation to England and Wales, is that the claimant is the subject of active multi-agency management pursuant to arrangements established by a responsible authority under section 325(2) of the Criminal Justice Act 2003<sup>(15)</sup> (arrangements for assessing etc. risks posed by certain offenders).

(3) The second condition, as it applies in relation to Scotland, is that—

- (a) the claimant is the subject of local inter-agency risk management or management by the multi-agency public protection panel pursuant to arrangements established by the responsible authorities under section 10(1) of the Management of Offenders etc.

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<sup>(15)</sup> 2003 c. 44. Section 10(1) was amended by S.I. 2008/ 912. See "MAPPA Guidance (2009) Version 3.0" published in April 2009 by the Secretary of State.

(Scotland) Act 2005<sup>(16)</sup> (arrangements for assessing and managing risks posed by certain offenders), or

- (b) the claimant—
  - (i) is a person to whom section 10(1) of that Act does not apply by reason only of the fact that section 10(1)(b) or (d) has not been brought fully into force, and
  - (ii) is considered by the relevant authority to be a person who may cause serious harm to the public at large, or
- (c) the claimant—
  - (i) is a person to whom section 10(1) of that Act does not apply by reason only of the fact that section 10(1)(e) has not been brought fully into force, and
  - (ii) has been convicted of an offence, and
  - (iii) by reason of that conviction, is considered by the relevant authority to be a person who may cause serious harm to the public at large.

(4) For the purposes of sub-paragraph (1)(a), “hostel for homeless people” means a hostel where the main purpose of the hostel is to provide accommodation together with care, support or supervision for homeless people with a view to assisting them to be rehabilitated or resettled within the community.

### **Conditions applying to persons younger than 22 years**

7.—(1) The first condition is that the claimant has ceased to be the subject of a care order made pursuant to section 31(1)(a) of the Children Act 1989 which had been made after the claimant attained the age of 16 or was made before the claimant attained that age but had continued afterwards.

(2) The second condition is that the claimant was formerly provided with accommodation under section 20 of the Children Act 1989.

(3) The third condition is that the claimant has ceased to be subject to a supervision requirement which—

- (a) had been made in respect of the claimant by a children’s hearing under section 70 of the Children (Scotland) Act 1995 (“the 1995 Act”),
- (b) had continued after the claimant attained the age of 16, and
- (c) was not a case where—
  - (i) the ground of referral was based on the sole condition as to the need for compulsory measures of care specified in section 52(1)(i) of the 1995 Act (commission of offences by child), or
  - (ii) the claimant was required by virtue of the supervision requirement to reside with the claimant’s parent or guardian within the meaning of the 1995 Act, or with a friend or relative of the claimant or of the claimant’s parent or guardian.

(4) The fourth condition is that the claimant has ceased to be a child in relation to whom a local authority exercised parental rights and responsibilities which—

- (a) had been transferred to the authority under a parental responsibilities order made in accordance with section 86 of the 1995 Act or
- (b) had been treated as vested in the authority in accordance with paragraph 3 of Schedule 3 to that Act,

either after the claimant attained the age of 16 or before the claimant attained that age but which had remained with the local authority afterwards.

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<sup>(16)</sup> 2005 asp 14. See Justice and Communities Circular JD/3/2008 and NHS CEL (2007) 8, “Sections 10 and 11 of the Management of Offenders etc. (Scotland) Act 2005, Implementation of the Multi Agency Public Protection Arrangements (MAPPA) in Scotland”, Version 4, published by the Scottish Ministers in April 2008, ISBN 978 0 7559 1673 3.

(5) The fifth condition is that the claimant has ceased to be provided with accommodation by a local authority under section 25 of the 1995 Act where—

- (a) the claimant had been provided with accommodation by the authority under that provision after the claimant attained the age of 16, or
- (b) the claimant had been provided with such accommodation before the claimant attained that age and had remained in such accommodation afterwards.

### **Number of bedrooms to which other claimants entitled**

**8.**—(1) A relevant claimant is entitled to one bedroom for each of the following descriptions of occupier—

- (a) a couple (within the meaning of Part 1 of the Welfare Reform Act 2011);
- (b) a relevant claimant who is a single person;
- (c) two children of the same sex;
- (d) two children who are less than 10 years old;
- (e) a child.

(2) Foster children are to be disregarded in determining a claimant's entitlement under sub-paragraph (1).

(3) An occupier to whom two or more of those descriptions applies is to be allotted to the one that appears earlier in the list.

(4) A person ("P") is to be treated as being a person to whom sub-paragraph (2)(e) applies if—

- (a) the relevant claimant is P's parent, and
- (b) P has continued to reside with the relevant claimant since ceasing to be a member of the relevant claimant's family.

(5) "Occupier", in relation to accommodation, means the relevant claimant and members of the relevant claimant's family who occupy the accommodation as their home.

### **Additional room where claimant requires overnight care**

**9.**—(1) A relevant claimant who is a single person is entitled to one additional bedroom if the claimant is a person who requires overnight care.

(2) Relevant claimants who are joint claimants are entitled to one additional bedroom if one or both of them is a person who requires overnight care.

### **One-bedroom shared accommodation where paragraph 4 does not apply**

**10.**—(1) A relevant claimant qualifies for one bedroom shared accommodation under this paragraph if—

- (a) paragraph 4(1)(c) does not apply to the claimant, and
- (b) the accommodation occupied by the relevant claimant is not such that they have the exclusive use of—
  - (i) two or more rooms, or
  - (ii) one room, a bathroom and toilet and a kitchen or facilities for cooking, and

(2) References to "room" in sub-paragraph (1) and in paragraph 11(3)—

- (a) are to a bedroom or room suitable for living in, but
- (b) do not include a room which the relevant claimant shares with any person other than a member of the relevant claimant's family or a person who pays rent to the relevant claimant.

### **One-bedroom self-contained accommodation for claimants**

**11.**—(1) A relevant claimant qualifies for one bedroom self-contained accommodation if the following conditions are satisfied.

(2) The first condition is that the relevant claimant is entitled to only one bedroom under paragraphs 8 and 9.

(3) The second condition is that the accommodation actually occupied by the relevant claimant is such that the relevant claimant does have the exclusive use of—

- (a) two or more rooms, or
- (b) one room, a bathroom and toilet and a kitchen or facilities for cooking.

### **Accommodation with two, three or four bedrooms for claimants**

**12.**—(1) A relevant claimant qualifies for accommodation with two, three or four bedrooms according to the number of bedrooms to which they are entitled under paragraphs 8 and 9.

(2) No claimant qualifies for more than four bedrooms.

## **PART 3**

### **Category A payments to providers of social housing**

#### **Steps to determine housing cost element: category A payments to providers of social housing**

**13.**—(1) The amount of the housing costs element in a case to which regulation 14(1)(a) applies is to be determined in accordance with Steps 1 to 4.

(2) Steps 1 to 4 are—

#### *Step 1*

Determine the sum of the category A payments for which the claimant or (in the case of a joint claim) either of the joint claimants is liable in respect of the assessment period.

#### *Step 2*

Deduct from that amount the sum of the deductions required by paragraph 17.

#### *Step 3*

Determine the number of bedrooms in the category of accommodation for which the claimant or (in the case of a joint claim) the joint claimants qualify under the size criteria set out in paragraphs 4 to 12.

#### *Step 4*

Compare the number of bedrooms determined under Step 3 with the number of bedrooms in the accommodation occupied by the claimant or (in the case of a joint claim) the joint claimants.

#### **The amount**

**14.**—(1) The amount of the housing costs element is the amount resulting from Step 2.

(2) But that amount is to be reduced—

- (a) by [X] per cent. if the comparison under step 4 shows that number of bedrooms in the occupied accommodation exceeds by one the number of bedrooms determined under Step 3;
- (b) by [Y] per cent. if that comparison shows that the number of bedrooms in the occupied accommodation exceeds by two or more the number of bedrooms determined under Step 3.

(3) Paragraph (2) does not apply in the circumstances specified in paragraph 15 or 16.

### **No reduction to apply for initial period following certain new awards**

**15.** Paragraph 14(2) does not apply for the period of 13 weeks starting with the date of the claim if—

- (a) a claimant or a linked person was able to meet the financial commitments for the accommodation when the commitments were entered into, and
- (b) a claimant was not entitled to an award of universal credit which included the housing costs element at any time within the 52 weeks immediately before the date of the claim.

### **No reduction to apply for period following the death of a linked person**

**16.—**(1) Paragraph 14(2) does not apply for the initial period if, on the date on which a fresh determination is carried out under regulation (2)(a), (b) or (e)—

- (a) a claimant occupies accommodation which is the same as that occupied by the claimant on the date of death of a linked person, and
- (b) it is less than 12 months since the linked person died.

(2) The “initial period” is the period of 12 months starting with the date of the linked person’s death.

### **Deductions required at Step 2**

**17.** The deductions to be made at Step 2 are such of the following as apply in the claimant’s or (in the case of a joint claim) the joint claimants’ case—

- (a) if any part of the accommodation is not occupied as their home, an amount determined under paragraph 18;
- (b) if liability to make category A payments is shared with others, an amount determined under regulation 19;
- (c) if rent arrears are payable, an amount determined under regulation 20.

### **Deduction for accommodation not occupied as home**

**18.—**(1) Sub-paragraph (2) applies where a claimant or (in the case of a joint claim) either of the joint claimants is liable to make category A payments in respect of accommodation which consists—

- (a) partly of accommodation which the claimant or (in the case of a joint claim) the joint claimants do not occupy as their home, and
- (b) partly of accommodation which they do occupy as their home.

(2) The amount of the required deduction is the amount that is referable to the accommodation mentioned in sub-paragraph (1)(b) as a proportion of the amount of all category A payments for which the claimant or (in the case of a joint claim) either of the joint claimants is liable.

### **Deduction for accommodation where others liable to make payments**

**19.—**(1) Sub-paragraph (2) applies where one or more other persons are liable to make category A payments in respect of the accommodation occupied by the claimant or (in the case of a joint claim) the joint claimants.

(2) The amount of the required deduction is the amount of category A payments for which all persons other than the claimant or (in the case of a joint claim) either of the joint claimants is liable as a proportion of the sum of all category A payments payable in respect of the accommodation.

### **Deduction for rent arrears**

**20.**—(1) Sub-paragraph (2) applies to a claimant or (in the case of a joint claim) either of the joint claimants who—

- (a) has outstanding arrears of any payment or charge in respect of the accommodation occupied by the claimant or (in the case of a joint claim) either of the joint claimants, or
- (b) has outstanding arrears of any payment or charge in respect of another accommodation previously occupied by the claimant or (in the case of a joint claim) either of the joint claimants, or
- (c) owes any other unpaid payment or charge.

(2) If the amount of category A payments for which the claimant or (in the case of a joint claim) either of the joint claimants is liable is increased with a view to paying off the payments or charges referred to in sub-paragraph (1), the amount of the required deduction is the amount of that increase.

## **PART 4**

### **Category A payments in other circumstances**

#### **Steps to determine housing costs element: other category A payments**

**21.**—(1) The amount of the housing costs element in a case to which regulation 14(1)(b) applies is to be determined in accordance with steps 1 to 4.

(2) Steps 1 to 4 are—

#### *Step 1*

Determine the amount of the category A payments for which the claimant is liable.

#### *Step 2*

Deduct from that amount the sum of the deductions required by paragraph 23.

#### *Step 3*

Determine the private sector maximum amount that is to be used in respect of the claimant and the accommodation occupied by the claimant.

#### *Step 4*

Compare the amounts determined under Steps 2 and 3 to identify which is lower.

#### **The amount**

**22.** The amount of the housing costs element is the resulting from Step 4.

#### **Deductions required at Step 2**

**23.** The deductions to be made at Step 2 are such of the following as apply in the claimant's or (in the case of a joint claim) the joint claimants' case—

- (a) if any part of the accommodation is not occupied as their home, an amount determined under paragraph 18;
- (b) if others are liable to make category A payments in respect of the accommodation, an amount determined under regulation 19;
- (c) if rent arrears are payable, an amount determined under regulation 20.

### **Private sector maximum to be used at Step 3**

**24.**—(1) The amounts to be used to determine the private sector maximum at Step 3 are the amounts set by rent officers under the Rent Officers Order.

(2) In making a determination under this Part in respect of any particular accommodation, the private sector maximum to be used is the amount which applies at that date to—

- (a) the broad rental market area in which the accommodation is situated, and
- (b) the category of accommodation for which the claimant qualifies under paragraphs 4 to 12.

(3) Sub-paragraph (2) does not apply in the circumstances specified in paragraph 25 or 26 and, in those circumstances, the amount of the private sector maximum to be used is the amount determined under the paragraph in question.

### **Determining the private sector maximum for a new award**

**25.**—(1) Sub-paragraph (2) applies where—

- (a) a claimant or a linked person were able to meet the financial commitments for the accommodation when the commitments were entered into, and
- (b) a claimant was not entitled to an award of universal credit which included the housing costs element at any time within the 52 weeks immediately before the date of the claim.

(2) The private sector maximum to be used in carrying out the initial determination under this Part is the same as the amount resulting from Step 1.

(3) A subsequent determination under this Part is to be made at the end of the period of 13 weeks starting with the date of the claim.

(4) The private sector maximum to be used in that subsequent determination is that specified in paragraph 24.

### **Determining the private sector maximum following the death of a linked person**

**26.**—(1) This paragraph applies where, on the date on which a fresh determination is carried out under regulation 16(2)(a), (b) or (e)—

- (a) a claimant occupies accommodation which is the same as that occupied by the claimant on the date of death of a linked person, and
- (b) it is less than 12 months since the linked person died.

(2) The private sector maximum to be used in making the fresh determination—

- (a) if no determination under this Part has been made before the date of death, is the same as the amount resulting from Step 1, and
- (b) otherwise, is the same as the amount of the private sector maximum used at Step 3 of the most recent determination under this Part made before the date of death.

(3) A subsequent determination under this Part is to be made on the expiry of the period of 12 months starting with the date of the linked person's death.

(4) The private sector maximum to be used in that subsequent determination is that specified in paragraph 24.

## AMOUNT OF HOUSING COSTS ELEMENT: CATEGORY B

**Determination of amount for Category B payments**

1.—(1) The amount of the housing costs element in a case to which regulation 14(1)(c) applies is to be determined in accordance with Steps 1 to 3 (but this is subject to paragraphs 5).

(2) Steps 1 to 3 are—

*Step 1*

Determine the eligible capital for the time being owing in connection with the loan.

*Step 2*

Take the lower of—

- (a) the amount resulting from Step 1, and
- (b) [£X,000,000]

*Step 3*

Apply the formula—

$$\frac{A \times B}{52}$$

where—

A is the amount resulting from Step 2, and

B is the standard rate that applies at the date of the determination.

**The amount**

2.—(1) The amount of the housing costs element is the amount resulting from Step 3.

(2) But where a claimant is liable to make category B payments in respect of more than one loan—

- (a) Step 1 is to be repeated for each loan,
- (b) the amounts determined at Step 1 are to be added together,
- (c) the sum of those amount is to be used at paragraph (a) of Step 2, and
- (d) Steps 2 and 3 are to be applied accordingly.

**Meaning of “eligible capital”**

3. The eligible capital is the amount of the loan in respect of which the claimant makes category B payments and is to be determined at the date of the first determination under this Chapter as to the amount of the housing costs to be included in an award of universal credit.

**Determining the standard rate**

4.—(1) The standard rate is the average mortgage rate published by the Bank of England which applies immediately before this Schedule comes into force.

(2) The standard rate is to be varied each time that sub-paragraph (3) applies.

(3) This sub-paragraph applies when, on any reference day, the Bank of England publishes an average mortgage rate which differs by 0.5% or more from the standard rate that applies on that reference day (whether by virtue of sub-paragraph (2) or of a previous application of this sub-paragraph).

(4) The average mortgage rate published on that reference day then becomes the new standard rate in accordance with sub-paragraph (5).

(5) Any variation in the standard rate by virtue of sub-paragraphs (2) to (4) comes into effect on the day after the reference day referred to in sub-paragraph (3).

(6) In this paragraph—

“average mortgage rate” means the effective interest rate (non-seasonally adjusted) of United Kingdom resident banks and building societies for loans to households secured on dwellings published by the Bank of England in respect of the most recent period for that rate specified at the time of publication<sup>(17)</sup>;

“reference day” means any day falling on or after the date this Schedule comes into force.

### **Apportionment**

5.—(1) Where the accommodation is a composite hereditament, the amount of the housing costs element is the relevant fraction of the amount resulting from Step 3.

(2) The relevant fraction is to be determined in accordance with the formula—

$$\frac{A}{A + B}$$

where—

“A” is the current market value of the claimant’s or (in the case of a joint claim) either of the joint claimant’s interest in that part of the composite hereditament which is domestic property within the meaning of section 66 of the Act of 1988;

“B” is the current market value of that person’s interest in the part of the composite hereditament which is not domestic property within that section.

(3) In this paragraph—

“composite hereditament” means—

(a) as respects England and Wales, any hereditament which is shown as a composite hereditament in a local non-domestic rating list;

(b) as respects Scotland, any lands and heritages entered in the valuation roll which are part residential subjects within the meaning of section 26(1) of the Abolition of Domestic Rates Etc (Scotland) Act 1987;

“local non-domestic rating list” means a list compiled and maintained under section 41(1) of the Local Government Finance Act 1988.

## **SCHEDULE 5**

Regulation 14(1)(d)

### **AMOUNT OF HOUSING COSTS ELEMENT: CATEGORY C**

#### **Determination of amount for Category C payments**

1. *[To be inserted]*

## **SCHEDULE 6**

Regulation 14(1)(e)

### **AMOUNT OF HOUSING COSTS ELEMENT: CATEGORY D**

#### **Determination of the amount**

1. *[To be inserted]*

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(17) This is available on the Bank of England website: <http://www.bankofengland.co.uk/statistics/bankstats/current/index.htm>. The effective rate appears in Table G1.4 in the column headed “HSDE”.

## SCHEDULE 7

Regulation 15(7)

### NON-APPLICATION OF EXCEPTED CASES

#### **Application of more than one exception**

1. Where more than one of the following paragraphs would otherwise apply to a claimant, only the paragraph that is most favourable applies.

#### **Remortgaging a home**

2.—(1) Regulation 15(4) and (5) do not apply where—

- (a) the claimant or (in the case of a joint claim) either of the joint claimants was entitled to inclusion of the housing costs element in respect of his or her liability to make category B payments in respect of the earlier loan, and
- (b) the new loan entered into by the claimant or (in the case of a joint claim) either of the joint claimants is applied to pay off an earlier loan.

(2) In those circumstances—

- (a) the initial amount of the housing costs element determined under regulation 14(1)(c) in respect of the new loan must not exceed the amount of the housing costs element in respect of the earlier loan, and
- (b) that amount may be increased only to the extent necessary to take account of any subsequent increase in the standard rate for Category B payments.

#### **Selling a previous home**

3.—(1) Regulation 15(4) and (5) do not apply where—

- (a) the claimant or (in the case of a joint claim) either of the joint claimants was entitled to inclusion of the housing costs element in respect of his or her liability to make category B payments in respect of an earlier loan,
- (b) the earlier loan was applied to finance the purchase of a property and was paid off (in whole or in part) with monies received from the sale of that property, and
- (c) the new loan entered into by the claimant or (in the case of a joint claim) either of the joint claimants is applied to finance the purchase of another property.

(2) In those circumstances—

- (a) the initial amount of the housing costs element determined under regulation 14(1)(c) in respect of the new loan must not exceed the amount of the housing costs element in respect of the earlier loan, and
- (b) that amount may be increased only to the extent necessary to take account of any subsequent increase in the standard rate for Category B payments.

#### **Existing entitlement to housing costs element for another category of payments**

4.—(1) Regulation 15(4) and (5) do not apply where—

- (a) the new loan entered into by a relevant person is used to acquire an interest in an accommodation,
- (b) in the week before that in which the interest was acquired, any relevant person was entitled to the housing costs element in respect of his or her liability to make Category A payments for the same accommodation, and

- (c) the claimant or (in the case of a joint claim) either of the joint claimants then occupies or continues to occupy the accommodation as his or her home.
- (2) In those circumstances—
  - (a) the initial amount of the housing costs element determined under regulation 14(1)(c) in respect of the claimant’s liability to make category B payments must not exceed the amount of the housing costs element to which a relevant person was previously entitled, and
  - (b) that amount may be increased only to the extent necessary to take account of any subsequent increase in the standard rate for Category B payments.
- (3) In this paragraph and paragraph 5, “relevant person” means—
  - (a) a claimant,
  - (b) in the case of a joint claim, either of the joint claimants, or
  - (c) a family member of a person referred to in sub-paragraph (a) or (b).

**Loan to acquire accommodation more appropriate for disabled person**

- 5.** Regulation 15(4) and (5) do not apply where—
- (a) a new loan is entered into or an existing loan is increased, and
  - (b) the new loan is applied to acquire accommodation that is more suited to the special needs of a disabled person—
    - (i) who is a relevant person, and
    - (ii) if that person is a family member of a claimant or joint claimant, for whom the claimant or (in the case of a joint claim) either of the joint claimants is responsible.

**Loan to provide separate rooms for family members of different sexes**

- 6.—**(1) Regulation 15(4) and (5) do not apply where—
- (a) the loan commitment is increased as a result of—
    - (i) the disposal of the accommodation which the claimant or (in the case of a joint claim) either of the joint claimants used to occupy as his or her home, and
    - (ii) the acquisition of new accommodation which the claimant or (in the case of a joint claim) either of the joint claimants occupies as his or her home, and
  - (b) the change of accommodation was solely because of the need to provide separate sleeping accommodation for family members of different sexes—
    - (i) who are 10 years old or over but under 20 years old,
    - (ii) who live with the claimant, and
    - (iii) for whom the claimant or (in the case of a joint claim) either of the joint claimants is responsible.