

**2010 No. 2836**

**HOUSING**

**The Rent Officers (Housing Benefit Functions) Amendment  
Order 2010**

*Made* - - - - - *24th November 2010*

*Laid before Parliament* *30th November 2010*

*Coming into force in accordance with article 1*

The Secretary of State for Work and Pensions makes the following Order in exercise of the powers conferred by sections 122(1) and (6) of the Housing Act 1996(a).

**Citation and commencement**

**1.**—(1) This Order may be cited as the Rent Officers (Housing Benefit Functions) Amendment Order 2010.

(2) Articles 1, 2 and 4 come into force on 18th March 2011.

(3) Articles 3 and 5 come into force on 1st April 2011.

**Amendment of the Rent Officers (Housing Benefit Functions) Order 1997 coming into force on 18th March 2011**

**2.**—(1) The Rent Officers (Housing Benefit Functions) Order 1997(b) is amended as follows.

(2) In article 4B(c) (broad rental market area determinations and local housing allowance determinations)—

(a) omit—

(i) paragraph (2A)(a)(ii);

(ii) paragraph (4) as substituted by article 6(4)(b) of the Rent Officers (Housing Benefit Functions) Amendment Order 2007(d);

(iii) paragraph (4A);

(b) in paragraph (6) omit “, (4) or (4A)”.

(3) In Schedule 3B(e) (broad rental market area determinations and local housing allowance determinations)—

(a) in paragraph 1 (categories of dwelling)—

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(a) 1996 c.52. Section 122 was amended by Schedule 5, paragraph 12 and Schedule 8 to the Welfare Reform Act 2007 (c.5).

(b) S.I. 1997/1984.

(c) Article 4B was inserted by S.I. 2003/2398. It was amended, and its application extended to all local authorities, by S.I. 2007/2871. There is an amendment not relevant to this instrument.

(d) S.I. 2007/2871.

(e) Schedule 3B was inserted by S.I. 2007/2871. There is an amendment not relevant to this instrument.

- (i) omit sub-paragraph (1)(f);
- (ii) in sub-paragraph (2)(b) for “to (f)” substitute “to (e)”;
- (b) in paragraph 2 (local housing allowance for category of dwelling in paragraph 1)—
  - (i) for sub-paragraphs (9) and (10) substitute—
 

“(9) Subject to paragraph (12), the local housing allowance for each category of dwelling specified in paragraph 1 is the amount of the rent at the 30th percentile in the list of rents for that category of dwelling.

(10) The rent at the 30th percentile in the list of rents (“R”) is determined as follows—

    - (a) where the number of rents on the list is a multiple of 10, the formula is—

$$R = \frac{\text{the amount of the rent at P} + \text{the amount of the rent at P1}}{2}$$

where—

- (i) P is the position on the list found by multiplying the number of rents on the list by 3 and dividing by 10; and
- (ii) P1 is the following position on the list;
- (b) where the number of rents on the list is not a multiple of 10, the formula is—

$$R = \text{the amount of the rent at P2}$$

where P2 is the position on the list found by multiplying the number of rents on the list by 3 and dividing by 10 and rounding the result upwards to the nearest whole number.”;

- (ii) in sub-paragraph (11) for “median rent” substitute “rent at the 30th percentile”;
- (iii) after sub-paragraph (11) insert—

“(12) Where the rent at the 30th percentile for the category of dwelling specified in the paragraph of this Schedule listed in column (1) of the following table exceeds the figure in column (2), the local housing allowance for that category of dwelling is the figure in column (2)—

<i>(1) Paragraph of this Schedule defining the category of dwelling</i>	<i>(2) Maximum local housing allowance for that category of dwelling</i>
paragraph 1(1)(a) (one bedroom, shared accommodation)	£250
paragraph 1(1)(b) (one bedroom, exclusive use)	£250
paragraph 1(1)(c) (two bedrooms)	£290
paragraph 1(1)(d) (three bedrooms)	£340
paragraph 1(1)(e) (four bedrooms)	£400”

- (c) in paragraph 3 (anomalous local housing allowances)—
  - (i) in sub-paragraph (1)(b) for “to (f)” substitute “to (e)”;
  - (ii) omit sub-paragraph (2).

**Amendment of the Rent Officers (Housing Benefit Functions) Order 1997 coming into force on 1st April 2011**

- 3.—(1) The Rent Officers (Housing Benefit Functions) Order 1997 is amended as follows.
- (2) In article 2(1)(a) (interpretation), before the definition of “redetermination”, insert—

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(a) There are amendments not relevant to this instrument.

““person who requires overnight care” has the meaning given by regulation 2(1) of the Housing Benefit Regulations and the Housing Benefit (State Pension Credit) Regulations;”.

(3) In Schedule 1, in paragraph 4(2)(b) (determinations – local reference rents), after “room suitable for living in” in the first place it occurs insert “and neither the tenant nor the tenant’s partner is a person who requires overnight care”.

(4) In Schedule 2 (size criteria) after paragraph 1 add—

“**1A.** Where the tenant or the tenant’s partner is a person who is stated on the application for the determination as being a person who requires overnight care (or in any case where both of them are so stated), one additional bedroom is allowed.”.

### **Amendment of the Rent Officers (Housing Benefit Functions) (Scotland) Order 1997 coming into force on 18th March 2011**

**4.—**(1) The Rent Officers (Housing Benefit Functions) (Scotland) Order 1997(**a**) is amended as follows.

(2) In article 4B(**b**) (broad rental market area determinations and local housing allowance determinations)—

(a) omit—

(i) paragraph (2A)(a)(ii);

(ii) paragraph (4) as substituted by article 6(4)(b) of the Rent Officers (Housing Benefit Functions) Amendment Order 2007(**c**);

(iii) paragraph (4A);

(b) in paragraph (6) omit “, (4) or (4A)”.

(3) In Schedule 3B(**d**) (broad rental market area determinations and local housing allowance determinations)—

(a) in paragraph 1 (categories of dwelling)—

(i) omit sub-paragraph (1)(f);

(ii) in sub-paragraph (2)(b) for “to (f)” substitute “to (e)”;

(b) in paragraph 2 (local housing allowance for category of dwelling in paragraph 1)—

(i) for sub-paragraphs (9) and (10) substitute—

“(9) Subject to paragraph (12), the local housing allowance for each category of dwelling specified in paragraph 1 is the amount of the rent at the 30th percentile in the list of rents for that category of dwelling.

(10) The rent at the 30th percentile in the list of rents (“R”) is determined as follows—

(a) where the number of rents on the list is a multiple of 10, the formula is—

$$R = \frac{\text{the amount of the rent at P} + \text{the amount of the rent at P1}}{2}$$

where—

(i) P is the position on the list found by multiplying the number of rents on the list by 3 and dividing by 10; and

(ii) P1 is the following position on the list;

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(a) S.I. 1997/1995.

(b) Article 4B was inserted by S.I. 2003/2398. It was amended, and its application extended to all local authorities, by S.I. 2007/2871. There is an amendment not relevant to this instrument.

(c) S.I. 2007/2871.

(d) Schedule 3B was inserted by S.I. 2007/2871. There is an amendment not relevant to this instrument.

(b) where the number of rents on the list is not a multiple of 10, the formula is—

$$R = \text{the amount of the rent at P2}$$

where P2 is the position on the list found by multiplying the number of rents on the list by 3 and dividing by 10 and rounding the result upwards to the nearest whole number.”;

- (ii) in sub-paragraph (11) for “median rent” substitute “rent at the 30th percentile”;
- (iii) after sub-paragraph (11) insert—

“(12) Where the rent at the 30th percentile for the category of dwelling specified in the paragraph of this Schedule listed in column (1) of the following table exceeds the figure in column (2), the local housing allowance for that category of dwelling is the figure in column (2)—

<i>(1) Paragraph of this Schedule defining the category of dwelling</i>	<i>(2) Maximum local housing allowance for that category of dwelling</i>
paragraph 1(1)(a) (one bedroom, shared accommodation)	£250
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paragraph 1(1)(c) (two bedrooms)	£290
paragraph 1(1)(d) (three bedrooms)	£340
paragraph 1(1)(e) (four bedrooms)	£400”

- (c) in paragraph 3 (anomalous local housing allowances)—
  - (i) in sub-paragraph (1)(b) for “to (f)” substitute “to (e)”;
  - (ii) omit sub-paragraph (2).

#### **Amendment of the Rent Officers (Housing Benefit Functions) (Scotland) Order 1997 coming into force on 1st April 2011**

5.—(1) The Rent Officers (Housing Benefit Functions) (Scotland) Order 1997 is amended as follows.

(2) In article 2(1)(a) (interpretation), before the definition of “redetermination”, insert—

““person who requires overnight care” has the meaning given by regulation 2(1) of the Housing Benefit Regulations and the Housing Benefit (State Pension Credit) Regulations;”.

(3) In Schedule 1, in paragraph 4(2)(b) (determinations – local reference rents), after “room suitable for living in” in the first place it occurs insert “and neither the tenant nor the tenant’s partner is a person who requires overnight care”.

(4) In Schedule 2 (size criteria) after paragraph 1 add—

“1A. Where the tenant or the tenant’s partner is a person who is stated on the application for the determination as being a person who requires overnight care (or in any case where both of them are so stated), one additional bedroom is allowed.”.

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

24th November 2010

*Freud*  
Parliamentary Under-Secretary of State,  
Department for Work and Pensions

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(a) There are amendments not relevant to this instrument.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Rent Officers (Housing Benefit Functions) Order 1997 (“the Rent Officers Order”) and the Rent Officers (Housing Benefit Functions) (Scotland) Order 1997.

Article 2, which comes into force on 18th March 2011, amends Schedule 3B to the Rent Officers Order so that the rent officer no longer determines a local housing allowance for five bedroom properties and makes consequential amendments to article 4B. It also amends Schedule 3B to change the method of calculating the local housing allowance so that it is based upon the rent at the 30th percentile computed using the empirical distribution function with averaging method. Article 2 also introduces a maximum local housing allowance for each category of dwelling.

Article 3, which comes into force on 1st April 2011, amends Schedule 2 to the Rent Officers Order so that where the tenant or the tenant’s partner is stated to be a person requiring overnight care, an additional bedroom, in non-local housing allowance cases, will be allowed under the size criteria the rent officer applies when making the determinations in Schedule 1. It also inserts a definition of “person who requires overnight care” into article 2(1) of the Rent Officers Order which refers to the definition in regulation 2(1) of the Housing Benefit Regulations 2006 (S.I. 2006/213) and the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/214). It also makes a consequential amendment to Schedule 1.

Articles 4 and 5 make equivalent amendments to the Rent Officers (Housing Benefit Functions) (Scotland) Order 1997.

An assessment of the impact of this legislation has been made. Copies of this impact assessment are available in the libraries of both Houses of Parliament, and may also be obtained from the Better Regulation Unit of the Department for Work and Pensions, 6B Caxton House, Tothill Street, London SW1H 9NA, or from the DWP website:

<http://www.dwp.gov.uk/resourcecentre/ria.asp>.

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STATUTORY INSTRUMENTS

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