

Temporary Accommodation

There are three overlapping but slightly different definitions of temporary accommodation affecting Housing Benefit and Universal Credit:

- Regulation A13 defines temporary accommodation that is not affected by the Maximum Rent (Social Sector) (or “bedroom tax”)
- Articles 17 to 17C of the Income Related Benefits (Subsidy to Authorities) Order 1998 define the temporary accommodation for which special rates of subsidy may be claimed from central government by the local authority responsible for paying Housing Benefit
- Paragraph 21 of Schedule 4 to the Universal Credit Regulations 2013 defines the temporary accommodation which attracts a housing element calculated under the same rules as Local Housing Allowance

The three definitions are reproduced below:

HB Reg A13 (bedroom tax does not apply):

3) In this regulation “temporary accommodation” means accommodation of a kind listed in paragraph (4) which the relevant authority makes available to the claimant, or which a registered housing association makes available to the claimant in pursuance of arrangements made with it by the authority -

- a) to discharge any of the authority’s functions under Part 3 of the Housing Act 1985, Part 7 of the Housing Act 1996 or (in Scotland) Part 2 of the Housing (Scotland) Act 1987; or
- b) to prevent the claimant being or becoming homeless within the meaning of Part 7 of the Housing Act 1996 or (in Scotland) Part 2 of the Housing (Scotland) Act 1987.

4) The accommodation referred to in paragraph (3) is -

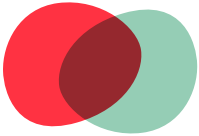
- a) accommodation -
 - i) provided for a charge, where that charge includes the provision of that accommodation and some cooked or prepared meals which are also cooked or prepared, and consumed, in that accommodation or associated premises; or
 - ii) provided in a hotel, guest house, lodging house or similar establishment, but does not include accommodation which is provided in a care home, an independent hospital or a hostel;
- b) accommodation which the authority or registered housing association holds on a lease and, in the case of an authority in England, is held outside the Housing Revenue Account on a lease granted for a term not exceeding 10 years;
- c) accommodation which the authority or registered housing association has a right to use under an agreement other than a lease with a third party.

Articles 17 to 17C of the Subsidy Order:

(17)

1) This article applies where -

- a) a rent rebate is payable by an authority;



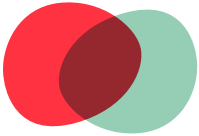
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- b) a person (“P”) is required to pay the authority for -
 - i) board and lodging accommodation; or
 - ii) accommodation which is not self-contained and which the authority has a right to use under an agreement, other than a lease, with a third party; and
 - c) the authority makes the accommodation available to P -
 - i) to discharge any of its functions under Part 3 of the Housing Act 1985, Part 7 of the Housing Act 1996 or Part 2 of the Housing (Scotland) Act 1987, as the case may be; or
 - ii) to prevent P being or becoming homeless within the meaning of Part 7 of the Housing Act 1996 or (in Scotland) Part 2 of the Housing (Scotland) Act 1987.
- 2) Where this article applies the appropriate amount is the lowest of -
- a) the amount of housing benefit entitlement in a week or part week, as the case may be; or
 - b) the maximum amount determined in accordance with paragraph (3); or
 - c) £500 where the dwelling is located in a broad rental market area listed in Schedule 8 (broad rental market areas in London) or £375 where the dwelling is located in any other broad rental market area.
- 3) The maximum amount referred to in paragraph (2) is the local housing allowance for January 2011 for the category specified in paragraph 1(1)(b) of Schedule 3B to the Rent Officers Order which is applicable to the broad rental market area in which the accommodation is situated.
- 4) For the purposes of this article and articles 17A, 17B and 17C, accommodation is self-contained if P’s household is not required to share one or more of the following with another household -
- a) a kitchen;
 - b) a toilet;
 - c) a bathroom.
- 5) In this article and articles 17A, 17B and 17C -
- “broad rental market area” has the meaning specified in paragraph 4 of Schedule 3B to the Rent Officers Order; and
 - “local housing allowance” means an allowance determined in accordance with paragraph 2 of Schedule 3B to the Rent Officers Order.
- (17A)
- 1) This article applies where -
- a) a rent rebate is payable by an authority;
 - b) a person (“P”) is required to pay the authority -
 - i) for self-contained accommodation which the authority has a right to use under an agreement, other than a lease, with a third party;
 - ii) in England, for accommodation outside that authority’s Housing Revenue Account which the authority holds on a lease granted for a term not exceeding 10 years; or
 - iii) in Wales and Scotland, for accommodation which the authority holds on a lease; and
 - c) the authority makes the accommodation available to P -



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- i) to discharge any of its functions under Part 3 of the Housing Act 1985, Part 7 of the Housing Act 1996 or Part 2 of the Housing (Scotland) Act 1987, as the case may be; or
- ii) to prevent P being or becoming homeless within the meaning of Part 7 of the Housing Act 1996 or (in Scotland) Part 2 of the Housing (Scotland) Act 1987.

2) Where this article applies, the appropriate amount is the lowest of -

- a) the amount of housing benefit entitlement in a week or part week, as the case may be; or
- b) the maximum amount determined in accordance with paragraph (3); or
- c) £500 where the dwelling is located in a broad rental market area listed in Schedule 8 (broad rental market areas in London) or £375 where the dwelling is located in any other broad rental market area.

3) The maximum amount referred to in paragraph (2) is the aggregate of -

- a) 90% of the local housing allowance for January 2011 for the category specified in paragraphs 1(1)(b) to (f) of Schedule 3B to the Rent Officers Order (as in force on 1st January 2011) which applies to the accommodation and is applicable to the broad rental market area in which the accommodation is situated; and
- b) either -
 - i) £40 for authorities listed in Schedule 7 (authorities in London); or
 - ii) £60 for other authorities.

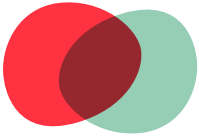
4) For the purposes of determining the applicable local housing allowance in paragraph (3) -

- a) for accommodation which is not self-contained, the applicable local housing allowance is the local housing allowance specified in paragraph 1(1)(b) of Schedule 3B to the Rent Officers Order; and
- b) for accommodation which is self-contained—
 - i) where the total number of rooms suitable for living in and bedrooms in the accommodation is between two and five, at least one of those rooms is to be treated as a room suitable for living in; and
 - ii) where the total number of rooms suitable for living in and bedrooms in the accommodation is six or more, at least two of those rooms are to be treated as rooms suitable for living in.

(17B)

1) This article applies where -

- a) a rent allowance is payable by an authority;
- b) a person ("P") is required to pay a registered housing association for—
 - i) board and lodging accommodation; or
 - ii) accommodation which is not self-contained and which the registered housing association has a right to use under an agreement, other than a lease, with a third party; and
- c) the registered housing association makes the accommodation available to P in pursuance of arrangements made with it by the authority—
 - i) to discharge any of the authority's functions under Part 3 of the Housing Act 1985, Part 7 of the Housing Act 1996 or Part 2 of the Housing (Scotland) Act 1987, as the case may be; or



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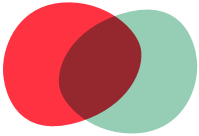
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- ii) to prevent P being or becoming homeless within the meaning of Part 7 of the Housing Act 1996 or (in Scotland) Part 2 of the Housing (Scotland) Act 1987; and
 - d) the accommodation is not exempt accommodation within the meaning given by paragraph 4(10) of Schedule 3 (transitional and savings provisions) to the Consequential Provisions Regulations.]
- 2) Where this article applies the appropriate amount is the lowest of -
- a) the amount of housing benefit entitlement in a week or part week, as the case may be;
 - b) the maximum amount determined in accordance with paragraph (3); or
 - c) £500 where the dwelling is located in a broad rental market area listed in Schedule 8 (broad rental market areas in London) or £375 where the dwelling is located in any other broad rental market area.
- 3) The maximum amount referred to in paragraph (2) is the local housing allowance for January 2011 for the category specified in paragraph 1(1)(b) of Schedule 3B to the Rent Officers Order which is applicable to the broad rental market area in which the accommodation is situated.

(17C)

- 1) This article applies where -
- a) a rent allowance is payable by an authority; and
 - b) a person (“P”) is required to pay a registered housing association for -
 - i) accommodation which is not self-contained and which the registered housing association owns or holds on a lease; or
 - ii) accommodation which is self-contained; and
 - c) the registered housing association makes the accommodation available to P in pursuance of arrangements made with it by the authority—
 - i) to discharge any of the authority’s functions under Part 3 of the Housing Act 1985, Part 7 of the Housing Act 1996 or Part 2 of the Housing (Scotland) Act 1987, as the case may be; or
 - ii) to prevent P being or becoming homeless within the meaning of Part 7 of the Housing Act 1996 or (in Scotland) Part 2 of the Housing (Scotland) Act 1987; and
 - d) the accommodation is not exempt accommodation within the meaning given by paragraph 4(10) of Schedule 3 (transitional and savings provisions) to the Consequential Provisions Regulations.
- 2) Where this article applies the appropriate amount is the lowest of -
- a) the amount of housing benefit entitlement in a week or part week, as the case may be;
 - b) the maximum amount determined in accordance with paragraph (3); or
 - c) £500 where the dwelling is located in a broad rental market area listed in Schedule 8 (broad rental market areas in London) or £375 where the dwelling is located in any other broad rental market area.
- 3) The maximum amount referred to in paragraph (2) is the aggregate of -
- a) 90% of the local housing allowance for January 2011 for the category specified in paragraphs 1(1)(b) to (f) of Schedule 3B to the Rent Officers Order (as in force on 1st January 2011) which applies to the accommodation and is



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applicable to the broad rental market area in which the accommodation is situated; and

- b) either -
 - i) £40 for authorities listed in Schedule 7 (authorities in London); or
 - ii) £60 for other authorities.

4) For the purposes of determining the applicable local housing allowance in paragraph (3) -

- a) for accommodation which is not self-contained, the applicable local housing allowance is the local housing allowance specified in paragraph 1(1)(b) of Schedule 3B to the Rent Officers Order; and
- b) for accommodation which is self-contained -
 - i) where the total number of rooms suitable for living in and bedrooms in the accommodation is between two and five, at least one of those rooms is to be treated as a room suitable for living in; and
 - ii) where the total number of rooms suitable for living in and bedrooms in the accommodation is six or more, at least two of those rooms are to be treated as rooms suitable for living in.

Sched 4.21 of Universal Credit Regs:

(21)

1) Accommodation is temporary accommodation for the purposes of paragraph 20(1)(b) if it falls within Case 1 or Case 2.

2) Case 1 is where -

- a) rent payments are payable to a local authority;
- b) the local authority makes the accommodation available to the renter -
 - i) to discharge any of the local authority's functions under Part 3 of the Housing Act 1985, Part 7 of the Housing Act 1996 or Part 2 of the Housing (Scotland) Act 1987, or
 - ii) to prevent the person being or becoming homeless within the meaning of Part 7 of the Housing Act 1996 or Part 2 of the Housing (Scotland) Act 1987; and
- c) the accommodation is not exempt accommodation.

3) Case 2 is where -

- a) rent payments are payable to a provider of social housing other than a local authority;
- b) that provider makes the accommodation available to the renter in pursuance of arrangements made with it by a local authority -
 - i) to discharge any of the local authority's functions under Part 3 of the Housing Act 1985, Part 7 of the Housing Act 1996 or Part 2 of the Housing (Scotland) Act 1987, or
 - ii) to prevent the renter being or becoming homeless within the meaning of Part 7 of the Housing Act 1996 or Part 2 of the Housing (Scotland) Act 1987; and
- c) the accommodation is not exempt accommodation.

4) Sub-paragraph (1) applies irrespective of whether the renter is also liable to make service charge payments.