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## SCHEDULE 9

(introduced by section 35)

### HOUSING ASSISTANCE REGULATIONS

PROSPECTIVE

#### PART 1

#### ELIGIBILITY

#### CHAPTER 1

#### ELIGIBILITY IS TO DEPEND ON BEING TREATED IN CERTAIN WAYS UNDER THE WELFARE REFORM ACT 2012 OR OTHERWISE NEEDING ASSISTANCE WITH HOUSING COSTS

- 1 (1) Subject to sub-paragraph (2) and paragraph 2, the regulations must be framed so that an individual's eligibility in respect of a given period depends on meeting the conditions described in either—
- (a) sub-paragraph (3), or
  - (b) sub-paragraph (4).
- (2) The regulations need not be framed so that eligibility depends on meeting the conditions described in sub-paragraph (3) or (4) if it is not (or is no longer) possible for circumstances to arise enabling the conditions described in the sub-paragraph to be met.
- (3) The conditions referred to in sub-paragraph (1)(a) are—
- (a) the individual is entitled to an award of universal credit in respect of the period in question,
  - (b) an amount under section 11 of the Welfare Reform Act 2012 (housing costs) is to be included in the calculation of that award,
  - (c) the amount relates to the individual's liability to make payments in respect of accommodation in the social rented sector other than temporary accommodation,
  - (d) were it not for regulations made by the Scottish Ministers by virtue of section 29(2) of the Scotland Act 2016, the amount would be lower on account of its being reduced due to the number of bedrooms in the property that the individual lives in,
  - (e) as a result of being entitled to more than would otherwise be the case because of the regulations referred to in paragraph (d), the value of the assistance to which the individual is entitled under an enactment is reduced in accordance with regulations under section 96 of the Welfare Reform Act 2012 (benefit cap).
- (4) The conditions referred to in sub-paragraph (1)(b) are—
- (a) the individual is entitled to an award of universal credit in respect of the period in question,
  - (b) during that period, the individual is—

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- (i) 18 years of age or over, but
  - (ii) not more than 21 years of age,
  - (c) no amount under section 11 of the Welfare Reform Act 2012 is to be included in the calculation of the award, and
  - (d) an amount under that section would fall to be included in the calculation, in respect of accommodation in Scotland, if the individual were older.
- (5) The regulations are to define “accommodation in the social rented sector” and “temporary accommodation” for the purpose of determining entitlement to housing assistance under provision made in accordance with paragraph 1(3).
- 2 (1) The regulations may be framed so that, despite the conditions described in paragraph 1 not being met in relation to a given period, an individual may nevertheless be eligible in respect of that period.
- (2) Where the regulations allow an individual to be eligible in respect of a period in relation to which the conditions described in paragraph 1 are not met, they must be framed so that the individual's eligibility depends on the individual needing assistance to meet housing costs in a connection with a property that is not owned (wholly or partly) by the individual.
- (3) For the purpose of sub-paragraph (2), an individual is not an owner of property if, in relation to the property, the individual is party to a shared ownership agreement within the meaning of section 83(3) of the Housing (Scotland) Act 2001.
- (4) If provision of the kind described in this paragraph is made, the regulations are to set out, for the purpose of determining entitlement to housing assistance—
- (a) a definition of “housing costs”,
  - (b) the circumstances in which an individual is to be regarded as needing assistance to meet housing costs.

## CHAPTER 2

### FURTHER CRITERIA

#### *Participation in education*

- 3 The regulations may make an individual's eligibility depend on—
- (a) whether or not the individual, or anyone who lives with the individual, is in education, and
  - (b) the length of time the individual, or someone who lives with the individual, spends over a given period in education.

#### *Residence and presence*

- 4 The regulations may make an individual's eligibility depend on the individual being resident and present in a particular place.

#### *Age*

- 5 The regulations may make an individual's eligibility depend on the age of either or both—

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- (a) the individual, and
- (b) anyone who lives with the individual.

*Financial circumstances*

6 The regulations may make an individual's eligibility depend on the financial circumstances of either or both—

- (a) the individual, and
- (b) anyone who lives with the individual.

*Receipt of, or eligibility for, other types of State assistance*

7 The regulations may make an individual's eligibility depend on either or both the individual and anyone who lives with the individual—

- (a) being, or not being, in receipt of another type of assistance (whether under this Act or another enactment),
- (b) being, or not being, eligible or entitled to receive such assistance.

*Application within specified period*

8 The regulations may provide that an individual ceases to be eligible in respect of a given period unless, by a deadline specified in the regulations—

- (a) the individual has applied for housing assistance in respect of the period, or
- (b) the Scottish Ministers have become required to make a determination of the individual's entitlement to housing assistance in respect of the period by regulations under section 52.

## PART 2

### ASSISTANCE TO BE GIVEN

#### CHAPTER 1

##### VALUE

PROSPECTIVE

*Cases where paragraph 1(3) conditions met*

- 9
- (1) The regulations must provide for the value of housing assistance to be given in a case to which this paragraph applies to be the amount described in sub-paragraph (3).
  - (2) This paragraph applies to a case in which an individual is entitled to housing assistance in respect of a given period by virtue of meeting the conditions described in paragraph 1(3).
  - (3) The amount referred to in sub-paragraph (1) is the lower of—
    - (a) the difference between—

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- (i) the amount under section 11 of the Welfare Reform Act 2012 included in the calculation of the individual's universal credit award for the period in question, and
  - (ii) the amount that would have been included under that section in the calculation were it not for the regulations referred to in paragraph 1(3)(d), or
  - (b) the amount by which the value of the assistance to which the individual is entitled from the Secretary of State in respect of the period in question is reduced in accordance with regulations under section 96 of the Welfare Reform Act 2012.
- (4) Sub-paragraph (1) does not apply if, by virtue of paragraph 1(2), the regulations need not provide for eligibility to depend on the conditions described in paragraph 1(3) being met.

PROSPECTIVE

*Cases where paragraph 1(3) conditions not met*

- 10 In a case to which paragraph 9 does not apply, the regulations may make the value of housing assistance that is to be given to an individual depend on—
- (a) the age of either or both—
    - (i) the individual, and
    - (ii) anyone who lives with the individual,
  - (b) the financial circumstances of either or both—
    - (i) the individual, and
    - (ii) anyone who lives with the individual.

*<sup>F1</sup>Power to set value of assistance as nil*

**Textual Amendments**

**F1** Sch. 9 para. 10A inserted (26.7.2021) by [Social Security Administration and Tribunal Membership \(Scotland\) Act 2020 \(asp 18\)](#), ss. **13(5)(a)**, 18(2)(3); S.S.I. 2021/232, reg. 2(g)

- 10A (1) Provision may be made in the regulations for the value of the housing assistance that is to be given to an individual in respect of a period to be £0, but—
- (a) such provision must be framed so as to apply by reference to at least one of the following matters—
    - (i) the individual being resident and present in a particular place during the period,
    - (ii) the individual being in receipt of another type of assistance (whether under this Act or another enactment) during the period, and
  - (b) the Scottish Ministers may only make such provision where they consider that it would be in the interests of the individuals to whom it applies to be entitled to housing assistance with a value of £0 in respect of a period rather than not being entitled to housing assistance at all.

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- (2) Nothing in sub-paragraph (1)(a) is to be taken to preclude provision being framed so as to apply by reference to further matters in addition to those mentioned there.]

PROSPECTIVE

## CHAPTER 2

### FORM

#### *Meeting liabilities*

- 11 The regulations may provide for housing assistance that is to be given to an individual to be given (in whole or in part) by way of—
- (a) payment to another person in order to meet, or contribute towards meeting, any liability the individual has to that person,
  - (b) deduction from any liability the individual has to the Scottish Ministers under section 63.

#### *Restriction on giving assistance in a form other than money*

- 12 (1) The regulations may allow housing assistance to be given to an individual in a form other than money only if the individual (or a person acting on the individual's behalf) has agreed to the assistance being given in that form.
- (2) If the regulations include provision of the kind mentioned in sub-paragraph (1), they must allow an individual (or a person acting on the individual's behalf) to withdraw agreement to being given housing assistance in a form other than money at any time.
- (3) Despite sub-paragraph (1), the regulations may provide for housing assistance to be given (in whole or in part) by way of deduction, at a reasonable level, from any liability the individual has to the Scottish Ministers under section 63 if the individual has unreasonably refused to agree to the assistance being given in that form.
- (4) For the purpose of sub-paragraph (3), “reasonable level” means a level that is reasonable having regard to the financial circumstances of the individual.

PROSPECTIVE

## PART 3

### FINAL PROVISIONS

#### *Generality of enabling power unaffected*

- 13 Nothing in this schedule, apart from the following provisions, is to be taken to limit what may be prescribed in the regulations—
- (a) Chapter 1 of Part 1,
  - (b) paragraphs 9 <sup>[F2]</sup>, 10A] and 12 of Part 2.

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### **Textual Amendments**

- F2** Word in sch. 9 para. 13 inserted (26.7.2021) by [Social Security Administration and Tribunal Membership \(Scotland\) Act 2020 \(asp 18\)](#), **ss. 13(5)(b)**, 18(2)(3); S.S.I. 2021/232, reg. 2(g)

### *Interpretation*

- 14 In this schedule (unless stated otherwise)—  
“eligibility” means eligibility for housing assistance and “eligible” means eligible for housing assistance,  
“the regulations” means regulations under section 35(2).

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 81(4C) inserted by [2021 asp 20 s. 2\(a\)](#)
- s. 85D inserted by [2020 asp 18 s. 2\(6\)](#)