



Social Security Administration Act 1992

1992 CHAPTER 5

PART VIII

ARRANGEMENTS FOR HOUSING BENEFIT AND COMMUNITY CHARGE BENEFITS AND RELATED SUBSIDIES

Housing benefit

134 Arrangements for housing benefit

- (1) Housing benefit provided by virtue of a scheme under section 123 of the Contributions and Benefits Act (in this Act referred to as “the housing benefit scheme”)—
 - (a) is to be in the form of a rate rebate funded and administered by the appropriate rating authority, if it is in respect of payments by way of rates;
 - (b) is to be in the form of a rent rebate or, in prescribed cases, of a rent allowance, funded and administered by the appropriate housing authority, if it is in respect of payments, other than payments by way of rates, to be made to a housing authority; and
 - (c) is in any other case to be in the form of a rent allowance funded and administered by the appropriate local authority.
- (2) The rebates and allowances referred to in subsection (1) above may take any of the following forms, that is to say—
 - (a) a payment or payments by the authority to the person entitled to the benefit;
 - (b) a reduction in the amount of any payments which that person is liable to make to the authority by way of rent or rates; or
 - (c) such a payment or payments and such a reduction;and in any enactment or instrument (whenever passed or made) “pay”, in relation to housing benefit, includes discharge in any of those forms.
- (3) Regulations may provide that in prescribed cases a payment made by a person entitled to a rent allowance shall be treated for the purposes of subsection (1)(a) above as being, to such extent as may be prescribed, a payment by way of rates.

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- (4) For the purposes of this section in its application to any dwelling—
- (a) the appropriate rating authority is the rating authority for the area in which it is situated;
 - (b) the appropriate housing authority is the housing authority to whom the occupier of the dwelling is liable to make payments; and
 - (c) the appropriate local authority is the local authority for the area in which the dwelling is situated.
- (5) Authorities may agree that one shall carry out responsibilities relating to housing benefit on another's behalf.
- (6) Circumstances may be prescribed in which a rate rebate may be treated as if it fell to be paid as a rent allowance.
- (7) The cases that may be prescribed under subsection (1)(b) above do not include any case where the payment in respect of which the housing benefit is granted is a payment in respect of a dwelling which, within the meaning of Part VI of the Local Government and Housing Act 1989, is a house or other property of an authority within the authority's Housing Revenue Account.
- (8) An authority may modify any part of the housing benefit scheme administered by the authority—
- (a) so as to provide for disregarding, in determining a person's income (whether he is the occupier of a dwelling or any other person whose income falls to be aggregated with that of the occupier of a dwelling), the whole or part of any war disablement pension or war widow's pension payable to that person;
 - (b) to such extent in other respects as may be prescribed,
- and any such modification may be adopted by resolution of an authority.
- (9) Modifications other than such modifications as are mentioned in subsection (8)(a) above shall be so framed as to secure that, in the estimate of the authority adopting them, the total of the rebates or allowances which will be granted by the authority in any year will not exceed the permitted total of rebates or allowances for that year.
- (10) An authority who have adopted modifications may by resolution revoke or vary them.
- (11) If the housing benefit scheme includes power for an authority to exercise a discretion in awarding housing benefit, the authority shall not exercise that discretion so that the total of the rebates or allowances granted by them in any year exceeds the permitted total of rebates or allowances for that year.
- (12) In relation to any authority the permitted total of rebates or allowances for any year shall be calculated, in the manner specified by an order made by the Secretary of State, by reference to the total housing benefit granted by that authority during the year, less such deductions as are specified in the order.
- (13) In this section "modifications" includes additions, omissions and amendments, and related expressions shall be construed accordingly.

135 Housing benefit finance

- (1) For each year the Secretary of State shall pay—
- (a) a subsidy to be known as "rate rebate subsidy" to each rating authority ;
 - (b) a subsidy to be known as "rent rebate subsidy" to each housing authority; and

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- (c) a subsidy to be known as “rent allowance subsidy” to each local authority.
- (2) The subsidy under subsection (1) above which is to be paid to an authority—
- (a) shall be calculated, in the manner specified by an order made by the Secretary of State, by reference—
 - (i) in the case of an authority in England and Wales, to the relevant benefit; and
 - (ii) in the case of an authority in Scotland, to the total housing benefit, and by reference also, in the case of an authority in England and Wales or Scotland, to any rebate or allowance within the meaning of the Social Security and Housing Benefits Act 1982 granted by that authority during the year with any additions specified in the order but subject to any deductions so specified; and
 - (b) shall be subject to deduction of any amount which the Secretary of State considers it unreasonable to meet out of money provided by way of subsidy under subsection (1) above.
- (3) In subsection (2) above “relevant benefit”, in relation to an authority, means total housing benefit excluding any Housing Revenue Account rebates granted by them.
- (4) Nothing in this section shall be taken to imply that any such addition or deduction as is mentioned in subsection (2)(a) or (b) above may not be determined by reference to—
- (a) an authority’s expenditure in respect of any housing benefit, or in respect of any rebate or allowance within the meaning of the Social Security and Housing Benefits Act 1982, granted during any previous year; or
 - (b) any subsidy under this section or that Act paid to an authority in respect of any previous year.
- (5) For each year the Secretary of State may pay to an authority as part of the subsidy under subsection (1) above an additional sum calculated, in the manner specified by an order made by the Secretary of State, in respect of the costs of administering housing benefit.
- (6) Rent rebate subsidy shall be payable—
- (a) in the case of a local authority in England and Wales, subject to subsection (7) below, for the credit of a revenue account of theirs which is not a Housing Revenue Account or a Housing Repairs Account;
 - (b) in the case of a local authority in Scotland, for the credit of their rent rebate account;
 - (c) in the case of a new town corporation in England and Wales or the Development Board for Rural Wales, for the credit of their housing account; and
 - (d) in the case of a new town corporation in Scotland or Scottish Homes, for the credit of the account to which rent rebates granted by them, or it, are debited.
- (7) Rent rebate subsidy for a year beginning before 1st April 1990 shall be payable in the case of a local authority in England and Wales—
- (a) for the credit of their Housing Revenue Account to the extent that it is calculated by reference to Housing Revenue Account rebates and any costs of administering such rebates; and
 - (b) for the credit of their general rate fund to the extent that it is not so calculated.

- (8) Every local housing authority in England and Wales shall for each year carry to the credit of their Housing Revenue Account from some other revenue account of theirs which is not a Housing Repairs Account an amount equal to the aggregate of—
- (a) so much of each Housing Revenue Account rebate granted by them during the year as was granted in the exercise of a discretion conferred by the housing benefit scheme or in pursuance of such modifications of that scheme as are mentioned in paragraph (b) of section 134(8) above; and
 - (b) unless the authority otherwise determine, so much of each such rebate as was granted in pursuance of such modifications of that scheme as are mentioned in paragraph (a) of that subsection.
- (9) Every local authority in Scotland shall make for each year a rate fund contribution to their Housing Revenue Account of an amount equal to the difference between—
- (a) so much of their rent rebate subsidy for the year as is credited to that Account; and
 - (b) the total of—
 - (i) the Housing Revenue Account rebates granted by them during the year; and
 - (ii) the cost of administering such rebates.
- (10) Rent allowance subsidy shall be payable—
- (a) in the case of a local authority in England and Wales and subsidy payable for a year beginning before 1st April 1990, for the credit of their general rate fund; and
 - (b) in the case of a local authority in Scotland, for the credit of their rent allowance account.
- (11) Subsidy under this section shall be payable by the Secretary of State at such time and in such manner as the Treasury may direct.
- (12) The amount of any subsidy payable to an authority shall be calculated to the nearest pound, by disregarding an odd amount of 50 pence or less and by treating an odd amount exceeding 50 pence as a whole pound.
- (13) In subsection (7) above “general rate fund” means—
- (a) in relation to the Council of the Isles of Scilly, their general fund; and
 - (b) in relation to the Common Council of the City of London, their general rate.
- (14) In this section “modifications” includes additions, omissions and amendments and related expressions shall be construed accordingly.

136 Rent allowance subsidy and determinations of rent officers

- (1) In relation to rent allowance subsidy, the Secretary of State—
- (a) may provide for any calculation under paragraph (a) of section 135(2) above to be made,
 - (b) may specify any such additions and deductions as are referred to in that paragraph; and
 - (c) may exercise his discretion as to what is unreasonable for the purposes of paragraph (b) of that subsection,

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by reference to determinations made by rent officers in exercise of functions conferred on them under section 121 of the Housing Act 1988 or section 70 of the Housing (Scotland) Act 1988 (“the Housing Act functions”).

- (2) The Secretary of State may by regulations require a local authority in any prescribed case to apply to a rent officer for a determination to be made in pursuance of the Housing Act functions and any such authority shall comply with prescribed requirements as to the time for making such an application.
- (3) Where a local authority would have been required to apply to a rent officer for a determination under the Housing Act functions in a pre-commencement case, had the first regulations under section 30(2B) of the 1986 Act (which corresponded to subsection (2) above) come into force on 1st April 1989, regulations may make provision—
 - (a) requiring the authority in prescribed circumstances to apply within a prescribed period to the rent officer for that determination to be made; and
 - (b) requiring the rent officer in prescribed circumstances to make that determination on prescribed assumptions.
- (4) In subsection (3) above “pre-commencement case” means any case which arose before the date on which the first regulations under section 30(2B) of the 1986 Act in fact came into force.

137 Claims etc

- (1) Subsidy under section 135 above shall not be payable to an authority until either—
 - (a) they have made a claim for it in such form as the Secretary of State may determine; or
 - (b) if they have not made such a claim, the amount of subsidy payable to them (apart from subsection (6) below) has been estimated under subsection (3) below.
- (2) The Secretary of State may withhold from an authority so much of any subsidy under section 135 above as he thinks fit until either—
 - (a) the authority has supplied him with prescribed particulars relating to their claim for subsidy and complied with prescribed conditions as to records, certificates, audit or otherwise; or
 - (b) he is satisfied that there is a good reason for the authority’s failure to supply those particulars or comply with those conditions.
- (3) If an authority has not—
 - (a) made a claim for subsidy;
 - (b) supplied the prescribed particulars referred to in paragraph (a) of subsection (2) above; or
 - (c) complied with the prescribed conditions referred to in that paragraph,within the prescribed period, then the Secretary of State may estimate the amount of subsidy payable to them (apart from subsection (6) below) and employ for that purpose such criteria as he considers relevant.
- (4) If the Secretary of State considers it reasonable to do so in any particular case, he may give the authority in question written notice extending any of the periods prescribed under subsection (3) above for the purposes of paragraph (a), (b) or (c) of that subsection, as the case may be.

- (5) If an authority fails to make a claim for subsidy within such period as the Secretary of State considers reasonable, he may withhold from them such part of the subsidy as he thinks fit for so long as he thinks fit.
- (6) Where the amount of subsidy paid to an authority for any year is found to be incorrect, the amount payable to them for any subsequent year may be adjusted for the purpose of rectifying that mistake in whole or in part.

Community charge benefits

138 Nature of benefits

- (1) In relation to England and Wales, regulations shall provide that where a person is entitled to a community charge benefit in respect of a charging authority's personal community charge the benefit shall take such of the following forms as is prescribed in the case of the person—
 - (a) a payment or payments by the authority to the person;
 - (b) a reduction in the amount the person is or becomes liable to pay to the authority in respect of the charge as it has effect for the relevant or any subsequent chargeable financial year;
 - (c) both such payment or payments and such reduction.
- (2) In relation to Scotland, regulations shall provide that where a person is entitled to a community charge benefit in respect of a personal community charge determined by a regional, islands or district council the benefit shall take such of the following forms as is prescribed in the case of the person—
 - (a) a payment or payments to the person by the levying authority to which the charge is payable;
 - (b) a reduction in the amount the person is or becomes liable to pay in respect of the charge as it has effect for the relevant or any subsequent chargeable financial year;
 - (c) both such payment or payments and such reduction.
- (3) Regulations shall provide that where a person is entitled to a community charge benefit in respect of a contribution period the benefit shall take such of the following forms as is prescribed in the case of the person—
 - (a) a payment or payments by the relevant authority to the person;
 - (b) the reductions mentioned in subsection (4) below;
 - (c) both such payment or payments and such reductions.
- (4) The reductions are—
 - (a) a reduction in the amount the person is liable to pay to the charge payer in respect of the contribution period, and
 - (b) a consequential reduction in the amount the charge payer is liable to pay in respect of the charge concerned as it has effect for the relevant chargeable financial year.
- (5) For the purposes of subsections (1) and (2) above the relevant chargeable financial year is the chargeable financial year in which the relevant day falls; and the relevant day is the day in respect of which the person concerned is entitled to the benefit.
- (6) For the purposes of subsection (3) above the relevant authority is—

- (a) in relation to England and Wales, the authority to which an amount is payable in respect of the collective community charge concerned under section 15 of the Local Government Finance Act 1988 (“the 1988 Act”);
 - (b) in relation to Scotland, the levying authority to which the collective community charge is payable.
- (7) For the purposes of subsection (4) above the charge payer is—
- (a) in relation to England and Wales, the person who is liable to pay an amount in respect of the collective community charge concerned under section 15 of the 1988 Act;
 - (b) in relation to Scotland, the person who is liable to pay the collective community charge under section 11(5) of the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (“the 1987 Act”).
- (8) For the purposes of subsection (4) above the relevant chargeable financial year is the chargeable financial year in which the contribution period falls.
- (9) Regulations under subsection (1), or (2) or (3) above may include such supplementary, incidental or consequential provisions as appear to the Secretary of State to be necessary or expedient; and any such provisions may include provisions amending or adapting provisions of the 1987 Act or the 1988 Act.

139 Arrangements for community charge benefits

- (1) Any community charge benefit provided for by virtue of a scheme under section 123 of the Contributions and Benefits Act (in this Act referred to as a community charge benefit scheme) is to be administered by the appropriate authority.
- (2) For the purposes of this section in its application to England and Wales, the appropriate authority in relation to a particular benefit is the charging authority as regards whose personal or collective community charge a person is entitled to the benefit.
- (3) For the purposes of this section in its application to Scotland, the appropriate authority in relation to a particular benefit is the levying authority—
- (a) to which the personal community charge is payable by a person entitled to the benefit; or
 - (b) in whose area is situated the premises in respect of residence in which for a contribution period a collective community charge contribution is payable.
- (4) Charging authorities may agree that one shall carry out responsibilities relating to community charge benefits on another’s behalf.
- (5) Levying authorities may agree that one shall carry out responsibilities relating to community charge benefits on another’s behalf.
- (6) A charging authority or levying authority may modify any part of the community charge benefit scheme administered by the authority—
- (a) so as to provide for disregarding, in determining a person’s income, the whole or part of any war disablement pension or war widow’s pension payable to that person or to his partner or to a person to whom he is polygamously married;
 - (b) to such extent in other respects as may be prescribed,
- and any such modifications may be adopted by resolution of an authority.

- (7) Modifications other than such modifications as are mentioned in subsection (6)(a) above shall be so framed as to secure that, in the estimate of the authority adopting them, the total of the benefits which will be allowed by the authority for any year will not exceed the permitted total of benefits for that year.
- (8) An authority which has adopted modifications may by resolution revoke or vary them.
- (9) If the community charge benefit scheme includes power for an authority to exercise a discretion in allowing community charge benefits, the authority shall not exercise that discretion so that the total of the benefits allowed by it for any year exceeds the permitted total of benefits for that year.
- (10) In relation to any authority the permitted total of benefits for any year shall be such amount as is calculated in accordance with rules contained in an order made by the Secretary of State.
- (11) In this section—
- “modifications” includes additions, omissions and amendments, and related expressions shall be construed accordingly;
- “partner”, in relation to a person, means the other member of the couple concerned;
- “war disablement pension” means—
- (a) any retired pay, pension or allowance granted in respect of disablement under powers conferred by or under the Air Force (Constitution) Act 1917, the Personal Injuries (Emergency Provisions) Act 1939, the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939, the Polish Resettlement Act 1947 or Part VII or section 151 of the Reserve Forces Act 1980;
- (b) without prejudice to paragraph (a) of this definition, any retired pay or pension to which subsection (1) of section 315 of the Income and Corporation Taxes Act 1988 applies; and
- “war widow’s pension” means any widow’s pension or allowance granted in respect of a death due to service or war injury and payable by virtue of any enactment mentioned in paragraph (a) of the preceding definition or a pension or allowance for a widow granted under any scheme mentioned in section 315(2)(e) of the Income and Corporation Taxes Act 1988.

140 Community charge benefit finance

- (1) For each year the Secretary of State shall pay a subsidy (to be known as community charge benefit subsidy) to each charging authority and to each levying authority.
- (2) The amount of community charge benefit subsidy to be paid to a charging authority or a levying authority for a year shall be calculated in such manner as may be specified by an order made by the Secretary of State.
- (3) Any calculation under subsection (2) above shall be made by reference to the total amount of the community charge benefits allowed by the authority during the year with any additions specified in the order but subject to any deduction so specified.
- (4) The Secretary of State may deduct, from the amount which would (apart from this subsection) be payable to a charging or levying authority by way of community charge

benefit subsidy for a year, such amount as he considers it unreasonable to pay by way of such subsidy.

- (5) The Secretary of State may pay to an authority, as part of the amount of community charge benefit subsidy payable to the authority for a year, an additional sum in respect of the costs of administering community charge benefits; and any such additional sum shall be calculated in a manner specified by an order made by the Secretary of State.
- (6) Nothing in this section shall be taken to imply that any such addition or deduction as is mentioned in subsection (3) or (4) above may not be determined by reference to—
 - (a) an authority's expenditure in respect of community charge benefits allowed during any previous year; or
 - (b) any subsidy paid under this section to an authority in respect of any previous year.
- (7) Subsidy under this section shall be payable by the Secretary of State at such time and in such manner as the Treasury may direct; and section 137 above shall apply in relation to a charging authority or a levying authority and subsidy under this section as they apply in relation to a rating authority, a housing authority or local authority and subsidy under that section.
- (8) The amount of any subsidy payable to an authority shall be calculated to the nearest pound, by disregarding an odd amount of 50 pence or less and by treating an odd amount exceeding 50 pence as a whole pound.