
STATUTORY INSTRUMENTS

1991 No. 441

**HOUSING, ENGLAND AND WALES
HOUSING, SCOTLAND
SOCIAL SECURITY**

**The Housing Benefit and Community
Charge Benefit (Subsidy) Regulations 1991**

<i>Made</i>	- - - -	<i>4th March 1991</i>
<i>Laid before Parliament</i>		<i>11th March 1991</i>
<i>Coming into force</i>	- -	<i>1st April 1991</i>

The Secretary of State for Social Security in exercise of powers conferred by sections 30(8B) and (8C), 31F(6) and 84(1) of the Social Security Act 1986(1) and section 166(1) to (3A) of the Social Security Act 1975(2) and of all other powers enabling him in that behalf, after consultation with organisations appearing to him to be representative of authorities concerned(3) and after agreement by the Social Security Advisory Committee that these Regulations should not be referred to it(4), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Housing Benefit and Community Charge Benefit (Subsidy) Regulations 1991 and shall come into force on 1st April 1991.

(2) In these Regulations—

“the Act” means the Social Security Act 1986(5)

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- (1) 1986 c. 50; sub-sections (8B) and (8C) of section 30 were inserted by the Social Security Act 1989 (c. 24), section 15(2); section 31F was inserted by the Local Government Finance Act 1988 (c. 41), Schedule 10, paragraph 6 and sub-section (6) of that section was inserted by the Social Security Act 1990 (c.27), Schedule 6, paragraph 21(3) and section 84(1) is cited because of the meanings assigned to “prescribed” and “regulations”.
- (2) 1975 c. 14; sub-section (3) was amended by the Social Security Act 1989, section 31(1) and Schedule 8, paragraph 10; sub-section (3A) was inserted by section 62 of the Social Security Act 1986 and section 166(1) to (3A) is applied by section 61(7) of that Act.
- (3) See section 61(7) of the Social Security Act 1986; section 61(7) was amended by the Local Government Finance Act 1988, Schedule 10, paragraph 10.
- (4) See the Social Security Act 1986, section 61(1)(b) and (10). The Social Security Act 1989, Schedule 8 added a definition of “regulations” to section 61(10) of the Act of 1986.
- (5) 1986 c. 50.

“the 1987 Regulations” means the Housing Benefit (General) Regulations 1987⁽⁶⁾

“the 1989 Regulations” means the Community Charge Benefits (General) Regulations 1989⁽⁷⁾

“authority”—

(a) with respect to claims for community charge benefit subsidy, means a charging authority to which section 31B(2) of the Act refers or, as the case may be, a levying authority to which section 31B(3) of the Act refers⁽⁸⁾;

(b) with respect to claims for housing benefit subsidy, means a housing, rating or local authority or, as the case may be, in Scotland a levying authority;

“community charge rebate” means a rebate to which section 28(1)(aa) of the Act⁽⁹⁾ refers;

“eligible rent” shall be construed in accordance with regulation 10 of the 1987 Regulations⁽¹⁰⁾;

“excess benefits” shall be construed in accordance with section 31D of the Act⁽¹¹⁾;

“Housing Revenue Accounts rebates” has the meaning assigned by section 84(1) of the Act;

“Subsidy Order” means an Order in respect of the relevant year made under section 30(2) (subsidy order with respect to housing benefit) or section 31 F(2) (subsidy order with respect to community charge benefit) of the Act⁽¹²⁾;

“the relevant year” means the year In respect of which a claim for housing benefit subsidy or community charge benefit subsidy is made;

“rent rebate” and “rent allowance” shall be construed in accordance with section 28 of the Act but shall exclude, in the case of a local authority in England and Wales, any Housing Revenue Account rebates granted by them.

Particulars to be supplied by an authority to the Secretary of State in relation to a claim for housing benefit or community charge benefit subsidy

2. For the purposes of section 30(SB) of the Act (power for the Secretary of State to withhold payments of housing benefit subsidy or community charge benefit subsidy)⁽¹³⁾ the prescribed particulars which are to be supplied to Secretary of State by an authority in connection with its claim for housing benefit subsidy or community charge benefit subsidy for the relevant year are specified in the Schedule to these Regulations.

Conditions to be complied with on making a claim for housing benefit subsidy or community charge benefit subsidy

3. A claim for housing benefit subsidy or for community charge benefit subsidy shall be certified by the authority’s auditor and the authority making the claim shall in addition provide such information and produce such records as are required to satisfy the Secretary of State that the claim Is properly calculated and shall keep all records with a bearing on its claim in such a way as to enable them to show and the auditor to check, that entitlement to subsidy has been correctly calculated.

⁽⁶⁾ S.I.1987/1971.

⁽⁷⁾ S.I. 1989/1321.

⁽⁸⁾ Section 31B of the Social Security Act 1986 was inserted by the Local Government Finance Act 1988, Schedule 10, paragraph 6.

⁽⁹⁾ Section 28(1)(aa) which has effect with respect to Scotland for the financial year 1989/90 only was inserted in the Act by S.I. 1988/1483.

⁽¹⁰⁾ Relevant amending instruments S.I. 1988/1971, 1990/546.

⁽¹¹⁾ Section 31D was inserted in the Act by the Local Government Finance Act 1988, Schedule 10, paragraph 6 and amended by the Social Security Act 1989 (c. 24), Schedule 8, paragraph 9(4).

⁽¹²⁾ Section 30(2) was amended by the Social Security Act 1989 (c. 24), Schedule 9 and the local Government and Housing Act 1989 (c. 42), section 81(1).

⁽¹³⁾ Section 30(8A) to (8F) of the Act was applied to community charge benefit subsidy by virtue of section 31F(6) which was inserted in the Act by the Social Security Act 1990 (c. 27), Schedule 6, paragraph 21(3).

Time within which claims for housing benefit subsidy and community charge benefit subsidy are to be made and prescribed particulars provided to the Secretary of State

4.—(1) A claim in respect of housing benefit subsidy or community charge benefit subsidy must be received by the Secretary of State on or before the 30th September in the year following the relevant year.

(2) Any particulars relating to a claim for subsidy to which regulation 2 and the Schedule to these Regulations refer, shall be supplied to the Secretary of State at the date the claim is made together with any certificates, records or other information required by the Secretary of State under regulation 3 (conditions to be complied with on making a claim for subsidy).

Signed by authority of the Secretary of State for Social Security.

4th March 1991

Ann Widdecombe
Parliamentary Under-Secretary of State,
Department of Social Security

SCHEDULE

Regulation 2

Prescribed particulars relating to claims for Housing Benefit and Community Charge Benefit subsidy for the relevant year

1. The total rent rebate and total rent allowance expenditure in the relevant year for all cases, other than rent rebate under Part VI of the Local Government and Housing Act 1989⁽¹⁴⁾.

2. The total rent rebate expenditure in the relevant year in respect of the amount which a person is required to pay to an authority under section 69(2)(b) of the Housing Act 1985⁽¹⁵⁾ or Part II of the Housing (Scotland) Act 1987⁽¹⁶⁾ for board and lodging accommodation.

3. The total rent rebate expenditure in the relevant year in cases to which paragraph 4 refers, which is attributable to that part of the eligible rent which exceeds the relevant threshold specified in a Subsidy Order under section 30(2) or 31F(2) of the Act for the purpose of calculating subsidy on such rents.

4. The average weekly rent for local authority tenants in Scotland, for tenants of a New Town Corporation established under the New Towns Act 1981⁽¹⁷⁾ or the New Towns (Scotland) Act 1968⁽¹⁸⁾ and for tenants of the Development Board for Rural Wales, in respect of tenants who received rent rebates in March 1989 and March 1991 and for those who did not, where the tenants lived at the same address for both periods.

5. The total number of awards of rent rebates, rent allowances and community charge benefits in the relevant year made in respect of periods before the date of a person's claim where there is a good cause for the claim not having been made at an earlier date and the total amount of rebate, allowances and benefits awarded for such periods.

6. The total number and amounts of overpayments of housing benefit in respect of rent rebates, rent allowances, community charge rebates or of excess community charge benefits, which are identified in the relevant year and are in consequence of—

- (a) official errors by the Department of Social Security;
- (b) official errors by the authority claiming subsidy;
- (c) the disclosure of changes of circumstances affecting awards of benefit paid or credited in advance where the awards are made in the two benefit weeks following the date of the disclosure;
- (d) the crediting of rebates in advance of entitlement other than awards to which subparagraph (c) refers;
- (e) errors or fraud by claimants;

(f) duplicate payments following non-receipt, loss or theft of benefit where the original instrument of payment has been encashed.

7. Any overpayments of housing benefit identified in the relevant year made under the Housing Benefit Regulations 1985⁽¹⁹⁾ or the Housing Benefit (Transitional) Regulations 1987⁽²⁰⁾ where the claimant was not in receipt of supplementary benefit.

(14) 1989 c. 42.

(15) 1985 c. 68.

(16) 1987 c. 26.

(17) 1981 c. 64.

(18) 1968 c. 16.

(19) S.I. 1985/677.

(20) S.I. 1987/1972.

8. The total amount of overpayments of housing benefit made under the Housing Benefit Regulations 1985 which are recovered in the relevant year from claimants to whom Regulation 24 of those Regulations (persons in receipt of supplementary benefit) applied.

9. The total amount of overpayments of housing benefit or excess community charge benefits in the relevant year in consequence of official errors by the Department of Social Security which are recovered in the relevant year.

10. The total amount of awards of excess benefits allowed in the relevant year as defined by regulation 83(a), (b) or (c) of the 1989 Regulations (meaning of excess benefits)(**21**).

11. Any other overpayments of housing benefit or excess community charge benefits in the relevant year.

12. The total number and total amount of awards of benefit backdated in the relevant year under regulation 72(15) of the 1987 Regulations or 60(18) of the 1989 Regulations (backdated awards of benefit which are over aid or excess benefits).

13. The total rent allowance expenditure in the relevant year attributable to—

- (a) that part of any weekly eligible rents which exceeds any relevant threshold specified in a Subsidy Order under section 30(2) or 31F(2) of the Act for the purpose of calculating subsidy on such rents;
- (b) that part of any weekly eligible rents which were at or below any such threshold; and
- (c) that part of any weekly eligible rents to which any such threshold did not apply excluding cases which have been referred to a rent officer for a determination under section 121 of the Housing Act 1988(**22**) or section 70 of the Housing (Scotland) Act 1988(**23**).

14. The total rent allowance expenditure in the relevant year not attributable to any excess of eligible rent over the threshold in cases to which paragraph 13(a) refers.

15. The total rent allowance expenditure in the relevant year attributable to tenancies which are liable to determinations of the rent officer of the rent which a landlord might reasonably expect to obtain made under Schedule I of the Rent Officers (Additional Functions) Order 1990(**24**) or the Rent Officers (Additional Functions) (Scotland) Order 1990(**25**).

16. The total rent allowance expenditure in the relevant year—

- (a) which is attributable to weekly eligible rents which do not exceed any determination of a rent officer of a reasonable market rent or notional rent, under the Orders to which paragraph 15 refers;
- (b) which is attributable to the difference between the reasonable market rent for the accommodation and the comparable rent for suitably sized properties in cases where the rent officer has determined that accommodation is unreasonably large and is paid for a period of up to 13 calendar weeks;
- (c) which is attributable to that part of the weekly eligible rents which exceeded the rent officer's determination of a reasonable market rent or notional rent, in respect of which no restriction under regulation 11 (restrictions of unreasonable payments) or regulation 12 (restrictions on rent increases) of the 1987 Regulations would be made(**26**) other than expenditure to which sub-paragraph (b) of this paragraph refers;

(21) Regulation 83 was amended by S.I. 1990/834.

(22) 1988 c. 50.

(23) 1988 c. 43.

(24) S.I. 1990/428.

(25) S.I. 1990/396.

(26) S.I. 1987/1971; relevant amending instruments are S.I. 1989/566 and 1990/546.

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- (d) which is attributable to that part of the weekly eligible rents which exceeded a rent officer's determination of a reasonable market rent or notional rent, but excluding amounts to which sub-paragraphs (b) or (c) refer;
 - (e) which is attributable to the eligible rents in respect of deregulated housing association tenancies not referred to the rent officer;
 - (f) which is attributable to cases subject to referral to the rent officer for a determination but where no such determination has been obtained.
- 17.** In Scotland, the total community charge rebate expenditure in the relevant year.
- 18.** The total rate rebate expenditure in the relevant year.
- 19.** The total community charge benefit expenditure in the relevant year.
- 20.** The total expenditure in the relevant year in respect of discretionary increases of benefit where modifications of the 1987 Regulations have been made in accordance with section 28(6) of the Act or modifications of the 1989 Regulations have been made in accordance with section 31B(6) of the Act⁽²⁷⁾.
- 21.** The total expenditure in the relevant year in respect of increases of benefit under either regulation 69(8) of the 1987 Regulations, regulation 57 of the 1988 Regulations, or regulation 58 of the 1989 Regulations (increases of weekly benefit for exceptional circumstances).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations specify the particulars which are required to be provided by an authority to the Secretary of State on the making of claims for housing benefit subsidy and community charge benefit subsidy, the time within which claims for subsidy are to be made and the information and records to be produced to the Secretary of State in support of such claims.

⁽²⁷⁾ Section 31B(6) of the Act was amended in accordance with section 22A(6) of the Act by S.I. [1989/1321](#), regulation 11.