
STATUTORY INSTRUMENTS

2004 No. 646

SOCIAL SECURITY

The Income-related Benefits (Subsidy to Authorities) Amendment Order 2004

<i>Made</i>	- - - -	<i>9th March 2004</i>
<i>Laid before Parliament</i>		<i>11th March 2004</i>
<i>Coming into force</i>	- -	<i>1st April 2004</i>

The Secretary of State for Work and Pensions, in exercise of the powers conferred on him by sections 140B, 140C(1), (1A) and (4), 140F(2) and 189(1) and (4), (5) and (7) of the Social Security Administration Act 1992(1) and of all other powers enabling him in that behalf, with the consent of the Treasury(2) and after consultation with organisations appearing to him to be representative of the authorities concerned(3), hereby makes the following Order:

Citation, commencement, interpretation and extent

1.—(1) This Order may be cited as the Income-related Benefits (Subsidy to Authorities) Amendment Order 2004 and comes into force on 1st April 2004.

(2) In this Order “the 1998 Order” means the Income-related Benefits (Subsidy to Authorities) Order 1998(4).

(3) This Order extends to England and Wales.

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- (1) 1992 c. 5. Sections 140B, 140C and 140F were inserted by paragraph 4 of Schedule 12 to the Housing Act 1996 (c. 52). Section 140B was amended by section 10 of and paragraph 7 of Schedule 1 to the Social Security Administration (Fraud) Act 1997 (c. 47) and paragraph 36 of Schedule 7 to the Local Government Act 2003 (c. 26). Section 140C(1A) was inserted by paragraph 37 of Schedule 7 to the Local Government Act 2003. Section 189(1) and (4) to (6) was amended by paragraph 109 of Schedule 7 to the Social Security Act 1998 (c. 14); section 189(1) was amended by paragraph 57(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 and Schedule 6 to the Tax Credits Act 2002 (c. 21); section 189(7) was amended by paragraph 24 of Schedule 9 to the Local Government Finance Act 1992 (c. 14) and paragraph 10 of Schedule 1 to the Social Security Administration (Fraud) Act 1997.
- (2) See section 189(8) of the Social Security Administration Act 1992 (c. 5), as amended by paragraph 3(5) of Schedule 13 to the Housing Act 1996, paragraph 10 of Schedule 3 to the Social Security (Recovery of Benefits) Act 1997 (c. 27), paragraph 57(3) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) and paragraph 3 of Schedule 4 to the Tax Credits Act 2002 (c. 21).
- (3) See section 176(1) of the Social Security Administration Act 1992; a relevant amendment is paragraph 3(4) of Schedule 13 to the Housing Act 1996.
- (4) S.I.1998/562. A relevant amending instrument is the Income-related Benefits (Subsidy to Authorities) Amendment Order 2003 (S.I. 2003/3179).

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Amendment of the 1998 Order

2. The 1998 Order is amended in accordance with the Schedule to this Order.

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

8th March 2004

Chris Pond
Parliamentary Under-Secretary of State,
Department for Work and Pensions

We consent

9th March 2004

John Heppell
Derek Twigg
Two of the Lords Commissioners of Her
Majesty's Treasury

SCHEDULE

Article 2

AMENDMENTS OF THE 1998 ORDER

1. In article 2 (interpretation of Parts 2 and 4) there is inserted in the appropriate place—
““base data return” means a return pursuant to article 4(4A);”.
2. In article 4 (requirement for claim)—
 - (a) after paragraph (4) there is inserted—
“(4A) In addition to the above returns, an authority in England shall submit to the Secretary of State at the relevant office, on the form supplied by him to the authority and not later than 31st August in the year before the relevant year, a return giving details in relation to subsidy in respect of rebates granted to tenants of dwellings within the authority’s Housing Revenue Account.
(4B) An authority in Wales shall—
 - (a) if required to do so by the Secretary of State, submit to him, at the relevant office, in any of the above claims or returns, or
 - (b) if required to do so by the Secretary of State or the National Assembly for Wales, submit to him or, as the case may be, to them, at the relevant office, by way of an additional return on such form as is supplied by him or them to that authority and not later than such date as he or they may require,
details in relation to subsidy in respect of rebates granted to tenants of dwellings within the authority’s Housing Revenue Account.”, and
 - (b) in paragraph (5)(a) for the words “the officer” onwards there are substituted the words “the authority’s chief finance officer, as defined in section 5(8) of the Local Government and Housing Act 1989, or an officer to whom that officer has made a formal delegation”.
3. In article 6(1) before paragraph (a) there is inserted—
“(ia) shall, in the case of an authority in England, procure that their base data return is audited by the authority’s auditor and that the audited return is submitted to the Secretary of State at the relevant office by 10th October in the year before the relevant year;”.
4. In article 11(1) in the definition of “rebate” the words “excluding in the case of England and Wales, any Housing Revenue Account rebates” are omitted.
5. In article 13(1)(5) (the subsidy to be paid to an authority) in the words following subparagraph (b) for the words “articles 20 and 21(3)” there are substituted the words “articles 20, 20A and 21(3)”.
6. After article 20 the following article is inserted—

“Deductions from subsidy for rebate for dwellings within the Housing Revenue Account

20A.—(1) This article applies—

- (a) in the case of an authority in England, where paragraph 2 of Schedule 4A applies, and
- (b) in the case of an authority in Wales, where paragraph 4 of that Schedule applies.

(2) Where this article applies the deduction from subsidy referred to in article 13(1) shall be calculated—

(5) Article 13 was amended by the Income-related Benefits (Subsidy to Authorities) Amendment Order 2003 (S.I. 2003/3179).

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- (a) in the case of an authority in England, in accordance with paragraph 3 of Schedule 4A, and
- (b) in the case of an authority in Wales, in accordance with paragraph 5 of that Schedule.”.

7. After Schedule 4 the following Schedule is inserted—

“SCHEDULE 4A

Article 20A

RENT REBATE LIMITATION DEDUCTIONS
(HOUSING REVENUE ACCOUNT DWELLINGS)

PART 1

INTERPRETATION

1. In this Schedule—

“HRA” means the Housing Revenue Account of the authority the amount of whose subsidy is under consideration,

“new service” means—

- (a) a service provided in the relevant year that was not provided in 2001–02,
- (b) an extension made after 2001–02 to a service provided in that year, or
- (c) a service provided in the relevant year for which a charge is imposed which is a service which was previously provided without charge because it was funded by a specific grant or subsidy (other than HRA subsidy),

“rent”, in relation to a dwelling, means the total of the payments in respect of the dwelling specified in regulation 10(1) of the Housing Benefit Regulations, other than a payment specified in regulation 10(1)(e),

“service charge”, in relation to a dwelling, means a payment in respect of the dwelling specified in regulation 10(1)(e) of the Housing Benefit Regulations which—

- (a) is eligible for housing benefit at the time it is paid, and
- (b) is not of a type which was specified in paragraphs 2 to 4 of Schedule 1B to the Housing Benefit Regulations while regulation 9 of the Housing Benefit (General) Amendment (No. 3) Regulations 1999⁽⁶⁾ (which inserted that Schedule) had effect,

“void dwelling” means a dwelling that is unoccupied,

“2001–02” means the year beginning with 1st April 2001 (and any corresponding expression in which two years are similarly mentioned is to be read in the same way).

⁽⁶⁾ S.I. 1999/2734. Regulation 9 ceased to have effect on 1st or 7th April 2003 (as the case may be) by virtue of regulation 13 of S.I. 1999/2734, as amended by S.I. 2003/363.

PART 2

ENGLAND

Liability to deduction

2.—(1) This paragraph applies in the case of an authority in England in relation to the relevant year if the authority is specified in the Table in Part 3 of this Schedule for that year and the weekly rent limit for a dwelling that is so specified for the authority is less than the subsidy limitation rent.

(2) The subsidy limitation rent for an authority is equal to

$$Q + (P \times R),$$

where—

- Q is the average weekly rent for a dwelling for the authority for the relevant year (see sub-paragraph (3)),
- P is the average weekly unpooled service charges for the authority for the relevant year (see sub-paragraph (4)), and
- R is the annual factor (see sub-paragraph (7)).

(3) For the purposes of sub-paragraph (2), the average weekly rent for a dwelling for the authority for the relevant year is calculated by—

- (a) dividing the total rent charged for dwellings in the HRA in that year by the total number of dwellings in the HRA in that year, and
- (b) dividing the result by the total number of weeks in that year.

(4) For the purposes of sub-paragraph (2), the average weekly unpooled service charges for the authority are calculated as follows—

Step 1

Find the average weekly service charge for a dwelling for the authority for the relevant year by—

- (a) dividing the total service charges imposed in respect of dwellings in the HRA in that year by the total number of dwellings in the HRA in that year, and
- (b) dividing the result by the total number of weeks in that year.

Step 2

Find the average weekly service charge for a dwelling for the authority for the year 2001–02 by—

- (a) dividing the total service charges imposed for that year in respect of all dwellings that are both in the HRA in that year and in the relevant year by the number of dwellings in the HRA for the relevant year, and
- (b) dividing the result by the total number of weeks in the relevant year.

Step 3

Multiply the result of step 2 by the GDP deflator for the period beginning with the year 2001–02 and ending with the relevant year (see sub-paragraph (6)).

Step 4

Find the average weekly service charge for new services for a dwelling for the authority for the relevant year by—

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- (a) dividing the total charges for new services imposed for that year by the number of all dwellings in the HRA in that year, and
- (b) dividing the result by the total number of weeks in that year.

Step 5

If the result of step 1 exceeds the sum of the results of steps 3 and 4, deduct the sum of those results from the result of step 1.

If the result of step 1 does not exceed the sum of the results of steps 3 and 4, the average weekly unpooled service charges for the authority are nil.

- (5) For the purposes of sub-paragraphs (3) and (4), void dwellings are disregarded.
- (6) The GDP deflator for the period beginning with the year 2001–02 and ending with 2004–05 is 1.0738.
- (7) The annual factor for 2004–05 is 0.7.

Amount of deduction

3.—(1) The amount of the deduction from subsidy referred to in article 20A(2) shall be calculated as follows.

Step 1

Divide the amount of rebates paid by the authority in the relevant year in respect of dwellings in the HRA by the income of the authority for that year from rent and service charges (including rent and charges remitted by way of rebate) in respect of such dwellings.

Step 2

If the result of step 1 does not exceed the rebate proportion in England for the relevant year (see sub-paragraph (3))—

- (a) divide the weekly rent limit for a dwelling for the authority for the relevant year as specified in Part 3 of this Schedule by the subsidy limitation rent (see paragraph 2(2)),
- (b) subtract the result of paragraph (a) from the number 1, and
- (c) multiply the amount of the subsidy (apart from any deduction to be calculated under this Schedule) by the result of paragraph (b).

If the result of step 1 exceeds the rebate proportion in England for the relevant year—

- (i) multiply the amount by which the subsidy limitation rent exceeds the weekly rent limit for a dwelling for the authority for the relevant year as specified in Part 3 of this Schedule by the rebate proportion in England for the relevant year,
- (ii) multiply the subsidy limitation rent by the result of step 1,
- (iii) divide the result of paragraph (i) by the result of paragraph (ii), and
- (iv) multiply the amount of the subsidy (apart from any deduction to be calculated under this Schedule) by the result of paragraph (iii).

(2) For the purposes of the calculation in sub-paragraph (1), void dwellings are to be disregarded.

- (3) The rebate proportion in England for 2004–05 is 0.61.

PART 3
WEEKLY RENT LIMITS FOR PURPOSES
OF PART 2: AUTHORITIES IN ENGLAND

TABLE

RELEVANT YEAR 2004–05

<i>Authority</i>	<i>Weekly rent limit</i>
Adur	£55.96
Alnwick	£42.90
Arun	£63.44
Ashfield	£40.63
Ashford	£59.65
Aylesbury	£57.98
Babergh	£53.43
Barking	£52.66
Barnet	£65.35
Barnsley	£41.88
Barrow	£49.95
Basildon	£51.70
Bassetlaw	£44.89
Berwick	£40.44
Birmingham	£49.69
Blaby	£44.72
Blackpool	£42.67
Blyth Valley	£39.22
Bolsover	£42.30
Bolton	£42.94
Bournemouth	£53.67
Bracknell	£58.86
Braintree	£53.98
Brent	£72.88
Brentwood	£60.44
Bridgnorth	£50.55
Brighton and Hove	£53.80
Bristol	£48.68
Bromsgrove	£47.32

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<i>Authority</i>	<i>Weekly rent limit</i>
Broxbourne	£64.01
Broxtowe	£43.06
Bury	£48.44
Cambridge	£57.57
Camden	£74.09
Cannock Chase	£48.39
Canterbury	£57.51
Caradon	£48.11
Carrick	£45.26
Castle Morpeth	£43.84
Castle Point	£61.80
Charnwood	£43.85
Cheltenham	£54.33
Cherwell	£55.30
Chester-le-Street	£42.98
Chesterfield	£44.52
Chorley	£42.30
City of London	£68.36
City of York	£49.91
Colchester	£53.78
Copeland	£46.83
Corby	£43.97
Crawley	£57.67
Croydon	£72.58
Dacorum	£57.67
Darlington	£44.48
Dartford	£56.90
Daventry	£49.02
Derby	£46.85
Derwentside	£46.13
Doncaster	£42.13
Dover	£58.25
Dudley	£49.65
Durham	£44.65

<i>Authority</i>	<i>Weekly rent limit</i>
Ealing	£71.12
Easington	£44.31
East Devon	£48.09
East Riding	£45.52
Eastbourne	£50.25
Ellesmere Port	£43.04
Enfield	£63.80
Epping Forest	£59.59
Exeter	£46.01
Fareham	£52.26
Fenland	£51.74
Forest Heath	£48.34
Gateshead	£43.91
Gedling	£43.70
Gloucester	£51.88
Gosport	£55.36
Gravesham	£57.16
Great Yarmouth	£43.81
Greenwich	£61.22
Guildford	£65.88
Hackney	£68.92
Halton	£45.40
Hammersmith	£66.62
Harborough	£50.47
Haringey	£68.17
Harlow	£54.46
Harrogate	£54.04
Harrow	£77.02
Hartlepool	£45.66
Havering	£55.91
High Peak	£49.14
Hillingdon	£76.04
Hinckley	£45.45
Hounslow	£64.74

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<i>Authority</i>	<i>Weekly rent limit</i>
Hyndburn	£46.65
Ipswich	£48.07
Isles of Scilly	£55.48
Islington	£71.91
Kensington	£79.83
Kettering	£47.60
Kings Lynn	£47.86
Kingston upon Hull	£43.49
Kingston upon Thames	£74.48
Kirklees	£46.47
Lambeth	£68.32
Lancaster	£47.12
Leeds	£43.55
Leicester	£46.49
Lewes	£56.07
Lewisham	£58.19
Lincoln	£39.95
Liverpool	£47.86
Luton	£51.20
Macclesfield	£50.18
Maidstone	£59.02
Manchester	£53.75
Mansfield	£38.30
Medway Towns	£52.05
Melton	£44.36
Merton	£62.19
Mid Devon	£51.10
Mid Suffolk	£51.60
Middlesbrough	£50.51
Milton Keynes	£48.78
Mole Valley	£56.72
North East Derbyshire	£42.97
North West Leicester	£45.91
New Forest	£60.60

<i>Authority</i>	<i>Weekly rent limit</i>
Newark	£46.10
Newcastle upon Tyne	£44.63
Newham	£59.26
North Cornwall	£49.00
North East Lincolnshire	£44.69
North Kesteven	£44.93
North Lincoln	£41.28
North Norfolk	£48.33
North Shropshire	£46.44
North Somerset	£58.81
North Tyneside	£42.44
North Warwick	£48.22
Northampton	£48.44
Norwich	£47.23
Nottingham	£44.08
Nuneaton	£45.37
Oadby and Wigston	£45.36
Oldham	£43.11
Oswestry	£47.22
Oxford City	£59.28
Pendle	£44.66
Peterborough	£48.86
Plymouth	£40.60
Poole	£53.50
Portsmouth	£51.53
Preston	£48.29
Purbeck	£60.09
Reading	£69.02
Redbridge	£74.72
Redditch	£47.69
Ribble Valley	£44.78
Richmondshire	£49.23
Rochdale	£45.04
Rochford	£54.05

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<i>Authority</i>	<i>Weekly rent limit</i>
Rossendale	£44.99
Rotherham	£40.81
Rugby	£49.72
Runnymede	£67.60
Rutland	£51.37
Salford	£49.40
Salisbury	£60.77
Sandwell	£53.14
Scarborough	£50.47
Sedgefield	£41.92
Sedgemoor	£52.95
Sefton	£50.09
Selby	£49.14
Sheffield	£41.77
Shepway	£53.41
Slough	£64.21
Solihull	£51.28
South Bedfordshire	£57.41
South Cambridgeshire	£57.35
South Derbyshire	£45.94
South Gloucestershire	£53.61
South Holland	£42.68
South Kesteven	£44.69
South Lakeland	£51.43
South Norfolk	£49.85
South Northants	£55.95
South Tyneside	£41.72
Southampton	£50.61
Southend-on-Sea	£55.41
Southwark	£62.75
St Albans	£59.74
Stafford	£43.91
Stevenage	£60.6
Stockport	£43.64

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<i>Authority</i>	<i>Weekly rent limit</i>
Stockton	£45.2
Stoke-on-Trent	£46.22
Stroud	£52.99
Sutton	£60.85
Swindon	£48.04
Tamworth	£50.51
Tandridge	£57.64
Taunton Deane	£49.59
Teesdale	£44.94
Teignbridge	£49.46
Tendring	£50.93
Thanet	£54.16
Three Rivers	£61.51
Thurrock	£51.91
Torridge	£44.25
Tower Hamlets	£61.63
Trafford	£49.76
Uttlesford	£61.11
Wakefield	£43.95
Waltham Forest	£59.97
Wandsworth	£73.82
Wansbeck	£38.69
Warrington	£44.64
Warwick	£53.95
Watford	£59.50
Waveney	£48.01
Waverley	£62.72
Wealden	£52.31
Wear Valley	£44.32
Wellingborough	£44.92
Welwyn Hatfield	£57.28
West Lancashire	£46.67
Westminster	£78.63
Wigan	£44.07

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<i>Authority</i>	<i>Weekly rent limit</i>
Winchester	£60.47
Wirral	£53.15
Woking	£67.29
Wokingham	£64.14
Wolverhampton	£45.65
Worcester	£46.36
Wycombe	£66.63

PART 4

WALES

Liability to deduction

4. This paragraph applies in the case of an authority in Wales in relation to the relevant year if the authority is specified in the Table in Part 5 of this Schedule for that year and

$O + P$ is less than Q ,

where—

- O is the amount specified in column 1 of that Table for the authority,
- P is the guideline rent increase specified in column 2 of that Table for the authority, and
- Q is the average weekly rent for a dwelling for the authority for the relevant year (see paragraph 2(3)).

Amount of deduction

5.—(1) The amount of the deduction from subsidy referred to in article 20A(2) shall be calculated as follows.

Step 1

Divide the amount of rebates granted by the authority in the relevant year in respect of dwellings in the HRA by the income of the authority for that year from rent (including rent remitted by way of rebate) in respect of such dwellings.

Step 2

If the result of step 1 does not exceed the rebate proportion for the relevant year (see sub-paragraph (2))—

- (a) deduct $(O + P)$ from Q (see paragraph 4),
- (b) divide the result of paragraph (a) by Q ,
- (c) multiply the amount of the subsidy (apart from any deduction to be calculated under this Schedule) by the result of paragraph (b).

If the result of step 1 exceeds the rebate proportion for the relevant year—

- (i) deduct $(O + P)$ from Q (see paragraph 4),
- (ii) divide the result of paragraph (i) by Q ,

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- (iii) divide the rebate proportion for Wales (see sub-paragraph (2)) by the result of step 1,
 - (iv) multiply the result of paragraph (ii) by the result of paragraph (iii),
 - (v) multiply the amount of the subsidy (apart from any deduction to be calculated under this Schedule) by the result of paragraph (iv).
- (2) The rebate proportion for Wales for each relevant year commencing with 2004–05 is 0.66.

PART 5

AMOUNTS FOR PURPOSES OF PART 4, PARAGRAPH 4: AUTHORITIES IN WALES

TABLE

RELEVANT YEAR 2004–05

<i>Authority</i>	<i>Specified amount "O"</i>	<i>Guideline rent increase</i>
Blaenau Gwent	£44.71	£1.19
Caerphilly	£48.48	£1.65
Cardiff	£52.84	£2.02
Carmarthenshire	£44.51	£1.65
Ceredigion	£48.57	£1.82
Conwy	£45.32	£2.22
Denbighshire	£43.48	£1.67
Flintshire	£44.79	£1.96
Gwynedd	£44.57	£1.93
Isle of Anglesey	£43.98	£1.76
Merthyr Tydfil	£42.79	£1.20
Monmouthshire	£52.12	£2.28
Neath Port Talbot	£44.79	£1.50
Newport	£49.26	£1.81
Pembrokeshire	£44.45	£2.03
Powys	£47.07	£2.01
Rhondda, Cynon, Taff	£44.45	£1.69
Swansea	£46.42	£1.60
Torfaen	£50.76	£1.52
Vale of Glamorgan	£52.15	£1.88
Wrexham	£42.51	£1.86"

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EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made in consequence of the amendments made by the Local Government Act 2003 extending the provisions in sections 140A to 140G of the Social Security Administration Act 1992 concerning housing benefit subsidy to include subsidy in respect of rent rebates in England and Wales in respect of dwellings within authorities' Housing Revenue Accounts. The Order amends the Income-related Benefits (Subsidy to Authorities) Order 1998 (“the 1998 Order”), which makes provision about claims for and calculation and payment of subsidy, so as to make provision about subsidy in respect of those rent rebates.

Article 2 introduces the Schedule to the Order which contains detailed amendments of the 1998 Order.

Paragraph 2 of the Schedule amends article 4 of the 1998 Order so as to require that authorities in England make base data returns to the Secretary of State by 31st August in the year before the relevant year (that is, the year in which the rent rebate subsidy in question will be paid) giving information relating to the subsidy, and provide that authorities in Wales may be asked to give such information by the Secretary of State or the National Assembly for Wales.

Paragraph 3 of the Schedule amends article 6 of the 1998 Order so as to require that an audited copy of the base data return is sent to the Secretary of State by 10th October in the year before the relevant year.

Paragraph 4 of the Schedule amends the definition of “rebate” in article 11(1) of the 1998 Order so as to remove the words that exclude Housing Revenue Account rebates by local authorities in England and Wales, and so extends all the existing provisions of the 1998 Order that apply to rebates to those rebates.

Paragraph 5 of the Schedule amends article 13(1) of the 1998 Order, which provides for the amount of the subsidy, so that the amount specified there is subject to any deductions applicable under a new article, article 20A, that is inserted by paragraph 6 of the Schedule. Article 20A makes provision for deductions from rent rebate subsidy to be made in accordance with a new Schedule to the Order, Schedule 4A, that is inserted by paragraph 7.

Schedule 4A contains 5 Parts. Part 1 contains provisions about interpretation of expressions used in the Schedule and applies to the whole Schedule. Parts 2 and 3 of the Schedule only apply to local authorities in England and Parts 4 and 5 only apply to authorities in Wales.

Paragraph 2 of Schedule 4A deals with when a deduction may be made from the subsidy payable to authorities in England. It provides that the weekly rent limit for a dwelling for the authority must be less than the subsidy limitation rent. The weekly rent limits for those authorities which have dwellings within their Housing Revenue Accounts are specified for each year in a Table in Part 3 of the Schedule. Paragraph 2 of Schedule 4A explains how the subsidy limitation rent is calculated. Paragraph 3 of Schedule 4A sets out how the amount of the deduction is to be calculated.

In the case of authorities in Wales, paragraph 4 of Schedule 4A sets out a formula for determining if a deduction is to be made from the subsidy payable to an authority. A deduction is made if the sum of two amounts that are specified as respects the authority in the Table in Part 5 of Schedule 4A is less than the average amount of rent for a dwelling of the authority. Paragraph 5 of Schedule 4A sets out how the amount of the deduction is to be calculated.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

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