



Social Security and Housing Benefits Act 1982

1982 CHAPTER 24

PART II

HOUSING BENEFITS

28 The statutory schemes

- (1) The Secretary of State may by regulations make, with the consent of the Treasury—
- (a) a scheme (in this Part referred to as "the statutory rate rebate scheme ") for the grant, by rating authorities to persons who occupy as their homes dwellings in respect of which they are liable to make payments by way of rates (whether to those authorities or to other persons), of rebates from those payments (in this Part referred to as rate rebates);
 - (b) a scheme (in this Part referred to as "the statutory rent rebate scheme") for the grant, by housing authorities to persons who occupy as their homes dwellings in respect of which they are liable to make to those authorities payments otherwise than by way of rates, of rebates from those payments (in this Part referred to as rent rebates); and
 - (c) a scheme (in this Part referred to as " the statutory rent allowance scheme ") for the grant, by local authorities to persons who occupy as their homes dwellings in the areas of those authorities in respect of which they are liable to make payments not falling within paragraph (a) or (b) above, of allowances towards those payments (in this Part referred to as rent allowances),
- being (in each case) rebates or allowances determined in accordance with the provisions of the scheme by reference to the needs and resources of those persons.
- (2) Regulations under subsection (1) above may in particular provide—
- (a) for treating any person who, without being liable to do so, makes payments in respect of a dwelling as if he were so liable;
 - (b) for treating any person who occupies a dwelling other wise than as his home as if he occupied it as his home ;

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- (c) for treating any one or more of the joint occupiers of a dwelling as if he or they were the only occupiers ;
 - (d) for treating as included in a dwelling any land used for the purposes of the dwelling ;
 - (e) for enabling any rate rebate or rent allowance to be so applied as to discharge, in whole or in part, the liability to which it relates ;
 - (f) for enabling any rebate or allowance granted to a person not entitled to it to be recovered by the authority or the Secretary of State, and to be so recovered by deduction from a prescribed benefit; and
 - (g) for enabling any person to exercise a discretion in dealing with any matter;
- and may make such transitional provision as appears to the Secretary of State to be necessary or expedient.
- (3) References in this section to payments in respect of dwellings do not include mortgage payments or, in Scotland, payments under heritable securities but, subject to that, they include any payments in respect of dwellings including, in particular—
- (a) payments under tenancies of dwellings or licences or, in Scotland, rights or permissions to occupy dwellings; and
 - (b) payments for services performed or facilities provided for, or rights made available to, the occupiers of dwellings.
- (4) In this section—
- " dwelling " means any residential accommodation, whether or not consisting of the whole or part of a building and whether or not comprising separate and self-contained premises;
 - " prescribed " means specified in or determined in accordance with regulations.
- (5) The provisions of this section and section 30 below have effect in substitution for the following enactments, namely—
- (a) Part II of and Schedules 3 and 4 to the Housing Finance Act 1972, sections 11 to 14 of the Local Government Act 1974 and section 20 of the Development of Rural Wales Act 1976 (which make provision, in relation to England and Wales, for rent rebates, rent allowances and rate rebates); and
 - (b) Part II of and Schedules 2 and 3 to the Housing (Financial Provisions) (Scotland) Act 1972 and sections 112 to 114 of the Local Government (Scotland) Act 1973 (which make corresponding provision in relation to Scotland);
- and those enactments are accordingly repealed.

29 Variation of needs allowances

- (1) In each review period the Secretary of State shall review, for the purpose of determining whether they have retained their value, both the main and housing elements of any needs allowances specified in regulations made under section 28(1) above.
- (2) Following the reviews for any review period the Secretary of State may prepare and lay before Parliament a draft of regulations under section 28(1) above increasing one or more needs allowances by such amount as he considers appropriate; and any draft regulations so prepared shall be framed so as to bring the increases in the needs allowances to which they relate into force before the end of the review period.

- (3) If draft regulations laid before Parliament in pursuance of this section are approved by a resolution of each House, the Secretary of State shall make regulations in the form of the draft.
- (4) If after completing the reviews for any review period the Secretary of State considers that the main or housing elements of any needs allowances will not have retained their value at the end of that period, but decides—
- (a) not to prepare and lay before Parliament a draft of regulations increasing one or more of those allowances ; or
 - (b) to prepare and so lay the draft of regulations which provide for no increase in any one or more of those allowances, or for an increase in any of them which is less than the appropriate amount,
- he shall, unless in his opinion the amount by which those elements will not have retained their value or, as the case may be, the amount by which the increase is less than the appropriate amount is inconsiderable, lay before Parliament a report explaining his reasons for so deciding.
- (5) In this section—
- " appropriate amount ", in relation to a needs allowance, means the amount by which the allowance would, in the opinion of the Secretary of State, have to be increased in order to restore the value at the end of the review period of such of its main and housing elements as, in his opinion, will not have retained their value at the end of that period ;
- " housing element " and " main element ", in relation to a needs allowance, mean respectively—
- (a) the part of that allowance which, in the opinion of the Secretary of State, represents housing costs; and
 - (b) the remaining part of that allowance ;
- " needs allowance " means an amount to be allowed, in the determination of rebates or allowances, for the needs of an occupier and (where appropriate) the needs of any other person or persons whose needs fall to be aggregated with his;
- " prices " does not include housing costs ;
- " review period " means a period of twelve months ending with 30th November in the year 1983 or any subsequent year;
- " value "—
- (a) in relation to the main element of a needs allowance, means value in relation to the general level of prices obtaining in Great Britain; and
 - (b) in relation to the housing element of such an allowance, means value in relation to the general level of housing costs so obtaining.
- (6) For the purpose of carrying out the reviews for any review period the Secretary of State shall estimate the general level of prices obtaining in Great Britain and the general level of housing costs so obtaining in such manner as he thinks fit.

30 Local schemes

- (1) Subject to the following provisions of this section—
- (a) a rating authority may by resolution provide that, in its application to the authority, the statutory rate rebate scheme shall have effect with the modifications specified in the resolution;

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- (b) a housing authority may by resolution provide that, in its application to the authority, the statutory rent rebate scheme shall have effect with the modifications specified in the resolution; and
- (c) a local authority may by resolution provide that, in its application to the authority, the statutory rent allowance scheme shall have effect with the modifications specified in the resolution ;

and in this Part " local rate rebate scheme ", " local rent rebate scheme" and " local rent allowance scheme " mean (in each case) the corresponding statutory scheme as so modified.

- (2) The power to modify a statutory scheme under this section shall be subject to any exceptions specified in the scheme ; but nothing in such a scheme shall preclude the making of modifications which secure that, in determining the resources of any person (whether the occupier or any other person whose resources fall to be aggregated with his), any war disablement pension or war widow's pension payable to that person shall be disregarded.

In this subsection " war disablement pension" and " war widow's pension " have the same meanings as in the Pensioners' Payments and Social Security Act 1979.

- (3) No modifications under this section shall be such that a person to whom the statutory scheme would otherwise apply receives a rebate or allowance less than that which he would have received under that scheme; and where a local authority make modifications of either statutory rent scheme, they shall also make such modifications (if any) of the other statutory rent scheme as appear to them to correspond to those modifications.
- (4) Modifications under this section shall be so framed as to secure that, in the estimate of the authority, the total of the rebates or allowances which will be granted by the authority under the local scheme in any year will not exceed the permitted total of rebates or allowances for that year.
- (5) Modifications under this section may be revoked or varied by a further resolution of the authority.
- (6) In relation to a local scheme, the permitted total of rebates or allowances for any year shall be an amount calculated, in the manner prescribed by regulations made by the Secretary of State with the consent of the Treasury, by reference to the rebates or allowances which, if—
 - (a) the local scheme had not been in force ; and
 - (b) the statutory scheme had had effect with such modifications (if any) as may be prescribed by the regulations,
 would have been granted by the authority under the statutory scheme during that year.

31 Publicity for schemes

- (1) Every authority granting rebates or allowances under a statutory or local scheme shall—
 - (a) take such steps as may appear to them appropriate for the purpose of securing that the provisions of the scheme come to the notice of any persons who may be entitled to a rebate or allowance under the scheme;
 - (b) make copies of the scheme available for public inspection at their principal office at all reasonable hours without payment; and

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- (c) in the case of a local scheme, furnish a copy to any person on payment of such reasonable sum as the authority may determine.
- (2) If it appears to the Secretary of State that the steps taken by such an authority are inadequate for the purpose mentioned in subsection (1)(a) above, he may give to the authority directions requiring them to take such steps for that purpose as are specified in the directions.

32 Subsidies to authorities

- (1) For the initial year and each subsequent year the Secretary of State shall pay out of money provided by Parliament—
- (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
 - (c) a subsidy to be known as " rent allowance subsidy " to each local authority.
- (2) Subject to subsection (3) below, an authority's subsidy for any year shall be of an amount calculated, in the manner prescribed by an order made by the Secretary of State with the consent of the Treasury, by reference to—
- (a) in the case of an authority granting rebates or allowances under the statutory scheme during that year or any part of it, the rebates or allowances so granted or, if the order so provides, the rebates or allowances which, if the scheme had had effect with the modifications prescribed by the order, would have been granted by the authority under the scheme during that year or, as the case may be, that part of it;
 - (b) in the case of an authority granting rebates or allowances under a local scheme during that year or any part of it, the rebates or allowances which, if—
 - (i) the local scheme had not been in force; and
 - (ii) the statutory scheme had had effect with such modifications (if any) as may be prescribed by the order,would have been granted by the authority under the statutory scheme during that year or, as the case may be, that part of it; and
 - (c) in any case, such of the costs of administering rebates or allowances incurred by the authority during the year as may be determined in the manner prescribed by the order.
- (3) The amount of an authority's subsidy for any year shall not be less than the aggregate of—
- (a) in the case of an authority falling within paragraph (a) of subsection (2) above, 90 per cent, of the rebates or allowances mentioned in that paragraph;
 - (b) in the case of an authority falling within paragraph (b) of that subsection, 90 per cent, of the rebates or allowances mentioned in that paragraph; and
 - (c) in any case, the costs mentioned in paragraph (c) of that subsection.
- (4) Rent rebate subsidy shall be payable—
- (a) in the case of a local authority in England and Wales or the Greater London Council.—
 - (i) for the credit of their Housing Revenue Account to the extent that it is calculated by reference to Housing Revenue Account rebates and the costs of administering such rebates ; and

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- (ii) for the credit of their general rate fund to the extent that it is not so calculated:
 - (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 the Scottish Special Housing Association, for the credit of the account to which rent rebates granted by them are debited.
- (5) Rent allowance subsidy shall be payable—
 - (a) in the case of a local authority in England and Wales, 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.
- (6) In this section " initial year " means the period of twelve months ending with 31st March 1983.
- (7) The provisions of this section and sections 33 and 34 below have effect in substitution for the following enactments, namely—
 - (a) section 8(1) of the Local Government Act 1974, section 3 of the Housing Rents and Subsidies Act 1975, section 19 of the Development of Rural Wales Act 1976 and section 117 of the Housing Act 1980 (which make provision, in relation to England and Wales, for rate rebate grants and rent rebate and rent allowance subsidies) ; and
 - (b) sections 5, 6 and 11 of the Housing (Financial Provisions) (Scotland) Act 1972 and section 115 of the Local Government (Scotland) Act 1973 (which make corresponding provision for Scotland);
 and those enactments are accordingly repealed.

33 Administration of subsidies

- (1) Any subsidy under section 32 above shall be payable by the Secretary of State at such times and in such manner as the Treasury may direct, but subject to such conditions as to records, certificates, audit or otherwise as the Secretary of State may, with the approval of the Treasury, impose.
- (2) Without prejudice to the generality of subsection (1) above, the making of any such payment shall be subject to the making of a claim for it in such form and containing such particulars as the Secretary of State may from time to time determine.
- (3) The amount of any subsidy payable to an authority under section 32 above 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.

34 Rate fund contributions and rate support grant

- (1) Every local authority and the Greater London Council shall make for each year a rate fund contribution to their Housing Revenue Account of an amount equal to the difference between so much of their rent rebate subsidy for the year as is credited to that Account and the total of the Housing Revenue Account rebates granted, and the

costs of administering such rebates incurred, by the authority or Council during the year.

- (2) If an order made by the Secretary of State with the consent of the Treasury so provides, the items mentioned in subsection (3) below, or such proportion thereof as may be calculated in the manner prescribed by the order, shall not count as relevant expenditure for the purposes of section 54 of the Local Government, Planning and Land Act 1980 (rate support grant).
- (3) The items referred to in subsection (2) above are—
- (a) the costs of administering rate rebates incurred by a rating authority during any year ;
 - (b) the rate fund contribution under subsection (1) above made by a local authority or the Greater London Council for any year;
 - (c) the costs of administering rent rebates (other than Housing Revenue Account rebates) incurred by a local - authority or the Greater London Council during any year;
 - (d) the rent allowances granted, and the costs of administering such allowances incurred, by a local authority during any year.
- (4) In this section " rate fund contribution " means a contribution made by a local authority or the Greater London Council out of their general rate fund.
- (5) This section extends to England and Wales only.

35 Interpretation of Part II

- (1) In this Part, unless the context otherwise requires—
- " housing authority " means a local authority, a new town corporation, the Greater London Council, the Scottish Special Housing Association or the Development Board for Rural Wales;
- " Housing Revenue Account rebate ", in relation to a local authority in England and Wales or the Greater London Council, means a rent rebate granted to a tenant of a Housing Revenue Account dwelling (within the meaning of the Housing Finance Act 1972) of that authority or Council and includes, unless the context otherwise requires.—
- (a) a rent rebate which, on the assumptions stated in section 32(2) above, would have been granted to such a tenant; and
 - (b) a rent rebate which is to be so granted ;
- " local authority " means—
- (a) in relation to England and Wales, the council of a district or London borough, the Common Council of the City of London or the Council of the Isles of Stilly ; and
 - (b) in relation to Scotland, an islands or district council;
- " local rate rebate scheme ", " local rent rebate scheme " and "local rent allowance scheme" have the meanings given by section 30 above and " local scheme " and " local rent scheme " shall be construed accordingly ;
- " new town corporation " means—
- (a) in relation to England and Wales, a development corporation established under the New Towns Act 1981 or the Commission for the New Towns; and

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- (b) in relation to Scotland, a development corporation established under the New Towns (Scotland) Act 1968;
 - " rate rebate ", " rent rebate " and " rent allowance " shall be construed in accordance with section 28 above ;
 - " rates " and " rating authority "—
 - (a) in relation to England and Wales, have the same meanings as in the General Rate Act 1967; and
 - (b) in relation to Scotland, have respectively the same meanings as " rate " has in section 379 of the Local Government (Scotland) Act 1947 and "rating authority" has in section 109 of the Local Government (Scotland) Act 1973;
 - " statutory rate rebate scheme", " statutory rent rebate scheme " and " statutory rent allowance scheme " have the meanings given by section 28 above and " statutory scheme " and " statutory rent scheme " shall be construed accordingly.

- (2) References in this Part to the general rate fund of an authority shall be construed—
 - (a) in relation to the Greater London Council or the Council of the Isles of Scilly, as references to their general fund; and
 - (b) in relation to the Common Council of the City of London, as references to their general rate.

36 Other supplementary provisions

- (1) Before making—
 - (a) regulations under section 28(1) above other than regulations of which the effect is to increase any amount specified in regulations previously made ;
 - (b) regulations under section 30(6) above ; or
 - (c) an order under section 32(2) above,
 the Secretary of State shall consult with organisations appearing to him to be representative of the authorities concerned.
- (2) Where, in consequence of the foregoing provisions of this Part, regulations under the Supplementary Benefits Act 1976 contain provisions excluding any items from those to which housing requirements for the purposes of Schedule 1 to that Act relate, the regulations may also contain such provision as the Secretary of State considers appropriate for dealing with transitional matters connected with or arising out of the coming into force of that provision.
- (3) Authorities shall supply the Secretary of State with such information in their possession as may be required to give effect to the said Act of 1976; and the Secretary of State shall supply authorities with such information concerning claims for and payments of supplementary benefits (within the meaning of that Act) as authorities may require to give effect to statutory and local schemes.
- (4) In order to assist authorities to give effect to statutory and local schemes, where a rent is registered under Part IV of the Rent Act 1977, there shall be noted on the register the amount (if any) of the registered rent which, in the opinion of the rent officer or rent assessment committee, is fairly attributable to the provision of services, but excepting any amount which in the opinion of the rent officer or, as the case may be, the rent assessment committee is negligible.