STATUTORY INSTRUMENTS

1986 No. 2042

LOCAL GOVERNMENT, ENGLAND AND WALES

LOCAL GOVERNMENT, SCOTLAND

The Housing Benefits (Subsidy) Order 1986

Made - - - - -	*25th November* 1986
Laid before Parliament	*8th December* 1986
Coming into Operation	*29th December* 1986

The Secretary of State for Social Services, with the consent of the Treasury, in exercise of the powers conferred upon him by section 32(2) of the Social Security and Housing Benefits Act 1982**(a)**, and of all other powers enabling him in that behalf, after consultation in accordance with section 36(1) of that Act with organisations appearing to him to be representative of authorities concerned hereby makes the following Order:—

Citation, commencement and interpretation

1.—(1) This order, which may be cited as the Housing Benefits (Subsidy) Order 1986, shall come into operation on 29th December 1986.

(2) In this order, unless the context otherwise requires—

"the Act" means the Social Security and Housing Benefits Act 1982;

"scheme" means either a statutory scheme in accordance with section 28 of the Act or a local scheme in accordance with section 30 thereof;

"subsidy" means rate rebate subsidy, rent rebate subsidy or rent allowance subsidy under section 32 of the Act,

and other expressions have the same meaning as in the Housing Benefits Regulations 1985**(b)**.

Amount of subsidy

2. Subject to section 32(2) of the Act, the amount of subsidy payable to an authority under section 32 of the Act for the year beginning 1st April 1986 shall be the total of the amounts specified in articles 3, 4 and 6 of this order.

(a) 1982 c. 24, as amended by section 22 of the Social Security Act 1985 (c. 53).
(b) S.I. 1985/677, as amended by S.I. 1985/1100, 1244, 1445, 1986/84, 852, 1009 and 1156.

Rebates or allowances

3. The amount of subsidy payable to an authority listed in column (1) of the Schedule hereto in respect of rebates or allowances granted by that authority under its scheme shall be the percentage specified in relation to that authority in either column (2) or column (3) of that Schedule as may be appropriate in any particular case of the total of rebates or allowances granted by that authority during the year or, in the case of an authority administering a local scheme in accordance with section 30 of the Act, the total of rebates or allowances which would have been granted by that authority during the year under the statutory scheme less, in either case, any deductions specified in article 5 of this Order which fall to be made from that total.

Administration costs

4. The amount of subsidy in respect of administration costs shall be—

(*a*) for a new town corporation, the Scottish Special Housing Association, or the Development Board for Rural Wales, 100%,

(*b*) in respect of an authority other than one specified in paragraph (*a*) of this article—

(i) for an authority in England, 60%,

(ii) for an authority in Scotland, 65%,

(iii) for an authority in Wales, 70%,

of costs reasonably incurred by the authority during the year in administering its scheme.

Deductions from subsidy in respect of rebates or allowances

5.—(1) The deductions referred to in article 3 of this order are deductions of the following amounts:—

(*a*) where a tenant of an authority is or, if he were not in receipt of a rent rebate, would be able to choose whether or not to be provided with any services, facilities or rights or to choose whether or not to provide those services, facilities or rights for himself (whether or not in return for an award or grant from the appropriate authority) while continuing to occupy or, as the case may be, when entering into occupation of a dwelling as his home either under his existing tenancy agreement or by entering into a new agreement, the amounts attributable to those items (whether or not those amounts form part of the sum fixed as rent or are otherwise reserved as rent);

(*b*) where a person is, will be, or may become, entitled to a rent-free period which does not fall to be taken into account in calculating the amount of rent rebate to which he is entitled in accordance with the Housing Benefits Regulations 1985 the amount of rebate which is payable to him for the period beginning with the date of the award and equal to the length of the award;

(*c*) where an authority charges a person to whom regulation 9 applies a rent higher than that charged to any of its other tenants in respect of a similar dwelling for a reason relating to the fact that regulation 9 applies to him, the amount of rebate to which he is entitled by reference to the additional amount of the rent;

(*d*) any amounts awarded by an authority under regulation 25 of the Housing Benefits Regulations 1985;

(*e*) where an authority makes an award to one of its tenants in receipt of housing benefit in the form of a payment of money or money's worth, a credit to the person's rent account, or in some other form, and whether or not the person is immediately entitled to the award, the amount of the award, but no such deduction shall be made in respect of an award—

(i) made to a tenant for a reason unrelated to the fact that he is a tenant,

(ii) made under a statutory obligation,

(iii) for a purpose specified in or under statute made in exercise of a discretion where the circumstances in which that discretion may be exercised are also specified as aforesaid,

(iv) made as reasonable compensation for work actually carried out by the tenant in carrying out reasonable repairs or redecoration which the authority would otherwise have carried out or be required to carry out,

(v) of a reasonable amount made as compensation for loss, damage or inconvenience of a kind which occurs only irregularly suffered by the tenant by virtue of his occupation of his home.

Overpayment of rebates or allowances

6.—(1) Where an authority makes an overpayment of housing benefit, subsidy shall be payable in accordance with paragraph (2) of this article.

(2) Subject to paragraph (3), subsidy under paragraph (1) of this article shall be payable in certificated cases only, and in such a case the amount of subsidy shall be the following percentage of the difference between the amount of the overpayment and the amount, if any, of the overpayment recovered by the authority—

(*a*) in respect of an overpayment caused by an error of the authority making the payment, 100%; and

(*b*) in respect of any other overpayment—

(i) in the case of an authority referred to in paragraph 1 or 2 of the Schedule to this order, 100%, and

(ii) in the case of an authority referred to in paragraph 3 of the Schedule to this order, 100.6%.

(3) The total amount of subsidy payable to an authority during the year in respect of an overpayment to which paragraph (2)(*a*) above applies shall not exceed 0.19% of the aggregate of—

(*a*) the total of rebates and allowances granted by that authority during the year in certificated cases, and

(*b*) the total of any overpayments made by that authority to which paragraph (2)(*b*) above applies less any amount of those overpayments recovered by that authority.

(4) In this article "overpayment" means any amount paid by way of housing benefit to which there was no entitlement under the Housing Benefits Regulations 1985, including any excess of housing benefit actually paid over the amount to which there was in fact entitlement under those regulations and including any amount in excess of the amount, if any, of benefit which would have been due had a certificate under regulation 9 of those regulations not been issued or, as the case may be, had such a certificate been cancelled.

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

John Major,
Minister of State,
Department of Health and Social Security.

21st November 1986.

We consent,

Peter Lloyd,
Tim Sainsbury,
Two of the Lords Commissioners of
Her Majesty's Treasury.

25th November 1986.

Article 3 SCHEDULE

PERCENTAGE OF REBATES OR ALLOWANCES PAYABLE FOR WHICH SUBSIDY IS PAYABLE

(1) Authority granting rebates or allowances	(2) Percentage payable in certificated cases	(3) Percentage payable in cases other than those specified in column (2)
1. The Scottish Special Housing Association or a new town corporation in Scotland.	1. 100%	1. 100%
2. A new town corporation in England or Wales or the Development Board for Rural Wales.	2. 100%	2. 90%
3. Any authority other than one specified in paragraph 1 or 2	3. 100.6%	3. 90%

EXPLANATORY NOTE

(*This Note is not part of the Order.*)

This Order sets out the manner in which the subsidy payable under section 32 of the Social Security and Housing Benefits Act 1982 to authorities who grant rate rebates, rent rebates or rent allowances under that Act is to be calculated in respect of the year beginning 1st April 1986.

Articles 3 and 5 and the Schedule set out the basis on which the subsidy in respect of rebates and allowances is to be calculated and article 4 the basis of calculating the amount of subsidy in respect of administration costs. The amount of subsidy in respect of rebates and allowances is to be the percentage (set out in the Schedule) of the rebates or allowances granted by an authority under the statutory scheme less the deductions set out in article 5. The amount of subsidy in respect of administration costs is to be the percentage (set out in article 4) of the costs reasonably incurred by an authority. Article 6 sets out the subsidy to be paid in respect of overpayments of benefit in certain cases.

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