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## SCHEDULES

### SCHEDULE 12

Section 121.

#### ADMINISTRATION OF HOUSING BENEFIT, &C

##### *Administration of housing benefit*

- 1 (1) Section 134 of the <sup>M1</sup>Social Security Administration Act 1992 (arrangements for housing benefit) is amended as follows.
- (2) For subsection (1) (administering authority and form of benefit) substitute—
- “(1) Housing benefit provided by virtue of a scheme under section 123 of the <sup>M2</sup>Social Security Contributions and Benefits Act 1992 (in this Part referred to as “the housing benefit scheme”) shall be funded and administered by the appropriate housing authority or local authority.
- (1A) Housing benefit in respect of payments which the occupier of a dwelling is liable to make to a housing authority shall take the form of a rent rebate or, in prescribed cases, a rent allowance funded and administered by that authority.
- The cases that may be so prescribed do not include any where the payment is in respect of property within the authority’s Housing Revenue Account.
- (1B) In any other case housing benefit shall take the form of a rent allowance funded and administered by the local authority for the area in which the dwelling is situated or by such other local authority as is specified by an order made by the Secretary of State.”.
- (3) In subsection (2)(b) omit the words “or rates”.
- (4) Omit subsections (3), (4), (6) and (7).
- (5) For subsection (5) (agreements with other authorities for carrying out of functions) substitute—
- “(5) Authorities may—
- (a) agree that one shall discharge functions relating to housing benefit on another’s behalf; or
- (b) discharge any such functions jointly or arrange for their discharge by a joint committee.
- (5A) Nothing in this section shall be read as excluding the general provisions of the <sup>M3</sup>Local Government Act 1972 or the <sup>M4</sup>Local Government (Scotland) Act 1973 from applying in relation to the housing benefit functions of a local authority.”.
- (6) In subsection (9) for the words from “the rebates or allowances” to the end substitute “the housing benefit which will be paid by the authority in any year will not exceed

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the permitted total or any subsidiary limit specified by order of the Secretary of State.

”.

(7) In subsection (11) for the words from “the rebates or allowances” to the end substitute “the housing benefit paid by them during the year exceeds the permitted total or any subsidiary limit specified by order of the Secretary of State.”.

(8) For subsection (12) substitute—

“(12) The Secretary of State—

- (a) shall by order specify the permitted total of housing benefit payable by any authority in any year; and
- (b) may by order specify one or more subsidiary limits on the amount of housing benefit payable by any authority in any year in respect of any matter or matters specified in the order.

The power to specify the permitted total or a subsidiary limit may be exercised by fixing an amount or by providing rules for its calculation.”.

**Marginal Citations**

- M1** 1992 c. 5.
- M2** 1992 c. 4.
- M3** 1972 c. 70.
- M4** 1973 c. 65.

*Administration of council tax benefit*

2 In section 138 of the <sup>M5</sup>Social Security Administration Act 1992 (council tax benefit: nature of benefit), at the end of subsection (1) insert—

“References in any enactment or instrument (whenever passed or made) to payment, in relation to council tax benefit, include any of those ways of giving the benefit.

”.

**Marginal Citations**

- M5** 1992 c. 5.

3 (1) Section 139 of the Social Security Administration Act 1992 (arrangements for council tax benefit) is amended as follows.

(2) For subsections (4) and (5) (agreements with other authorities for carrying out of functions) substitute—

“(4) Nothing in this section shall be read as excluding the general provisions of the Local Government Act 1972 or the Local Government (Scotland) Act 1973 from applying in relation to the council tax benefit functions of a local authority.”.

(3) In subsection (7) for the words from “the benefits which will be allowed” to the end substitute “the amount of benefit which will be paid by them in any year will not

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exceed the permitted total or any subsidiary limit specified by order of the Secretary of State. ”.

(4) In subsection (9) for the words from “the benefits allowed by it” to the end substitute “ the amount of benefit paid by them in any year exceeds the permitted total or any subsidiary limit specified by order of the Secretary of State. ”.

(5) For subsection (10) substitute—

“(10) The Secretary of State—

- (a) shall by order specify the permitted total of council tax benefit payable by any authority in any year; and
- (b) may by order specify one or more subsidiary limits on the amount of council tax benefit payable by any authority in any year in respect of any matter or matters specified in the order.

The power to specify the permitted total or a subsidiary limit may be exercised by fixing an amount or by providing rules for its calculation.”.

#### *Subsidy*

4 After section 140 of the <sup>M6</sup>Social Security Administration Act 1992 insert—

#### *“ Subsidy*

#### **140A Subsidy.**

- (1) For each year the Secretary of State shall pay a subsidy to each authority administering housing benefit or council tax benefit.
- (2) He shall pay—
  - (a) rent rebate subsidy to each housing authority;
  - (b) rent allowance subsidy to each local authority; and
  - (c) council tax benefit subsidy to each billing authority or levying authority.
- (3) In the following provisions of this Part “subsidy”, without more, refers to subsidy of any of those descriptions.

#### **140B Calculation of amount of subsidy.**

- (1) The amount of subsidy to be paid to an authority shall be calculated in the manner specified by order made by the Secretary of State.
- (2) Subject as follows, the amount of subsidy shall be calculated by reference to the amount of relevant benefit paid by the authority during the year, with any additions specified in the order but subject to any deductions so specified.

In the case of a housing authority in England and Wales, any Housing Revenue Account rebates paid by them shall be excluded from the total.
- (3) The order may provide that the amount of subsidy in respect of any matter shall be a fixed sum or shall be nil.

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- (4) The Secretary of State may deduct from the amount which would otherwise be payable by way of subsidy such amount as he considers it unreasonable to pay by way of subsidy.
- (5) The Secretary of State may pay to an authority as part of the subsidy an additional amount in respect of the costs of administering the relevant benefit.  
  
Any such additional amount shall be a fixed sum specified by, or shall be calculated in the manner specified by, an order made by the Secretary of State.
- (6) In this section “relevant benefit” means housing benefit or council tax benefit, as the case may be.
- (7) Nothing in this section shall be taken to imply that any such addition or deduction as is mentioned in subsection (2) or (4) above may not be determined by reference to—
  - (a) the amount of relevant benefit paid by the authority during a previous year; or
  - (b) the amount of subsidy paid to the authority in respect of a previous year, under this section.
- (8) The amount of subsidy payable to an authority shall be calculated to the nearest pound, disregarding an odd amount of 50 pence or less and treating an odd amount exceeding 50 pence as a whole pound.

#### **140C Payment of subsidy.**

- (1) Subsidy shall be paid by the Secretary of State in such instalments, at such times, in such manner and subject to such conditions as to claims, records, certificates, audit or otherwise as may be provided by order of the Secretary of State.
- (2) The order may provide that if an authority has not, within such period as may be specified in the order, complied with the conditions so specified as to claims, records, certificate, audit or otherwise, the Secretary of State may estimate the amount of subsidy payable to the authority and employ for that purpose such criteria as he considers relevant.
- (3) Where subsidy has been paid to an authority and it appears to the Secretary of State—
  - (a) that subsidy has been overpaid; or
  - (b) that there has been a breach of any condition specified in an order under this section,
 he may recover from the authority the whole or such part of the payment as he may determine.  
  
Without prejudice to other methods of recovery, a sum recoverable under this subsection may be recovered by withholding or reducing subsidy.
- (4) An order made by the Secretary of State under this section may be made before, during or after the end of the year or years to which it relates.

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#### **140D Rent rebate subsidy: accounting provisions.**

- (1) Rent rebate subsidy is payable—
  - (a) in the case of a local authority in England and Wales, for the credit of a revenue account of theirs other than their Housing Revenue Account or 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 development 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.
- (2) 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 paid by them during the year as was paid—
    - (i) in the exercise of a discretion conferred by the housing benefit scheme; or
    - (ii) in pursuance of any modification of that scheme under section 134(8)(b) above; and
  - (b) unless the authority otherwise determine, so much of each such rebate as was paid in pursuance of such modifications of that scheme as are mentioned in section 134(8)(a) above.

#### *Supplementary provisions*

#### **140E Financing of joint arrangements.**

- (1) Where two or more authorities make arrangements for the discharge of any of their functions relating to housing benefit or council tax benefit—
  - (a) by one authority on behalf of itself and one or more other authorities; or
  - (b) by a joint committee,the Secretary of State may make such payments as he thinks fit to the authority or committee in respect of their expenses in carrying out those functions.
- (2) The provisions of sections 140B and 140C (subsidy: calculation and supplementary provisions) apply in relation to a payment under this section as in relation to a payment of subsidy.
- (3) The Secretary of State may (without prejudice to the generality of his powers in relation to the amount of subsidy) take into account the fact that an amount has been paid under this section in respect of expenses which would otherwise have been met in whole or in part by the participating authorities.

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#### **140F No requirement for annual orders.**

- (1) Any power under this Part to make provision by order for or in relation to a year does not require the making of a new order each year.
- (2) Any order made under the power may be revoked or varied at any time, whether before, during or after the year to which it relates.

#### **140G Interpretation: Part VIII.**

In this Part, unless the context otherwise requires—

“Housing Repairs Account” means an account kept under section 77 of the <sup>M7</sup>Local Government and Housing Act 1989;

“Housing Revenue Account” means the account kept under section 74 of the Local Government and Housing Act 1989, and—

- (a) references to property within that account have the same meaning as in Part VI of that Act, and
- (b) “Housing Revenue Account rebate” means a rebate debited to that account in accordance with that Part;

“rent rebate subsidy” and “rent allowance subsidy” shall be construed in accordance with section 134 above;

“year” means a financial year within the meaning of the <sup>M8</sup>Local Government Finance Act 1992.”.

#### **Modifications etc. (not altering text)**

**C1** Sch. 12 para. 4 extended (5.3.1997) by S.I. 1997/618, art. 2, **Sch. para. 5**

#### **Marginal Citations**

**M6** 1992 c. 5.

**M7** 1989 c. 42.

**M8** 1992 c. 14.

#### *Transitional provision*

- 5 (1) The Secretary of State may by order make such transitional provision, and such consequential provision and savings, as appear to him appropriate in connection with the coming into force of the provisions of this Schedule.
- (2) Without prejudice to the generality of that power, the order may provide for the recovery by the withholding or reduction of subsidy payable under the provisions inserted by paragraph 4 above of any amount which would have been recoverable under the provisions of Part VIII of the <sup>M9</sup>Social Security Administration Act 1992 repealed by this Act.
- (3) Section 189(3) to (7) of the Social Security Administration Act 1992 (general provisions as to regulations and orders) apply in relation to the power conferred by sub-paragraph (1) as they apply in relation to a power conferred by that Act to make an order.

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- (4) A statutory instrument containing an order under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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**Marginal Citations**

**M9** 1992 c. 5.

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**Changes and effects yet to be applied to :**

- Sch. 12 repealed by [2012 c. 5 Sch. 14 Pt. 1](#)
- specified provision(s) savings for amendments by 2018 anaw 1, s. 6, Sch. 6 by [S.I. 2019/110 reg. 5](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act savings and transitional provisions for amendments by S.I. 2022/1166 by [S.I. 2022/1172 Regulations](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 124(1A) inserted by [2016 c. 22 Sch. 7 para. 20\(2\)](#)
- s. 124(6) inserted by [2016 c. 22 Sch. 7 para. 20\(6\)](#)
- s. 124A124B inserted by [2016 c. 22 Sch. 7 para. 21](#)
- s. 125A(3A)(3B) inserted by [2016 c. 22 Sch. 7 para. 22\(3\)](#)
- s. 130A inserted by [2016 c. 22 Sch. 8 para. 7](#)
- s. 133(1A) inserted by [2016 c. 22 Sch. 8 para. 9\(2\)](#)
- s. 143J(3A) inserted by [2016 c. 22 Sch. 8 para. 13\(2\)](#)
- s. 143J(7)(a) words omitted by [S.I. 2022/1166 reg. 25\(11\)\(b\)](#) (This amendment comes into force immediately after 2016 c. 22, s. 120 and Sch. 8 para. 13(3) come into force)
- s. 143GA143GB inserted by [2016 c. 22 Sch. 8 para. 10](#)
- s. 143MA(3A)-(3D) inserted by [2016 c. 22 Sch. 7 para. 27\(3\)](#)
- s. 143MB inserted by [2016 c. 22 Sch. 7 para. 28](#)
- Sch. 2 para. 10A(1A) inserted by [2024 c. 22 Sch. 13 para. 6\(3\)](#)
- Sch. 2 para. 10A(6) inserted by [2024 c. 22 Sch. 13 para. 6\(6\)](#)