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SCHEDULES

SCHEDULE 3

REBATES AND ALLOWANCES: PROCEDURE

PART I

GENERAL

Introductory

- 1 (1) Subject to the provisions of this Schedule, an authority may pay a rebate or allowance at any time and in any manner that they think fit.
- (2) Where in the case of a rental period exceeding one month a local authority—
- (a) receive an application for a rebate or allowance ; or
 - (b) determine under paragraph 5 or 6 below that the rebate period or allowance period shall terminate ; or
 - (c) determine under paragraph 5 or 6 below that the rebate or allowance shall be altered; or
 - (d) receive an application for a further rebate or allowance under paragraph 10 below,
- the provisions of this Schedule shall have effect as if any reference to a rental period were a reference to a period of one month and as if the rental period had always been one month since the commencement of the rental period.
- (3) Where an authority for administrative convenience arrange for the year's rent to be paid irregularly, or so that no rent is payable for or collected in certain periods, or so that rent for different periods in the year is of different amounts, the provisions of this Schedule shall be applied, and all calculations shall be made, by reference to the rent which would have been paid if the arrangements had not been made.
- (4) Where—
- (a) a house to which a local authority's housing revenue account relates or a development corporation house or a Scottish Special Housing Association house is let to one of two spouses, or one of two spouses is a private tenant, and
 - (b) the house is not occupied by the tenant, and
 - (c) the other spouse is in occupation of the house and has paid the rent in respect of any rental period,
- the authority may, if in their opinion it is reasonable to do so, treat the spouse who has paid the rent as the tenant for the purposes of this Schedule and grant a rebate, or, as the case may be, an allowance accordingly.

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- (5) In the following provisions of this Schedule "tenant" includes, subject to paragraph 16(6) below, a person treated as a tenant under this paragraph or paragraph 4 or 5 of Schedule 2 above.
- (6) In this paragraph "spouse" has the same meaning as in paragraph 2 of Schedule 2 to this Act except that it includes a spouse living apart, but otherwise in this Schedule "spouse" has the same meaning as in the said paragraph 2.

Applications for rebates and allowances

- 2 (1) When an authority receive an application for a rebate or allowance whether before or after their rebate scheme or allowance scheme comes into operation, it shall be their duty, subject to sub-paragraph (2) below, to determine whether the applicant is entitled to a rebate or an allowance and, if so, the amount to which he is so entitled; and they shall request him in writing to furnish such information and such evidence as they may reasonably require for that purpose as to the following matters namely—
 - (a) the persons who reside in the house occupied by him ;
 - (b) the rent and other charges in respect of any sub-letting of the house;
 - (c) his other income and, if he has a spouse, the income of his spouse,
 and shall include with the request a notice to the applicant of the duty under paragraph 5 of this Schedule to report to the authority changes of circumstances such as are mentioned in that paragraph.
- (2) An authority shall be under no duty to grant a rebate or an allowance unless they are satisfied that the applicant has furnished all such information and evidence as they require for the purpose of determining whether he is entitled to a rebate or an allowance.
- (3) An application may be withdrawn at any time, and if an application is withdrawn the authority shall upon the withdrawal cease to be under any duty to make a determination on it, or to take any further step in relation to it.

Assessment of income

- 3 (1) If an authority are satisfied on an application for a rebate or an allowance that the applicant is eligible for consideration for a rebate or an allowance, it shall be their duty to assess the amount which is likely to be the income of the applicant and of any spouse of his during the rebate period or, as the case may be, the allowance period.
- (2) In so far as a person's income consists of earnings from a gainful occupation, the amount which is likely to be the income shall be calculated or estimated by reference to the average of his earnings from that occupation over a period ending with his last pay-day before the application and being a period—
 - (a) of five weeks, if he is paid weekly,
 - (b) of two months, if he is paid monthly,
 so, however, that in any case the authority may have regard to the average of a person's earnings from a gainful occupation over such other period or periods as appear to them to be appropriate in order properly to assess the amount which is likely to be his income during the rebate period or the allowance period, as the case may be.
- (3) In so far as a person's earnings from any gainful occupation comprise salary, wages or fees related to a fixed period, the gross amount of his salary, wages or fees shall be

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taken into account; and in so far as a person's earnings from any gainful occupation do not comprise salary, wages or fees related to a fixed period, the net profit derived from that occupation shall be taken into account.

- (4) In so far as a person's income does not consist of earnings from a gainful occupation, its weekly amount shall be calculated or estimated, subject to sub-paragraph (5) below, on such basis as appears to the authority to be appropriate in the circumstances of the particular case.
- (5) The Secretary of State may give directions to authorities in general as to the manner in which they are to calculate the income of persons who belong to classes of persons to whom payments are made by virtue of any enactment which in his opinion are not taxable and are of amounts calculated on the basis that they are not taxable.
- (6) In this paragraph—
 - " net profit " means profit after deduction of expenses but without deduction of income tax or of contributions payable by him under the National Insurance Act 1965 except contributions paid otherwise than as an insured person ; and
 - " pay-day " means an occasion on which earnings are paid.
- (7) Where any amount which is payable or calculated otherwise than as a weekly amount falls to be taken into account for the purposes of this paragraph, it shall be converted into the weekly amount which represents it, and that amount shall be treated as the relevant amount for those purposes.

Rebate period and allowance period

- 4 (1) Where a rebate or an allowance is first granted, the rebate period or allowance period shall commence at the commencement of the rental period in which the application for a rebate or an allowance was received.
- (2) A rebate period and an allowance period shall end, subject to paragraphs 5 and 6 below—
 - (a) if the tenant is of pensionable age, not later than twelve months after the date on which he was notified that his application for a rebate or an allowance was granted ; and
 - (b) in any other case, not later than six months after that date.
- 5 (1) If at any time between the making of an application for a rebate or an allowance and any determination made on that application there is a change of circumstances such that the applicant may be reasonably expected to know that it may reduce the amount to which he is entitled, it shall be the duty of the applicant to notify the authority of that change.
- (2) If after a rebate or an allowance has been granted to a tenant and before the end of the rebate period or allowance period there is a change of circumstances such that the tenant may be reasonably expected to know that it may affect his entitlement or reduce the amount to which he is entitled, it shall be the duty of the tenant to notify the authority of that change.
- (3) If during a rebate period or an allowance period an authority receive a notification of a change of circumstances under sub-paragraph (2) above, or consider, without receiving such a notification, that there has been such a change in the tenant's circumstances as will affect the tenant's entitlement or reduce the amount to which he

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is entitled, the authority shall determine, according to the circumstances, either that the period shall terminate on a date earlier than it would otherwise terminate or that the amount of rebate or allowance shall be altered in respect of such rental period or periods as they consider appropriate.

- 6 (1) If during a rebate period or an allowance period an authority receive from a tenant a notification of a change of circumstances relating to him which might entitle him to a higher rebate or allowance, the authority, if they are of the opinion, after obtaining and considering such information and evidence as they require, that the tenant is entitled to a higher rebate or allowance, shall determine, according to the circumstances, either that the period shall terminate on a date earlier than that on which it would otherwise terminate, or that the amount of rebate or allowance shall be increased in respect of any rental period or periods commencing after the date on which the circumstances changed.
- (2) If an authority determine under sub-paragraph (1) above that a rebate period or allowance period ought to terminate, they shall invite the tenant to submit a further application for a rebate, or, as the case may be, an allowance.
- 7 If there is such an alteration in the terms of a rebate scheme or allowance scheme or in the rent as to affect the amount of rebate or allowance to which a tenant is entitled, the authority shall make such alterations as may be appropriate in the amount of his rebate or allowance.
- 8 It shall not be the duty of an authority to alter a rebate or allowance under paragraph 5, 6 or 7 above if the alteration would be equal to or less than 20 new pence.
- 9 Without prejudice to any other right to recover the amount of any rebate or allowance which has been wrongly granted, where any person has received a rebate or allowance to which he was not entitled, it may be recovered from him by deduction from sums which would otherwise be granted to him by way of rebate or allowance.

Application for further rebate or allowance

- 10 (1) A tenant to whom a rebate or allowance has been granted may apply to the authority for a further rebate or allowance commencing with the first rental period after the end of the current rebate period or allowance period.
- (2) An application under sub-paragraph (1) above need not be entertained if it is made more than one month before the end of the current period.
- (3) If the application is made not later than one month after the end of that period, the new rebate period or allowance period shall commence with the first rental period to commence after the end of the former rebate or allowance period.
- (4) If the application is made at any later date, the new period shall commence with the first rental period after the date of the application:
- Provided that the authority may, if in their opinion the circumstances are exceptional, allow the new period to commence with the first rental period to commence after the end of the former rebate or allowance period.
- (5) Subject to this paragraph, the provisions of this Schedule shall apply on an application for a further rebate or allowance as they apply on a first application.

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Transitional

- 11 Where—
- (a) the whole or part of a person's rent under a tenancy was met by a rebate for the rental period immediately preceding that in which the rebate scheme under this Act of the authority who granted him that rebate comes into operation; and
 - (b) the terms on which the rebate was granted for that rental period are identical with those on which rebates are to be granted under the rebate scheme under this Act, or conform with directions made by the Secretary of State,
- the authority may treat him, for all the purposes of this Schedule or Schedule 2 to this Act, as if he were a person to whom they had granted under this Act a rebate for the first rental period after the rebate scheme under this Act came into operation.

Provisions applying only to allowances

- 12 (1) An authority may require from any person who has applied for or who is in receipt of an allowance evidence—
- (a) of his interest in the house in respect of which his application was made or the allowance is paid ;
 - (b) of the rent paid for the house in respect of the rental period in which his application was made or any other rental period in the allowance period.
- (2) An authority may terminate an allowance period or pay the allowance to the tenant's landlord for any rental period within the allowance period if they are satisfied that the tenant is not paying rent regularly to his landlord or if the tenant is unable to show the amount of rent paid in respect of any rental period within the allowance period.
- (3) In paying an allowance, an authority—
- (a) shall comply with such general or particular directions as the Secretary of State may from time to time give as to the frequency of payment;
 - (b) shall have regard, subject to sub-paragraph (2) above, to the reasonable needs and convenience of the tenant.
- 13 The authority may withhold an allowance where the landlord of a private tenant is residing with the tenant, or where the landlord is a member of the family of a private tenant and it appears to the authority that the tenancy was created to take advantage of any allowance scheme.
- 14 In ascertaining the amount of an allowance the authority shall have regard, where the rent is registered, to any amount noted on the register in pursuance of section 43(1A) of the Act of 1971.
- 15 (1) In ascertaining the amount of an allowance the authority shall disregard—
- (a) where the rent is payable under a controlled tenancy, any rent paid in excess of the rent limit under Part V of the Act of 1971,
 - (b) where the rent is payable under a regulated tenancy and a rent is registered for the dwelling-house, any rent paid in excess of the rent limit under Part III of the Act of 1971 or in excess of the amount which is for the time being recoverable under Schedule 13 to the Act of 1971 or under Schedule 6 to this Act,
 - (c) where the rent is payable under such a tenancy as is described in paragraph (b) above, but no rent is registered for the dwelling-house, or where the rent is payable under such a tenancy as is described in

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paragraph (d) below and the rent limit is determined under section 62(3) of this Act, and the authority are not satisfied that the rent paid is equal to or less than the fair rent, as estimated by the authority, any rent paid in excess of that estimated fair rent,

- (d) where the rent is payable under a tenancy to which sections 60 to 66 of this Act apply and the rent limit is not determined under section 62(3) of this Act, any rent paid in excess of the rent limit under those sections,
- (e) where there is in operation, with respect to the dwelling-house, any such condition relating to rent as is described in section 40(5) of the Act of 1971 (conditions attached to financial assistance for housing), any rent paid in excess of any limit of rent imposed by the conditions,
- (f) where the rent is not payable under a regulated or controlled tenancy or a tenancy to which sections 60 to 66 of this Act apply and the authority are not satisfied that the rent is equal to or less than the fair rent as estimated by the authority which would be determined if the tenancy were subject to rent regulation, any rent paid in excess of that estimated rent.

- (2) Nothing in sub-paragraph (1) above shall affect the operation of paragraph 17 of Schedule 2 to this Act.
- (3) Where after paying any rent a tenant becomes entitled, under section 31 of the Act of 1971 or otherwise, to recover part of that rent as being in excess of any such limit as is described in sub-paragraph (1) above, the authority shall ascertain what the amount of the allowance would have been if the tenant had not paid the rent he is entitled to recover ; and the excess of the allowance actually granted over that amount shall be treated for the purposes of paragraph 9 of this Schedule as an allowance which has been wrongly granted.
- (4) Expressions used in this paragraph and in the Act of 1971 have the same meaning in this paragraph as in that Act.

General duty of authority as to determinations

- 16 (1) It shall be the duty of an authority to notify a tenant in writing of every determination which they make under their rebate scheme or allowance scheme in relation to him.
- (2) A tenant may make representations to an authority concerning a determination which they make in relation to him, and if an authority receive such a representation from a tenant within one month of their notification to him of such a determination they shall consider the representation and may alter or confirm the determination according to the circumstances, and if they alter or confirm it they shall notify the tenant in writing of their reasons for doing so.
- (3) Every notification of a determination shall include a notice to the tenant explaining the provisions of sub-paragraph (2) above.
- (4) When an authority determine to treat as the tenant, in pursuance of paragraph 5 of Schedule 2 above, a person who is not the tenant within the meaning of section 22 of this Act, it shall be their duty to notify of that determination both the person who will fall to be treated as the tenant as a result of the determination and the person who would have been considered eligible for a rebate or an allowance but for the determination.
- (5) When an authority determine to treat as the tenant, in pursuance of paragraph 4 of Schedule 2 above or paragraph 1 of this Schedule, a person who is not the tenant or,

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as the case may be, not the sole tenant, within the meaning of section 22 of this Act, it shall be their duty to notify of that determination the person who will fall to be treated as the tenant as a result of it and to take such (if any) steps as they consider reasonable to notify of the determination the person or persons who would have been considered eligible for a rebate or an allowance but for the determination.

- (6) The references to the tenant in sub-paragraphs (2) and (3) above shall accordingly be construed as including every person to whom sub-paragraph (4) or (5) above applies.
- (7) Where an authority notify a tenant of a determination to grant him a rebate or an allowance their notification shall state the amount of the rebate or allowance granted, the rebate period or allowance period and the circumstances in which the amount or the period may be altered, and draw his attention to the duty imposed on him by paragraph 5(2) above.