
STATUTORY INSTRUMENTS

1989 No. 607

The Housing Benefit (Subsidy) Order 1989

Deductions to be made in calculating subsidy in respect of rebates or allowances

10. The deductions referred to in article 1(3) are of the following amounts where—

- (a) a tenant of an authority, who is in receipt of rent rebate, while continuing to occupy, or when entering into occupation of, a dwelling as his home, either under his existing tenancy agreement or by entering into a new tenancy agreement—
 - (i) is during, or was at any time prior to, the relevant year able to choose whether or not to be provided with any services, facilities or rights and chooses or chose to be so provided; or
 - (ii) is during, or was at any time prior to, the relevant year able to choose either to be provided with any services or facilities or, whether or not in return for an award or grant from the authority, to provide such services or facilities for himself; or
 - (iii) would be able during, or would have been able at any time prior to, the relevant year to exercise the choice set out in sub-paragraph (i) or (ii) of this paragraph if he were not or had not at that time been in receipt of a rent rebate,the amounts attributable during the relevant year to such services, facilities or rights whether they are or would be expressed as part of the sum fixed as rent, otherwise reserved as rent or expressed as an award or grant from the authority;
- (b) during the relevant year a person becomes entitled to a rent-free period which has not been, or does not fall to be, taken into account in calculating the amount of rent rebate to which he is entitled under the Regulations, the amount of rebate which is or was payable to him in respect of such rent-free period;
- (c) during the relevant year an award in the form of a payment of money or monies worth, a credit to the person's rent account or in some other form is made by an authority to one of its tenants in receipt of rent rebate, whether or not the person is immediately entitled to the award, the amount or value 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) made under section 137 of the Local Government Act 1972⁽¹⁾ (Power of local authorities to incur expenditure for certain purposes not otherwise authorised);
 - (iv) except where paragraph (a)(ii) applies, made as reasonable compensation for reasonable repairs or redecoration the tenant has, or has caused to be, carried out whether for payment or not and which the authority would otherwise have carried out or have been required to carry out; or

⁽¹⁾ 1972 c. 70; section 137 was amended by the Local Government (Miscellaneous Provisions) Act 1982 (c. 30), section 44; the Local Government Finance Act 1982 (c. 32), section 34, Schedule 5, paragraph 5; and by the Local Government Act 1986 (c. 10), section 3.

- (v) of a reasonable amount made as compensation for loss, damage or inconvenience of a kind which occurs only exceptionally suffered by the tenant by virtue of his occupation of his home;
- (d) during the relevant year the weekly amount of rebate or allowance is increased under paragraph (8) of regulation 69 of the Regulations (calculations of weekly amounts), the amount of such increase;
- (e) during the relevant year a rebate has been paid in advance and an overpayment has occurred because a change in the circumstances of the recipient has reduced or eliminated entitlement to such rebate, the amount overpaid calculated from the end of the second benefit week after the recipient has disclosed such change of circumstances to the authority;
- (f) during the relevant year an overpayment of rebate or allowance has occurred in circumstances to which regulation 91A of the Regulations⁽²⁾ (payment on account of a rent or rate rebate), or regulation 4A of the Housing Benefit (Transitional) Regulations 1987⁽³⁾ (payments on account of housing benefit) applies, the amount of such overpayment;
- (g) during the relevant year rebate or allowance has been granted under the Social Security and Housing Benefits Act 1982 in excess of entitlement to a person in respect of accommodation provided under—
 - (i) sections 21 to 24 and 26 of the National Assistance Act 1948 (provision of accommodation);
 - (ii) section 21(1) of and paragraph 1 or 2 of Schedule 8 to the National Health Service Act 1977 (prevention, care and after-care); or
 - (iii) section 59 of the Social Work (Scotland) Act 1968 (provision of residential and other establishments) where board is available to the claimant,the amount of such overpayment.

(2) Regulation 91A was inserted by S.I. 1988/661, regulation 8.

(3) S.I. 1987/1972; regulation 4A was inserted by S.I. 1988/458, regulation 2.