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STATUTORY INSTRUMENTS

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**1992 No. 739**

**The Housing Benefit and Community  
Charge Benefit (Subsidy) Order 1992**

**PART III**

**Community Charge Benefit Subsidy**

**Interpretation of Part III**

**16.**—(1) In this Part of this Order, unless the context otherwise requires—

“the Act” means the Social Security Act 1986<sup>(1)</sup>;

“appropriate authority” means a charging authority to which section 31B(2) of the Act (arrangements for benefits) refers or, as the case may be, in Scotland, a levying authority to which section 31B(3) of the Act<sup>(2)</sup> refers;

“community charge benefit subsidy” means subsidy under section 31F of the Act<sup>(3)</sup>;

“excess benefits” has the meaning assigned to it by regulation 83 of the Community Charge Benefits Regulations<sup>(4)</sup>;

“relevant year” means the year ending 31st March 1992;

“the Community Charge Benefits Regulations” means the Community Charge Benefits (General) Regulations 1989<sup>(5)</sup>,

and other expressions shall have the same meanings as in the Community Charge Benefits Regulations.

(2) In this part of this Order “community charge benefit qualifying expenditure” means the total of community charge benefits allowed by the appropriate authority during the relevant year, less—

(a) the deductions specified in article 22; and

(b) where, under subsection (6) of section 31B of the Act<sup>(6)</sup> (arrangements for community charge benefit), the appropriate authority has modified any part of the scheme administered by it, any amount by which the total of the community charge benefits which it granted under the scheme during the relevant year exceeds the total of those which it would have granted if the scheme had not been so modified.

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(1) 1986 c. 50.

(2) Section 31B of the Social Security Act 1986 was inserted by the Local Government Finance Act 1988 (c. 41), Schedule 10, paragraph 6.

(3) Section 31F of the Social Security Act 1986 was inserted by the Local Government Finance Act 1988, Schedule 10, paragraph 6.

(4) Regulation 83 was amended by regulation 24 of S.I.1990/834.

(5) S.I. 1989/1321, amended by S.I. 1990/834, 835, 1549, 1657, 1773, 1991/234, 849 and 1599.

(6) Section 31B(6) allows modifications of the community charge benefit scheme so as to provide for the disregard from income of a war disablement pension or a war widow's pension.

### **Amount of community charge benefit subsidy**

17. The amount of an appropriate authority's community charge benefit subsidy for the relevant year—

- (a) for the purposes of section 31F(2) of the Act (subsidy in respect of community charge benefit) shall be the amount or total of the amounts calculated in accordance with article 18;
- (b) for the purposes of section 31F(5) of the Act (subsidy in respect of the costs of administering community charge benefits) may include an additional sum in respect of the costs of administering community charge benefits calculated in accordance with Schedule 2.

### **Community charge benefit**

18. For the purposes of section 31F(2) of the Act, an appropriate authority's community charge benefit subsidy for the relevant year shall be—

- (a) in the case of an appropriate authority to which articles 19 and 20 do not apply, 95 per cent. of its community charge benefit qualifying expenditure;
- (b) in the case of an appropriate authority to which at least one of those articles is relevant an amount equal to the aggregate of—
  - (i) 95 per cent. of so much of its community charge benefit qualifying expenditure as remains after deducting the amount of expenditure attributable to the community charge benefit to which each of those articles which is relevant applies; plus
  - (ii) the appropriate amount calculated in respect of the community charge benefit under each such article,plus, in each case, the addition, where applicable, under article 21.

### **Backdated benefit**

19. Where—

- (a) during the relevant year an appropriate authority has, under paragraph (18) of regulation 60 of the Community Charge Benefits Regulations (time and manner in which claims are to be made), treated any claim for a community charge benefit as made on a day earlier than that on which it is made; and
- (b) any part of that appropriate authority's community charge benefit qualifying expenditure is attributable to such earlier period,

for the purposes of article 18(b)(ii), the appropriate amount for the relevant year in respect of such part shall be 25 per cent. of the community charge benefit qualifying expenditure so attributable.

### **Excess community charge benefits**

20.—(1) Where any part of an appropriate authority's community charge benefit qualifying expenditure is attributable to excess benefits both allowed and discovered in the relevant year, for the purposes of article 18(b)(ii), the appropriate amount for the year in respect of such part shall be calculated in accordance with paragraph (2).

(2) Subject to paragraph (3), the appropriate amount shall be—

- (a) in the case of excess benefits allowed in consequence of an error of the appropriate authority making the payment, 15 per cent. of the community charge benefit qualifying expenditure attributable to the excess benefits; and

- (b) in the case of excess benefits allowed in consequence of an official error, 95 per cent. of that part of the community charge benefit qualifying expenditure attributable to the excess benefits as has not been recovered by the appropriate authority and nil per cent. of that part of the community charge benefit qualifying expenditure attributable to the excess benefits as has been recovered by the appropriate authority; and
- (c) in the case of technical excess benefits allowed, 15 per cent. of that part of the community charge benefit qualifying expenditure attributable to the excess benefits, for a period not exceeding 2 benefit weeks, beginning with the benefit week after the week in which the change of circumstances is disclosed to the appropriate authority, and thereafter nil per cent. of the community charge benefit qualifying expenditure attributable to the excess benefits; and
- (d) where benefits have been allowed in advance and the appropriate authority subsequently identifies recoverable excess benefits which do not arise from a change in circumstances, the amount appropriate to the excess benefits as specified in paragraph (2)(a) or (e) of this article, as the case may be, for a period continuing not later than 2 benefit weeks, beginning with the benefit week after the week in which those excess benefits are so identified by that authority, and thereafter nil per cent. of the community charge benefit qualifying expenditure attributable to those excess benefits; and
- (e) in the case of any other excess benefits allowed, 25 per cent. of that part of the community charge benefit qualifying expenditure attributable to the excess benefits.

(3) In paragraph 2(b) and article 21(b)(ii) “excess benefits allowed in consequence of an official error” means excess benefits in consequence of a mistake made or something done or omitted to be done by an officer of the Department of Social Security or the Department of Employment acting as such, or a decision of an adjudication officer, social security appeal tribunal or Social Security Commissioner appointed in accordance with section 97 of the Social Security Act 1975(7) where the claimant, a person acting on his behalf or any other person to whom the payment is made did not cause or materially contribute to that mistake, act or omission.

(4) In paragraph 2(c) and article 21(b)(iii) “technical excess benefits” means that part of excess benefits which occurs as a result of benefits being allowed in advance and a change in circumstances reduces or eliminates entitlement to those benefits beginning with the benefit week next following the week in which the change is disclosed to the appropriate authority.

(5) This article shall not apply to an award of benefit to which paragraph (18) of regulation 60 of the Community Charge Benefits Regulations (time and manner in which claims are to be made) applies.

### **Addition to community charge benefit subsidy**

**21.** The addition referred to in article 18 shall be of the following amounts—

- (a) in a case where, following the loss, destruction or non-receipt, or alleged loss, destruction or non-receipt of original instruments of payment, an appropriate authority makes duplicate payments and the original instruments have been or are subsequently encashed, an amount equal to 25 per cent. of the amount of the duplicate payments;
- (b) in a case where it is discovered by an appropriate authority, during the relevant year, that excess benefits have been allowed in the year ending 31st March 1991, and an amount is to be deducted under article 22 in relation to those excess benefits, an amount equal to—
  - (i) where the excess benefits are allowed in consequence of an error of the appropriate authority making the payment, 15 per cent. of the excess benefits;

- (ii) where the excess benefits are allowed in consequence of an official error, within the meaning of article 20(3), 95 per cent. of that part of the excess benefits which have not been recovered by the appropriate authority and nil per cent. of the remainder of the excess benefits;
- (iii) where technical excess benefits, within the meaning of article 20(4), are allowed, 15 per cent. of the excess benefits for a period not exceeding 2 benefit weeks, beginning with the benefit week after the week in which the change of circumstances is disclosed to the appropriate authority and nil per cent. of the excess benefit for any period thereafter;
- (iv) where excess benefits are allowed for any other reason, 25 per cent. of the excess benefits.

### **Deductions to be made in calculating subsidy in respect of community charge benefit**

**22.**—(1) The deductions referred to in article 16(2) are, subject to paragraph (2), of the following amounts—

- (a) where an appropriate authority has allowed excess community charge benefit falling within regulation 83(a) to (d) of the Community Charge Benefits Regulations<sup>(8)</sup> (meaning of excess benefits), the amount attributable to that excess;
- (b) where an appropriate authority has by virtue of regulation 58 of the Community Charge Benefits Regulations<sup>(9)</sup> (increase of weekly amounts for exceptional circumstances) increased benefit in exceptional circumstances, the amount attributable to that increase;
- (c) where during the relevant year an amount is recovered in relation to excess community charge benefit which was allowed in consequence of official error within the meaning of article 20(3) and where the excess benefit had occurred and been discovered in the year ending 31st March 1991, the amount so recovered;
- (d) where during the relevant year it is discovered by an appropriate authority that excess benefits have been allowed in the year ending 31st March 1991, the amount of the excess benefits, but only to the extent that—
  - (i) the amount of the excess benefits or any part of it has not been deducted from community charge benefit qualifying expenditure under article 15 of the Housing Benefit and Community Charge Benefit (Subsidy) Order 1991<sup>(10)</sup>; and
  - (ii) the amount of the excess benefits or any part of it does not include an amount payable pursuant to paragraph (18) of regulation 60 of the Community Charge Benefits Regulations (time and manner in which claims are to be made).

(2) Where in relation to any amount of benefit a deduction falls to be made under two or more sub-paragraphs of paragraph (1), only the higher or highest or, where the amounts are equal, only one amount shall be deducted.

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<sup>(8)</sup> Regulation 83 was amended by S.I. 1990/834 and 1991/849.

<sup>(9)</sup> Regulation 58 was amended by S.I. 1990/834.

<sup>(10)</sup> S.I. 1991/587.