
STATUTORY INSTRUMENTS

2005 No. 369

The Income-related Benefits (Subsidy to Authorities) Amendment Order 2005

Amendment of Part III of the principal Order

4.—(1) Part III of the principal Order (calculation of subsidy) shall be amended as follows.

(2) In article 11(1) (interpretation of Part III), for the definition of “X per cent.” substitute—
““X per cent.” means 95 per cent.”.

(3) In article 13(1) (relevant benefit – calculation of subsidy) for the words from “articles 18” to the end there shall be substituted “articles 18 and 21, but subject, in each case, to the deductions, where applicable, under articles 20 and 20A.”.

(4) In article 14 (backdated benefit), in paragraph (2), for the words “in a case to which article 18(1)(b)(iii)” there shall be substituted “in relation to expenditure to which article 17(2)(a)(i) or (b)(i) or (3)(b)(ii) or 18(1)(b)(iii)”.

(5) After article 15, insert—

“Disproportionate rent increase – Wales

15A.—(1) Subject to paragraphs (5) to (7), in the case of an authority in Wales whose average rent increase differential, as calculated in accordance with paragraph (2) (“the proportion”), has a value greater than zero, the deduction from qualifying expenditure specified in article 11(2)(a) shall be the proportion multiplied by the sum calculated for that authority in accordance with paragraph (4).

(2) The average rent increase differential for each authority shall be calculated by applying the formula—

$$(1 + A) \times \left(\frac{B}{C} \times \frac{D}{E} \right) - 1$$

where A, B, C, D and E each has the value determined in accordance with paragraph (3).

(3) For the purposes of paragraph (2)—

- (a) the value of A shall be the proportion calculated for that authority pursuant to that paragraph for the year immediately preceding the relevant year;
- (b) the value of B shall be the average rent charged by the authority in respect of Category 1 dwellings on the final date;
- (c) the value of C shall be the average rent charged by the authority in respect of Category 1 dwellings on the initial date;
- (d) the value of D shall be the average rent charged by the authority in respect of Category 2 dwellings on the initial date; and

- (e) the value of E shall be the average rent charged by the authority in respect of Category 2 dwellings on the final date.
- (4) The sum referred to in paragraph (1) shall be that part of qualifying expenditure attributable to rebates granted during the relevant year before any deduction by reason of this article, but less any part of such expenditure to which article 13(1)(b)(iii) applies.
- (5) This article shall not apply in the case of an authority—
- (a) which has—
- (i) set the rent for the relevant year according to the type, condition, class or description of the dwellings and the services, facilities or rights provided to the tenants, where that rent is reasonable having regard to those matters,
- (ii) not taken account of whether a tenant was a beneficiary when setting rents for the relevant year, and
- (iii) not let dwellings, either in the relevant year or in either of the two previous years, to beneficiaries irrespective of their housing needs; or
- (b) where—
- (i) any increases in rent between the initial date and 1st April in the following year were of the same percentage and applied on the same day to all tenants irrespective of whether they were beneficiaries, and
- (ii) the average rent increase differential calculated in accordance with paragraph (2) for the year immediately preceding the relevant year, for that authority had a value which was zero or less than zero.
- (6) Where the relevant year is the year beginning on 1st April 2004—
- (a) paragraph (3)(a) shall have effect as if, for the words from “the proportion” to “the relevant year” there were substituted “equal to the value of G calculated for that authority for the purposes of paragraph 6.5.1 of the 2003-04 Determination,”; and
- (b) paragraph (5)(b)(ii) shall have effect as if, for the words from “average” to “relevant year” there were substituted “value of G calculated for the purposes of paragraph 6.5.1 of the 2003-04 Determination”.
- (7) This article shall not apply in a case to which article 17 (subsidy in respect of homeless and short lease rebate cases) applies.
- (8) In this article—
- “average” means the arithmetic mean;
- “beneficiary” means a person who is entitled or likely to become entitled to a rebate;
- “Category 1 dwellings” means dwellings rented out by the authority, on both the initial date and the final date, in respect of which, on the final date, the persons liable to pay such rent were in receipt of rebates;
- “Category 2 dwellings” means dwellings rented out by the authority, on both the initial date and the final date, in respect of which, on the final date, the persons liable to pay such rent were not in receipt of rebates;
- “2003-04 Determination” means the Housing Revenue Account Subsidy (Wales) Determination 2003-04(1);
- “final date” means the last day of the relevant year;
- “initial date” means the day before the first day of the relevant year; and
- “rent” means either—

- (a) the payments specified in sub-paragraphs (a) to (i) in paragraph (1) of regulation 10 of the Housing Benefit Regulations (rent); or
 - (b) the eligible rent,
- as the authority may determine, provided that wherever the expression “rent” occurs in paragraph (3) it has the same meaning throughout in relation to that authority..”.
- (6) In article 17 (subsidy in respect of homeless and short lease rebate cases), in paragraph (2) (a)(i) and (b)(i) and paragraph (3)(b)(ii) for “12.5 per cent.” substitute “10 per cent.”.
- (7) In article 18 (additions to subsidy)—
- (a) in paragraph (4), after “means” insert “an overpayment of a kind to which paragraph (4ZA) applies or”;
 - (b) after paragraph (4) insert—
 - “(4ZA) This paragraph applies to an overpayment where—
 - (a) the overpayment was made during the period beginning with 5th April 2003 and ending with 13th June 2003 (“the specified period”);
 - (b) the overpayment would, but for paragraph (4), fall to be regarded as an authority error overpayment on the ground that it was made as a result of a failure by the authority to take account of information about the amount of any tax credit payable to the claimant; and
 - (c) the Secretary of State is satisfied that the authority took reasonable steps to avoid making overpayments of the kind described in sub-paragraph (b) during the specified period.”;
 - (c) in paragraph (4A), for the words from “made by” to “the overpayment” there shall be substituted “which”; and
 - (d) in paragraph (5), for the words from “in article” to “Schedule 5” there shall be substituted “and in article 19(1)(f)”.
- (8) For article 21 (additions to and deductions from subsidy in respect of benefit savings) there shall be substituted—

“Additions to subsidy in respect of security against fraud and error

21.—(1) The addition to subsidy referred to in article 13(1) is applicable in the case of an authority which—

- (a) is a participant in the scheme of arrangements for security against fraud and error (“SAFE”) in the administration of housing benefit and council tax benefit described in the Circulars (2) specified in paragraph (2); and
 - (b) qualifies, by virtue of its performance of activities specified in those Circulars with a view to the prevention or reduction of fraud and error for additional payments in accordance with the terms of those Circulars.
- (2) The Circulars referred to in paragraph (1) are—
- HB/CTB F4/2002,
 - HB/CTB F 22/2002,
 - HB/CTB F 26/2002,
 - HB/CTB F 27/2002,

(2) Copies of these Circulars may be obtained from the Department for Work and Pensions, 5th Floor, Adelphi, John Adam Street, London WC2N 6HT.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

HB/CTB F 5/2003,
HB/CTB F 6/2003,
HB/CTB F 8/2003,
HB/CTB F 17/2003.”.