

Section 5: Disproportionate rent increase rule (Scottish and Welsh authorities only)

Disproportionate increases in rents rebated through HB

Note: These paragraphs relate only to Scottish and Welsh authorities.

500 This subsidy control is intended to discourage LAs from loading rent increases onto council tenants to unfairly generate increased subsidy income. An LA can gain exemption if it can convince its auditors that it meets one of the following criteria

- a the LA has not deliberately targeted rent increases at tenants getting HB
- b the LAs rents during the year in question have increased by a common percentage with no subsidy deduction having been incurred in the previous year

501 LAs that do not qualify for exemption must carry out a calculation that involves an in-year comparison of council rent increases and the input of the prior year's Disproportionate Rent Increase (DRI) penalty figure. The DRI calculation excludes rents and expenditure in respect of homeless people in bed and breakfast and short-term leased and licensed accommodation.

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Exemption categories

510 Authorities can gain exemption from the DRI rule in one of two ways.

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Category (A) – open and transparent rent-setting policies

- 511 The authority must satisfy **all** the following criteria
- a for the relevant year the LA has set rents and service charges according to the type, condition, class or description of the dwelling and any services, facilities or rights provided to the tenant, and
 - b for the relevant year the LA did not have regard to tenants' real or potential HB status when setting its rents, and
 - c in the relevant year and the previous two years, the LA did not let properties attracting higher rents to tenants who were on rebates, or who were likely to become rebated, irrespective of their housing need

Category (B) – rents increased by a common percentage

- 512 The authority can also gain exemption from the DRI rule when both the following criteria apply
- a there is clear evidence that rent increases between 31 March of the year before the relevant year and 31 March of the relevant year were the same percentage and applied on the same day for all tenants irrespective of their HB status, and
 - b no subsidy deduction was applicable under the DRI rule for the year before the relevant year. This should be tested after the final subsidy claim for that year has been settled
- 513 A crucial factor in gaining exemption from the DRI is the assessment of the external auditor. The onus is on the LA to provide the auditor with conclusive supporting information. If the auditor is not satisfied that an exemption is appropriate, but the LA has purported to have exempted itself from the DRI calculation, the auditor will suggest the authority amend its form and will qualify the subsidy claim if the authority will not do so. The LA will then be required to
- carry out the DRI calculation
 - make any appropriate deduction from subsidy
 - have this calculation audited

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The DRI calculation

520 An authority which does not qualify for exemption will be required to carry out a calculation based on the DRI abatement applied in the preceding year, multiplied by any new abatement arising from a disproportionate rent increase in the subsidy year itself.

521 The DRI calculation is as follows.

A. The base for deductions

To ensure parity for England, Wales and Scotland, the base to which the DRI deduction should be applied is Qualifying expenditure attributable to rent rebates only, that is

Total rebates less

- 'nil' deductions, eg modular improvements and awards to tenants
- amounts above rent rebate thresholds, less
- overpayments of rebates

For the purposes of the DRI formula, the base to which any deduction should be applied is referred to as 'X'.

B. Calculation of the DRI deduction

$$Y = (1 + E96) \times C \times F - 1$$

$$\text{DRI deduction} = Y \times X$$

a) C is determined by dividing B by A when

A is the average rent charged by the authority on 31 March of year before the relevant year to tenants in Category 1 dwellings

B is the average rent charged by the authority on 31 March of the relevant year to tenants in Category 1 dwellings

continued

- (521) b) F is determined by dividing D by E when
- D is the average rent charged by the authority on 31 March of the year before the relevant year to tenants in Category 2 dwellings
- E is the average rent charged by the authority on 31 March of the relevant year to tenants in Category 2 dwellings
- E96 is the proportion of HB qualifying expenditure that was attributable to the DRI under the Income-related (Subsidy to Authorities) Order 1998 for the year before the relevant year
- Y is the DRI reduction rate to be applied to HB qualifying expenditure less expenditure in the incentive areas

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Definitions

- 530 Category 1 dwellings means dwellings with tenants who were in receipt of rent rebate on 31 March of the year before the relevant year that were occupied on both 31 March of the year before the relevant year and 31 March of the relevant year.
- 531 Category 2 dwellings means dwellings with tenants who were not in receipt of rent rebate on 31 March of the year before the relevant year that were occupied on both 31 March of the year before the relevant year and 31 March of the relevant year.
- 532 If 31 March of the year before the relevant year or 31 March of the relevant year coincides with a rent-free period, then the rent taken into account for the purposes of calculating the average rent shall be that which applied immediately before the relevant rent-free period began.

Example

First component – the in-year comparison

Average rent on 31 March of the year before the relevant
£45.00
year for tenants in receipt of rent rebates

Average rent on 31 March of relevant year for tenants
£48.00
tenants in receipt of rent rebates

Average rent on 31 March of the year before the relevant
£42.00
year for tenants not in receipt of rent rebates

Average rent on 31 March of the relevant year for
£45.00
tenants not in receipt of rent rebates

Value of C = $£48.00 \div £45.00 = 1.067$

Value of F = $£42.00 \div £44.00 = 0.933$ Value of C x F = 1.0185

Second component – previous year’s penalty

Proportion of HB qualifying expenditure that was attributable to
the DRI for the year before the relevant year: 0.006

The calculation

$Y = (1 + 0.006) \times 1.0185 - 1 = 0.0246$

Base for deductions = £1,500,000

DRI deduction = $£1,500,000 \times 0.0246 = £36,900$

Should the calculation of Y produce a zero or a negative figure,
no DRI deduction will apply.

- 533 Figures for total rent payable may be based on either eligible rent for HB purposes or rent actually payable if this is different and can be obtained more readily. Rates and water rates must be excluded in all cases. The same basis must be used for all dates.

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Queries

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