
STATUTORY INSTRUMENTS

1998 No. 2865

SOCIAL SECURITY

The Income-related Benefits (Subsidy to Authorities) Amendment Order 1998

Made - - - - *17th November 1998*
Laid before Parliament *23rd November 1998*
Coming into force - - *14th December 1998*

The Secretary of State for Social Security, with the consent of the Treasury⁽¹⁾, in exercise of powers conferred by sections 140B, 140C(1) and (4) and 140F(2) and 189(1), (4) and (5) of the Social Security Administration Act 1992⁽²⁾, and of all other powers enabling him in that behalf, after consultation, in accordance with section 176(1)(b) of the Social Security Administration Act 1992, with organisations appearing to him to be representative of the authorities concerned, hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Income-related Benefits (Subsidy to Authorities) Amendment Order 1998 and shall come into force on 14th December 1998.

(2) In this Order, “the principal Order” means the Income-related Benefits (Subsidy to Authorities) Order 1998⁽³⁾.

Amendment of the definition of “interim subsidy”

2. In article 2 of the principal Order (interpretation of Parts II and IV), in the definition of “interim subsidy”, the words “6(4), 7(2),” shall be omitted.

Amendment of article 5 of the principal Order

3. For article 5 of the principal Order (requirement to keep records and provide information), there shall be substituted the following article—

(1) See section 189(8) of the Social Security Administration Act 1992 (c. 5); amended by paragraph 3(5) of Schedule 13 to the Housing Act 1996 (c. 52).
(2) 1992 c. 5; sections 140B, 140C and 140F were inserted by section 121 of and paragraph 4 of Schedule 12 to the Housing Act 1996; section 140B was amended by section 10 of and paragraph 7 of Schedule 1 and Schedule 2 to the Social Security Administration (Fraud) Act 1997 (c. 47).
(3) S.I.1998/562.

“Requirement to keep records and provide information

- 5.—(1) The second condition is that the authority submitting a claim shall—
- (a) provide to the Secretary of State the information referred to in paragraph (2); and
 - (b) keep and, where the Secretary of State requires it or it is otherwise appropriate to do so, produce records with a bearing on that claim.
- (2) The information referred to in this paragraph is such information as the Secretary of State requires, or as may otherwise be necessary, to satisfy him that—
- (a) the claim is full, accurate and properly calculated; and
 - (b) any subsidy claimed or paid for the relevant year or for an earlier year has been properly claimed or paid in accordance with the provision of this Order or, as the case may be, the previous Orders.”.

Benefit savings

4.—(1) In Schedule 5 to the principal Order in paragraph 1(2), in the definition of “benefit savings” after the words ““benefit savings” means” there shall be inserted the words “subject to sub-paragraph (3)”.

(2) After sub-paragraph (2) of paragraph 1 of Schedule 5 to the principal Order, there shall be inserted the following sub-paragraphs—

“(3) Where the relevant year is the year commencing on 1st April 1997, “benefit savings” means—

- (a) in relation to housing benefit, any amount which would have been paid by way of housing benefit to a claimant during a benefit week but for the investigation and intervention of one or more authorised persons, and which would, had that amount been paid as housing benefit, have been a fraudulent overpayment, within the meaning of article 18(5), or, in a case where only a proportion of that non-payment was due to that investigation and intervention, the amount shall be that proportion;
- (b) in relation to council tax benefit, any amount which would have been allowed by way of council tax benefit to a claimant during a benefit week but for the investigation and intervention of one or more authorised persons, and which would, had that amount been allowed as council tax benefit, have been fraudulent excess benefit, within the meaning of article 18(5), or, in a case where only a proportion of that non-allowance was due to that investigation and intervention, the amount shall be that proportion;

and for the purposes of this provision, the meaning given to the word “intervention” in sub-paragraph (2) shall not apply.

(4) Where the relevant year is the year commencing on 1st April 1998, “benefit savings” shall also include 75 per cent. of any relevant benefit which would, but for action taken by an authorised person, have been paid or allowed to a claimant during a benefit week.

(5) The action taken by an authorised officer for the purposes of sub-paragraph (4) must have included—

- (a) at least 2 unannounced visits to the dwelling in respect of which the relevant benefit was paid or allowed to the claimant and must—
 - (i) have taken place in what were, for the claimant, different benefit weeks; and
 - (ii) have established that the claimant had ceased to occupy the dwelling as his home; or

(b) one unannounced visit to the dwelling in respect of which the relevant benefit was paid or allowed and must have established beyond doubt on that visit that the claimant had ceased to occupy the dwelling as his home.

(6) When the relevant year is the year commencing 1st April 1997, “benefit savings” shall also include 100 per cent. of any relevant benefit which would, but for action taken by an authorised person, have been paid or allowed to a claimant during a benefit week.

(7) The action taken by an authorised officer for the purposes of sub-paragraph (6) is any action taken which established that the claimant was not residing in the dwelling in respect of which the relevant benefit was paid or allowed to him.”.

Signed by authority of the Secretary of State for Social Security.

12th November 1998

P. Hollis
Parliamentary Under-Secretary of State,
Department of Social Security

We consent

17th November 1998

Jane Kennedy
Jim Dowd
Two of the Lords Commissioners of Her
Majesty’s Treasury

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

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends [The Income-related Benefits \(Subsidy to Authorities\) Order 1998 \(No. 562\)](#).

Article 2 removes superfluous references in the definition of “interim subsidy”. Article 3 restructures the second condition for entitlement to subsidy and specifies the information local authorities may be required to provide in paragraph (2).

Regulation 3 modifies the meaning given to the expression “benefit savings” in the years beginning on 1st April 1997 and 1st April 1998. It also provides that benefit savings, which qualify for additional subsidy, includes payments stopped before a fraudulent overpayment occurs.

This Order does not impose a charge on businesses.