

**2002 No. 3116**

**SOCIAL SECURITY**

**The Income-related Benefits (Subsidy to Authorities)  
Amendment (No. 2) Order 2002**

*Made* - - - - - *16th December 2002*

*Laid before Parliament* *23rd December 2002*

*Coming into force* - - *13th January 2003*

The Secretary of State for Work and Pensions, with the consent of the Treasury<sup>(a)</sup>, in exercise of the powers conferred upon him by sections 140B(1), (3) and (4), 140F(2) and 189(1) and (4) to (7) of the Social Security Administration Act 1992<sup>(b)</sup>, and of all other powers enabling him in that behalf, after consultation with organisations appearing to him to be representative of the authorities concerned<sup>(c)</sup>, 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 (No. 2) Order 2002 and shall come into force on 13th January 2003.

(2) The amendments made by this Order shall have effect from 1st April 2001.

(3) In this Order, “the principal Order” means the Income-related Benefits (Subsidy to Authorities) Order 1998<sup>(d)</sup>.

**Definition of “new incentive scheme”**

2.—(1) In article 1(2) of the principal Order (citation, commencement and interpretation), after the definition of “the English Regulations” there shall be inserted—

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(a) 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), paragraph 10 of Schedule 3 to the Social Security (Recovery of Benefits) Act 1997 (c. 27) and paragraph 57(3) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).

(b) 1992 c. 5. Sections 140B and 140F were inserted by paragraph 4 of Schedule 12 to the Housing Act 1996, section 140B(1) was amended by paragraph 7 of Schedule 1 to the Social Security Administration (Fraud) Act 1997 (c. 47), section 140B(4) was substituted by section 10 of the Social Security Administration (Fraud) Act 1997, section 189(1) and (4) to (6) was amended by paragraph 109 of Schedule 7 to the Social Security Act 1998 (c. 14), section 189(1) was amended by paragraph 57(2) of Schedule 3 to the Security Contributions (Transfer of Functions, etc.) Act 1999 and section 189(7) was amended by paragraph 24 of Schedule 9 to the Local Government Finance Act 1992 (c. 14) and paragraph 10 of Schedule 1 to the Social Security Administration (Fraud) Act 1997.

(c) See section 176(1) of the Social Security Administration Act 1992; amended by paragraph 3(4) of Schedule 13 to the Housing Act 1996.

(d) S.I. 1998/562. Relevant amending instruments are S.I.s 1999/550, 2000/1091, 2000/2340 and 2002/1859.

“ “new incentive scheme” means the scheme set out in the following circulars issued by the Secretary of State(a)—

HB/CTB F12/2000; and

HB/CTB F19/2001;”.

(2) In paragraph 1(2) of Schedule 5 to the principal Order (benefit savings threshold)(b), the definition of “new incentive scheme” shall be omitted.

#### **Amendment of article 14 of the principal Order**

3. In article 14(2) of the principal Order (backdated benefit)(c), for “18(1)(b)(iii)” there shall be substituted “18(1)(b)(ia) or (iii)”.

#### **Amendment of article 18 of the principal Order**

4.—(1) Article 18 of the principal Order (additions to subsidy)(d) shall be amended in accordance with the following provisions of this article.

(2) In paragraph (1)—

(a) before sub-paragraph (b)(iii) there shall be inserted—

“(ia) in the case of a claimant error overpayment, or of a fraudulent overpayment made by an authority which is operating the new incentive scheme, 40 per cent. of the overpayment;”;

(b) in sub-paragraph (b)(iii), after “fraudulent overpayment” there shall be inserted “to which head (ia) does not apply”;

(c) in sub-paragraph (b)(iv), after “overpayment” there shall be inserted “or, where the overpayment is made by an authority operating the new incentive scheme, 40 per cent. of the overpayment”;

(d) in sub-paragraph (c), after “80 per cent.” there shall be inserted “or, in a case where the discovery is made by an authority which is operating the new incentive scheme, 40 per cent.”.

(3) Before paragraph (5) there shall be inserted—

“(4A) In paragraph (1)(b)(ia), “claimant error overpayment” means an overpayment made by an authority which is operating the new incentive scheme, where the overpayment—

(a) is caused by—

(i) the claimant, or

(ii) a person acting on the claimant’s behalf under regulation 71 of the Housing Benefit Regulations (who may claim housing benefit)(e) or regulation 61 of the Council Tax Benefit Regulations (who may claim council tax benefit)(f),

failing to provide information in accordance with regulation 72(1), 73 or 75 of, or paragraph 5 of Schedule A1 to, the Housing Benefit Regulations (duties on claimant to provide information)(g) or regulation 62(1), 63 or 65 of, or paragraph 5 of Schedule A1 to, the Council Tax Benefit Regulations (duties on claimant to provide information)(h); and

(b) is not a fraudulent overpayment.”.

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(a) These circulars are published by the Department for Work and Pensions and copies may be obtained from DWP, Adelphi, London WC2N 6HT.

(b) The definition of “new incentive scheme” was inserted by S.I. 2002/1859.

(c) Relevant amending instrument is S.I. 2000/1091.

(d) Relevant amending instruments as S.I.s 1999/550, 2000/1091 and 2000/2340.

(e) Amending instruments are S.I.s 1999/3108, 2000/897, 2001/1605 and 2002/1703.

(f) Amending instruments are S.I.s 1993/688, 1999/3108, 2001/897 and 2001/1605.

(g) Amending instruments are: for regulation 72(1) S.I.s 1996/2432, 2000/897 and 2001/1605; for regulation 73 S.I.s 1992/432, 1992/1101, 1992/2148, 1993/963, 1993/1249, 1995/2303, 2000/897 and 2001/1605; for regulation 75 S.I.s 1990/546, 1996/1510, 1999/1539, 1999/3108, 2000/897 and 2001/1605. Schedule A1 was inserted by S.I. 1996/2432 and was amended by S.I. 2001/1605.

(h) Amending instruments are: for regulations 62(1) S.I.s 1996/2432, 2000/897 and 2001/1605; for regulation 63 S.I.s 1993/688, 1993/963, 1993/1249, 1995/2303, 2000/897 and 2001/1605; for regulation 65 S.I.s 1996/1510, 1999/1539, 1999/3108, 2000/897 and 2001/1605. Schedule A1 was inserted by S.I. 1996/2432 and was amended by S.I. 2001/1605.

(4) In paragraph (5), for “paragraphs (1)(b)(iii) and (c)” there shall be substituted “paragraphs (1)(b)(ia) and (iii) and (c) and (4A)”.

Signed by authority of the Secretary of State for Work and Pensions.

12th December 2002

*Malcolm Wicks*  
Parliamentary Under-Secretary of State  
Department for Work and Pensions

We consent,

16th December 2002

*Nick Ainger*  
*Philip Woolas*  
Two of the Lords Commissioners of Her Majesty's Treasury

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Income-related Benefits (Subsidy to Authorities) Order 1998 (S.I. 1998/562) (“the principal Order”) which provides for subsidy to be payable to authorities administering housing benefit and council tax benefit. The amendments make further provision for subsidy payments in relation to a scheme (“the new incentive scheme”) which introduces new terms, including incentives and rewards, relating to local authorities’ anti-fraud activities. Section 140F(2) of the Social Security Administration Act 1992 (c. 5) authorises the varying of an Order before, during or after the year to which it relates. The amendments made by this Order have effect from 1st April 2001.

Article 2 inserts a definition of “new incentive scheme” for the general purposes of the principal Order and removes the existing definition which has more limited effect.

Article 3 amends article 14 of the principal Order consequent on the amendments made by article 4 of this Order.

Article 4 amends article 18 of the principal Order by inserting a definition of “claimant error overpayment” and changing some of the rates at which additions are made to subsidy payable to authorities operating the new incentive scheme.

This Order does not impose a charge on business.

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