
STATUTORY INSTRUMENTS

2010 No. 2481

The Income-related Benefits (Subsidy to Authorities) Amendment Order 2010

Amendment of article 18 of the 1998 Order taking effect from 1st April 2009

3.—(1) Article 18(1) (additions to subsidy) of the 1998 Order is amended as follows.

(2) In paragraph (1) for “paragraphs (8) and (9)” substitute “paragraph (8)”.

(3) For paragraph (1)(e) substitute—

“(e) where, during the relevant year, it is discovered that any overpayments of relevant benefit have been made which were authority error overpayments or administrative delay overpayments, the following amounts—

(i) where the total of the authority error overpayments and administrative delay overpayments is less than or equal to 0.48% of the total specified subsidy, 100% of the total of those overpayments;

(ii) where the total of the authority error overpayments and administrative delay overpayments is greater than 0.48% but less than or equal to 0.54% of the total specified subsidy, 40% of the total of those overpayments; and

(iii) where the total of the authority error overpayments and administrative delay overpayments is greater than 0.54% of the total specified subsidy, nil.”.

(4) In paragraph (2) after sub-paragraph (c) add—

“or

(d) an administrative delay overpayment.”.

(5) For paragraph (5) substitute—

“(5) In paragraphs (1)(c) and (4A), and in article 19(1)(f), “fraudulent overpayment” means an overpayment in respect of a period falling wholly or partly after 31st March 1993 where the claimant has in respect of the overpayment—

(a) been found guilty of an offence whether under a statute or otherwise;

(b) made an admission after caution of deception or fraud for the purpose of obtaining relevant benefit; or

(c) agreed to pay a penalty under section 115A of the Act (penalty as an alternative to prosecution) and has not withdrawn that agreement.

(5A) In paragraph (5)(b) “admission after caution” means—

(a) in England and Wales, an admission after a caution has been administered in accordance with a Code issued under the Police and Criminal Evidence Act 1984(2);

(1) Relevant amending instruments are [S.I. 2000/2340](#), [2002/3116](#), [2003/3179](#), [2005/369](#), [2006/54](#), [2006/217](#), [2007/26](#) and [2008/196](#).

(2) [1984 c.60](#).

- (b) in Scotland, an admission after a caution has been administered, such admission being duly witnessed by two persons.”.
- (6) After paragraph (6) insert—
 - “(6ZA) In paragraphs (1)(e) and (2)(d), “administrative delay overpayment” means an overpayment arising where—
 - (a) an authority is notified of a change of circumstances and has sufficient information and evidence to make a revision or supersession decision on an award;
 - (b) the authority does not make the decision before the next day on which the claimant’s benefit is paid or, in the case of council tax benefit, is allowed; and
 - (c) the delay was not—
 - (i) caused by a mistake, whether in the form of an act or omission, by an authority; or
 - (ii) caused or materially contributed to by the claimant, a person acting on the claimant’s behalf, or any other person to whom payment is made.”.
- (7) In paragraph (12) after “(6)” insert “, (6ZA)”.